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House of Representatives

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

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 STEVEN C. LATOURETTE 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.

God, though a young Nation, You have smiled upon America. The only way to explain our great country is You. Truly, God, You have blessed America. Thank You for Your sustaining grace since September 11. Our enemies meant it for evil, but You have used it for good and for Your glory. We cast ourselves on You for those who lost loved ones and who continue to mourn.

I especially thank You for those dedicated men and women who gather today to do our Nation's business. They serve us, the people. They are Your servants. Please continue to grant strength and wisdom to President Bush, and to these women and men in the House.

Today we exalt You. We long for Your approval. In the name of our Lord. Amen.

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The point of no quorum is considered withdrawn.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:

S. 2248. An act to extend the authority of the Export-Import Bank until May 31, 2002.

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

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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 Wisconsin (Mr. SENSENBRENNER), 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.

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 and increase poverty? The Herger 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 deal with a 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.

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 a broken record. 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 noncustodial 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 unfailing 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.

INS

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

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.

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 women 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 low-income working 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?

□ 1015

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 $395,000 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.

I hope more agencies 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 suitable 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 even Chinese.

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. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2142.

The SPEAKER pro tempore (Mr. LATOURETTE). 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 diverse.

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, Pemex, continues to struggle for lack of investment of 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 Counselor of the Year award, 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 barrios 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), the chairman of that committee, and the House Republican leadership for this legislation, the Immigration Reform and Accountability Act.

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 had been approved. These visa approvals came well after the two would-be hijackers had completed their training course.

While this shocked many, this level of ineptitude has gone on for years in the INS. INS blames the delays on antiquated, inaccurate and untimely and inefficient paper-based processing systems, while I believe the problem lies with the antiquated, inaccurate and untimely INS. The management structure, the authority structure, the technology all need a comprehensive overhaul, which is exactly what is before us with the Immigration Reform and Accountability Act.

Mr. Speaker, I urge my colleagues to support this measure.

WELFARE REFORM

(Mr. TIERNEY asked and was given permission to address the House for 1 minute.)

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 127 Members of Congress have masters 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 embodied 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. Hispanics and African Americans 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 is.

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.

□ 1030

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 replace 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 consideration 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 as 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. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to 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 of the Whole to the bill or to the committee amendment in 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 structured rule providing for considering 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.

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 amendments printed in the report shall be considered only in the order printed in the report, may be offered by a Member designated in the report, shall be considered as read, shall be debateable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not 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.

H. Res. 396 waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, I urge my colleagues to join me in approving this rule, so that the House can begin its consideration of H.R. 3231, the Barbara Jordan Immigration Reform and Accountability Act. I am a co-sponsor of this bill, and I hope that when the House approves this bill, the Senate will take prompt action as well, so that before the end of this year President Bush can sign into law strong INS reform legislation. If

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 and service were consolidated 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 applying for residence or 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 process, 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 conditions, 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 in June 2001 indicated that, despite significant increases in funding, the backlog for all immigration applications had increased four-fold since 1994. In some instances, applicants must wait 2 years before the INS can review their application and render a decision. As the backlog of cases stood at 4.9 million applications and petitions at the end of fiscal year 2001, we can expect these delays to probably worsen.

By establishing the BSIC and mandating that its sole responsibility be the processing of immigration applications, we can improve applicant service and decrease the time required for processing applications. Further, the agency will be able to spend more time and resources on verifying applications and conducting security and backgrounds checks. Thus, the United States will be more able to effectively identify and stop individuals who have questionable intentions or background from entering the U.S. and threatening our national security.

While most immigrants reside in the U.S. legally, others enter illegally, furtively entering through borders and ports of entry or overstaying a legal visa or work permit. This willful disregard of our laws should not be overlooked, and we must dedicate resources to deterring illegal immigration or finding and deporting those who enter nonetheless. This is no longer an issue of immigration, and instead it is one firmly rooted in law enforcement and national security.

The enforcement failures of the INS can be characterized as ineffective at best and catastrophic at worst. Every single one of the September 11 highjackers was able to enter the United States legally, and while three overstayed their visas, the INS did not have the capacity to track, find and deport visa violators. In the wake of this tragedy, we also discovered that more than 1,000 foreign students could not be located for interviews after the tragic attacks. Finally, it is worth noting that reports estimate that as many as 400,000 individuals 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 noncompliance 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 will be better able 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 over-stayers 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. 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 of the agency, as well as the numerous deficiencies, we have urged change. Yet today is the day that we will actually begin this long overdue process. Today, we consider a bill that will truly reform an agency that has become too accustomed to inadequacy, inconsistency, and failure.

Mr. Speaker, I want to commend my friend and colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his strong and able leadership in moving this bill through his committee promptly and bringing it to the floor today. I know that he worked with others on the committee to forge a strong bipartisan consensus behind the structural reforms that H.R. 3231 calls for, and he deserves the lion's share of credit for bringing us to this point in the process.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend, the gentleman from Georgia (Mr. LINDER), for yielding me time.

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 question, 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, the Committee on Rules' refusal to allow a number of thoughtful substantive amendments to be considered by the House this morning does give me some small reason to pause.

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 gentlewoman 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 bureaus: 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 and the limited ability to try to handle the massive number of changes. So to the hard-working INS rank-and-file employees, I

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 generations has made it into literally the laughing stock 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 management 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 natural immigration 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 offered by my friends, the gentlewoman from California (Ms. LOFGREN) and the gentleman from North Carolina (Mr. WATT), and others.

□ 1045

They argue that the bill, as it currently stands, will not substantially reform the agency. The bill simply reconfigures the INS by splitting authority over the two essential elements of INS, immigration and enforcement, into two bureaucracies instead of one. While their view is shared by some of us, I am hoping the amendments to be offered later today will perfect some of the shortcomings that currently exist.

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 Haitian 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 stop it, and of course, it was 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 how 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 that 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. They should enjoy 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. SENSENBRENNER) 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. LINDER. 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 negligence, maybe incompetence, 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 informed person, ''No. 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, 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 school 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. LINDER), that 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 (Mr. HASTINGS), there are 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.

Last year, the Justice Department handled over 4,200 allegations of misconduct against INS personnel. It is

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

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

(Mr. KOLBE asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. KOLBE. Mr. Speaker, I rise in opposition to the underlying bill that this rule offers for consideration, the Barbara Jordan Immigration Reform and Accountability Act. I appreciate the work of the Committee on the Judiciary and the Committee on Rules to bring a bill to the floor, but I think this effort falls seriously 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 exists. Instead of having the two functions joined at the top by the INS Commissioner who reports to 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.'' So, 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 were doing 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 reform is going to 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 and rationalizing 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 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 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.

APRIL 18, 2002.

Hon. JIM KOLBE,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN KOLBE: As former members of the U.S. Commission on Immigration Reform (the ''Jordan Commission''), we are writing to express our views on the INS Reorganization Act of 2002 (H.R. 4108), which you introduced on April 9, 2002. We understand that your bill encompasses the Jordan Commission's recommendations for comprehensive restructuring of responsibility for immigration functions within the government. We also understand that you 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 complete separation of agency responsibilities reflected by your bill received support from the Commission. We continue to believe that this more fundamental reform is far preferable.

From 1992 to 1997, we served together as members of the Jordan Commission and cochaired its working group on management reform, which developed the recommendations on restructuring reported to Congress on September 30, 1997. We come from opposite ends of the political spectrum. Bob Hill served as an appointee of President Reagan in the White House, the State Department and the Justice Department. Bruce Morrison was a Democratic Member of Congress and served in the Clinton Administration. We have both had extensive experience representing clients in immigration matters. On this issue, our experience leads us to consensus, much as it did for the diverse membership of the Commission.

The Jordan Commission reached its recommendation for restructuring after years of extensive investigation. We held more than 40 public hearings, consultations and roundtable discussions with government officials and outside experts, as well as recent immigrants and refugees themselves. In every forum there was serious, ongoing discussion of the problems confronting the government agencies responsible for administering the immigration system as well as those confronting the individuals, employers, and practitioners subjected to it. Based on this input, we set criteria for evaluating competing restructuring proposals. These included: (1) consolidation and streamlining of government operations; (2) unambiguous allocation of responsibility and accountability for core functions; (3) effective separation of law enforcement and benefits adjudication; (4) maximum utilization of existing strengths and elimination of weaknesses or redundancies; and (5) enhancement of policy formulation, implementation and coordination.

Immigration law enforcement belongs in the Justice Department. Everyone agrees that the enforcement of our immigration laws—at the border and within the country—should be handled by a separate bureau within the Justice Department. We all seek to have this enforcement carried out with the kind of professional standards and effectiveness we have long associated with the Criminal Division, the U.S. Attorneys, and the FBI. INS enforcement activities, while given high priority within the agency, have never had the status within Justice that comes to other law enforcement functions. This should change.

The Justice Department is the wrong place for adjudicating immigration benefits. The main distinction between the Committee bill and yours is the placement of the second major INS function—adjudication of benefit applications. The Commission considered and rejected the idea of keeping this function in the Justice Department. Although initially Justice was viewed by most members as the presumptive choice, they were ultimately persuaded otherwise. The reasons were the fundamental objection to locating the enforcement and benefits functions in one agency, and that the Justice Department did not have the capacity to take on the State Department's international visa functions. Some argued that the two functions are complementary and must be coordinated by a single government official. But we saw that as little different from the INS structure that has so clearly failed. Instead we concluded that the very qualities of approach and status that make Justice the

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 regarding federal 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 closer examination pointed strongly to State. That Department has the greatest institutional capacity and presence, as well as professional capabilities to undertake the work of establishing and administering a consolidated worldwide adjudication system. It issues more than half a million immigrant visas and more than seven million nonimmigrant visas each year to applicants around the world. It issues millions of passports to American citizens through its existing passport offices in fifteen U.S. cities. It determines citizenship claims of foreign residents and registers the births of U.S. citizens overseas. And, at the National Visa Center in Portsmouth, New Hampshire, it annually processes three-quarters of a million immigrant cases and the annual diversity visa ''lottery.''

Placing immigration benefit administration at the State Department would strengthen both the function and the Department. Many advocates favor a separate agency or department to oversee a consolidated immigration function. The Commission rejected that idea both as impractical and as continuing the role conflicts between extending benefits and pursing lawbreakers. But one concern of those advocates—the need for a leading voice on immigration policy—is answered by the State Department. Migration issues are international in character and they require understanding and cooperation among many nations. State 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, its influence at the White House can elevate immigration policy issues on any Administration's policy agenda. And the strong interests of U.S. families and companies in immigration policy will give the State Department an involvement with domestic constituents that can only help its policy and political strength.

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 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. When respondents in proceedings before the Justice Department have benefit claims, they will be as well protected by seeking State Department processing, as they will be going to another office at Justice.

In over four years since the Commission's final report to Congress, we have both observed the continuing deterioration of a system collapsing under its own weight. We have also had time to reflect upon the proposals we made for revitalizing that system. Those proposals are not perfect, but we remain persuaded that they provide the best option for effective reform available particularly in the wake of September 11. For that reason, we are both pleased to support your bill, H.R. 4108 and offer our assistance in anyway you believe will be of help in your efforts to enact it into law.

Sincerely,

BRUCE A. MORRISON,
Morrison Public Affairs Group.

ROBERT CHARLES HILL,
Arent, Fox, Kintner, Plotkin & Kahn.

Mr. KOLBE. Southern Arizona, which I represent, knows firsthand that 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.)

Ms. JACKSON-LEE of Texas. Mr. 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 chairman, and ranking member of the Subcommittee on the Judiciary.

□ 1100

It has been an effective process. This bill is a bill that takes into consideration both positions of Democrats and Republicans.

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. The INS was designed to have two entities, a service entity and an enforcement entity, and that was to be headed by an associate Attorney General. If we look at the bill before us, we find that that exact same structure is in 3231. So the good news about this rule and legislation is that H.R. 1562 was in large part adopted by H.R. 3231.

So I believe that the message today should be that those of us who realize that service is the responsibility of this Congress and this Nation and an obligation to our country to protect the citizens or those within its boundaries, that the work we do today with restructuring the INS by abolishing the INS and creating this new agency is to answer those two concerns and to be able to service those who legitimately are attempting to access legalization. And we do it in a bipartisan manner by merging the provisions of H.R. 1562 and H.R. 3231.

This rule includes an opportunity to improve the bill. It has in it an amendment authored by the gentlewoman from Wisconsin (Ms. BALDWIN), in which I have joined, to ask the question and provide the opportunity for unaccompanied minors to be able to have counsel. It asks the question on an amendment that I have offered about the money stream, and that is a question that Members ask: Will we effectively be able to reform this agency, rebuild this agency, with enough funding? So I immediately ask the question, and hope my colleagues will vote for it, for a study to determine whether the fee-based funding of the service part of our legislation will be sufficient.

In addition, this bill provides for an opportunity to discuss several amendments that will talk about proficiency, as the manager's amendment includes. We are particularly proud of the Office of Children's Affairs, which points to the fact that children come unaccompanied, but children are especially important and dear and, therefore, they need particularly special attention.

I would have hoped that the rule could have included a number of other amendments. I am always of the inclination that it is important to have a vigorous debate and discussion on legislation that comes to the floor of the House. So I would say to the gentleman from Florida (Mr. HASTINGS) that I know very well what Congresswoman Barbara Jordan would have wanted, and that is an opportunity for fairness for the Haitians. And I say to the gentleman from Florida (Mr. HASTINGS) that we are still going to commit ourselves to working on that legislation.

But, in fact, as we debate this, I hope that it will be well-known that this bill is a bill of compromise and a bill of collaboration. This is a Democratic bill with, of course, the collaboration and work of the leadership of this House working together to make this a good bill for the country.

Mr. 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 constructive manner. I want to thank both my full committee chairman and my full committee ranking member, and the subcommittee chairman, GEORGE GEKAS, on the hard work that we put in to finally crafting a compromise in order to reach agreement on H.R. 3231. 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

legislation overwhelmingly passed the Judiciary Committee with a vote of 32 to 2.

In the 106th Congress and in the 107th Congress I have introduced H.R. 1562, the Immigration Restructuring and Accountability Act of 2001. I have been a champion for years when it comes to restructuring the INS. I have been arguing for years that while we need to separate out the services and enforcement function of the INS, we still need to have a strong leader at the top, and we do in this bill. We need to have a Office of Children's Affairs, and we do in this bill. We need to have a general counsel that will be housed in the Associate Attorney General's office. We do in this bill. We need to have more accountability that would require field offices and service centers of the two proposed immigration bureaus to directly and consistently follow all directives and guidelines from the bureau directors. Due to an amendment that we adopted in committee that I offered, we now have that in this bill. The need for overhauling the INS is undeniable. Americans regularly hear of the agency's latest blunder and observe an agency stumbling from one crisis to the next, with no coherent strategy of how to accomplish its missions.

We need to have an Office of Immigration Statistics that keeps adequate records of both service and enforcement statistics, and we do in this bill. I hope that Members come to the floor and support the Roybal-Allard amendment which adds clarity to this language.

Our legislation builds on the Commission's conclusions by abolishing the INS and creating two separate bureaus in the Justice Department to handle the dual immigration functions—one led by a law enforcement professional to enforce our immigration laws and one led by an expert in benefits adjudication to provide immigration benefits to legal aliens.

A new Associate Attorney General who handles only immigration affairs supervisors and resolves conflicts between the two bureaus, thereby raising these issues to the level and attention that they deserve within the Department of Justice.

There will also be an Office of Children Affairs established in the Associate Attorney General's office raising the concern and importance of children's issues in the immigration system. This is very important to me as we have a mechanism in place that deals with the proper placement of unaccompanied minor alien children who come into custody of the Department of Justice. We need to ensure that the interests of the child are considered in decisions and actions relating to their care and custody, and that every effort is made to reunite these children with family members in the United States or abroad.

More importantly, I am cosponsoring an amendment with Congresswoman TAMMY BALDWIN that would require the Director of the Children's Affairs office to develop a plan that would ensure that unaccompanied minor children have legal representation. This is a topic that is dear to my heart. There have been too many instances where children have immigrated to the United States and have been without guardians and without hope. They have been mistreated and misplaced. It is only fitting that the Congress see if somehow this new director can look into providing them with proper legal representation.

Services under INS have been abysmal and continue to deteriorate. I also am a cosponsor with Congresswoman LOFGREN of an amendment 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.

Lastly, I have an amendment that requires the GAO to conduct a study to examine whether the Bureau of Immigration Services can survive as an agency without specific language that authorizes appropriations and solely has this bureau relying on fees. This is a worthwhile amendment.

I urge adoption of this legislation.

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 Atta, an Egyptian citizen, piloted the first plane that crashed into the World Trade Center.

Let us take a look at the INS record of Atta. On June 3, 2000, Atta 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 prohibit him from doing that flight training. That is a student status. It is not, I 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 Atta from the INS. On September 19, 2000, Atta 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 Atta have been admitted? Let us look at the facts. First, there was evidence before the inspector that Atta obtained a visa by fraud by concealing from the State Department when he applied for the visitor's visa abroad that he actually was coming to the U.S. for flight training. The inspector's notes on January 10 show that Atta 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 Atta admitted he was returning to attend flight school. The commissioner himself testified before the House Committee on the Judiciary that Atta's unapproved application for training visa was abandoned upon his departure from the United States. According to INS regulations, if the inspector thought that Atta was coming to the United States to go to flight school, he should have sent him back to get a proper approval.

Nevertheless, Atta was admitted on January 10, 2001, as a visitor. Six months later, even after Atta had left the United States a second time, Atta'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 plan on supporting this 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 ordering the previous question.

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

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

[Roll No. 111]

YEAS—384

Ackerman	Bishop	Cannon
Aderholt	Blumenauer	Cantor
Akin	Blunt	Capito
Allen	Boehlert	Capps
Andrews	Boehner	Capuano
Armey	Bonilla	Cardin
Baca	Bonior	Carson (OK)
Bachus	Bono	Castle
Baird	Boozman	Chabot
Baker	Borski	Chambliss
Baldwin	Boswell	Clay
Ballenger	Boucher	Clement
Barcia	Boyd	Clyburn
Barr	Brady (PA)	Coble
Barrett	Brady (TX)	Collins
Bartlett	Brown (FL)	Combest
Barton	Brown (OH)	Condit
Bass	Brown (SC)	Cooksey
Bentsen	Bryant	Costello
Bereuter	Burr	Cox
Berkley	Burton	Coyne
Berman	Buyer	Cramer
Berry	Callahan	Crane
Biggert	Calvert	Crenshaw
Bilirakis	Camp	Cubin

Culberson
Cummings
Cunningham
Davis (CA)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—36

Abercrombie
Becerra
Carson (IN)
Clayton
Conyers
Davis (IL)
Dingell
Doggett
Fattah
Filner
Gephardt
Gutierrez
Hastings (FL)
Hinchey
Kucinich
LaFalce
Lee
Lofgren
Lynch
McGovern
McKinney
McNulty
Meek (FL)
Miller, George
Mink
Olver
Owens
Pallone
Payne
Sanchez
Serrano
Slaughter
Stark
Waters
Watt (NC)
Woolsey

NOT VOTING—14

Baldacci
Blagojevich
Crowley
Davis (FL)
Holt
Honda
Hulshof
Leach
Rangel
Rodriguez
Sanders
Smith (WA)
Spratt
Traficant

□ 1133

Messrs. DAVIS of Illinois, ABERCROMBIE, and CONYERS, and Mrs. MEEK of Florida, Mrs. CLAYTON, and Ms. SLAUGHTER changed their vote from ''yea'' to ''nay.''

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

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the resolution.

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

RECORDED VOTE

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—ayes 388, noes 34, not voting 12, as follows:

[Roll No. 112]

AYES—388

Abercrombie
Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cooksey
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Sawyer
Saxton
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Stark
Stearns
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—34

Condit
Costello
Deutsch
Farr
Filner
Frank
Greenwood
Gutierrez
Hastings (FL)
Hinchey
Honda
Kilpatrick
Kolbe
Kucinich
Lee
Lofgren
McGovern
McKinney
McNulty
Meek (FL)
Miller, George
Olver
Sanchez
Sanders
Schaffer
Schakowsky
Stenholm
Tancredo
Taylor (MS)
Thornberry
Waters
Watson (CA)
Watt (NC)
Wexler

NOT VOTING—12

Baldacci
Blagojevich
Holt
Hulshof
Leach
Portman
Rangel
Rodriguez
Smith (WA)
Spratt
Traficant
Weller

□ 1143

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.

A motion to reconsider was laid on the table.

Stated for:

Mr. PORTMAN. Mr. Speaker, on rollcall No. 112, I was unavoidably detained. Had I been present, I would have voted ''aye.''

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

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

RECORDED VOTE

Mr. MCNULTY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 372, noes 47, answered ''present'' 1, not voting 14, as follows:

[Roll No. 113]

AYES—372

Abercrombie
Ackerman
Akin
Allen
Andrews
Armey
Baca
Bachus
Baker
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Cox
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, Jeff
Mink
Mollohan
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sullivan
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—47

Aderholt
Baird
Baldwin
Borski
Brady (PA)
Brown (FL)
Capuano
Costello
Crane
DeFazio
Filner
Fossella
Gillmor
Gutknecht
Hefley
Hilliard
Johnson, E. B.
Kennedy (MN)
Kucinich
Larsen (WA)
McDermott
McNulty
Miller, George
Moore
Moran (KS)
Oberstar
Olver
Pallone
Peterson (MN)
Ramstad
Sabo
Sanchez
Schaffer
Stark
Stupak
Taylor (MS)
Thompson (CA)
Thompson (MS)
Udall (NM)
Velazquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Weller
Wicker
Wu

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—14

Baldacci
Ballenger
Blagojevich
Bonilla
Clayton
English
Holt
Hulshof
Leach
Linder
Rangel
Rodriguez
Smith (WA)
Traficant

□ 1152

So the Journal was approved.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill, H.R. 3231.

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

There was no objection.

BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 396 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3231.

□ 1152

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes, with Mr. LATOURETTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, it is beyond time to restructure one of the worst-run agencies in the Federal Government, the Immigration and Naturalization Service. The INS has long been considered the undesirable and unwanted stepchild of the Justice Department. It carries out neither of its crucial missions well, enforcing our immigration laws and

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 Enforcement and a Bureau of Citizen 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, according to the Census Bureau. Over 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 singly 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 will be given the attention it deserves.

Others say INS stands for ''incompetent and negligent service.'' It would be hard to argue with them, either. The agency had a backlog of almost 5 million applications and petitions at the end of fiscal year 2001. It takes the INS years to adjudicate a green card application. It takes years for a naturalization applicant to become a U.S. citizen, and during this time, lawful immigrants trying to play by the rules must live in a state of purgatory.

Let me give one example. Green card applicants must have their fingerprints taken on a card like this. Now, for legitimate law enforcement reasons, fingerprints are only valid for 15 months. However, when the INS takes years to process a petition, a prospective immigrant must take off work multiple times and often go out of the way to a fingerprinting center, two more cards.

Even apart from the INS' slow-paced processing, very often they lose the fingerprints. And guess what? The alien has to have his fingerprints retaken. Here is strike four.

This bill creates a new Bureau of Citizenship and Immigration Services, headed by a professional in adjudicating government benefits. It will have the sole mission of adjudicating and providing benefits to aliens. The Bureau will bring the attention, the independence, and the budget to the immigration service issues that have been neglected far too long.

The bill also creates an Office of the Ombudsman, independent of the service bureau. Currently, when aliens and their attorneys reach their wit's end with the INS, they approach their Representatives and Senators for help. My district caseworkers spend more time dealing with the INS than with any other Federal agency, including the IRS. Thankfully, my staff and those of all of the Members can often help immigrant constituents, but immigrants need an effective advocate within the bureaucracy so they do not come to their Representatives' offices in the first place. The Office of the Ombudsman will be that advocate. It will have the duty of recommending better operating methods for the Bureau and monitoring its performance.

The Office of the Ombudsman will help infuse accountability into the immigration bureaucracy.

The two bureaus created by this bill will have their own set of offices to focus on and carry out their respective missions, including policy and budget shops. The bill also creates within the Justice Department an Associate Attorney General for Immigration Affairs to oversee and to supervise the bureaus and to coordinate the administration of national immigration policy. This will elevate immigration issues to the level they deserve.

I urge my colleagues to support this bipartisan, commonsense bill. It will result in true immigration reform, better service, better security, and it is long overdue.

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

□ 1200

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 me time. I assure him that I will try not to take the entire 10 minutes that he has granted to me for this purpose. But I did think it was important for somebody to come and make the case against this bill and to try to put in perspective what we are trying to do.

Mr. Chairman, I have heard throughout the debate on the rule and even the beginnings of the debate on the bill some claims about what this bill will do, which I think are gross overstatements and exaggerations. One of those during the rule debates, somebody came and said that this bill would 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 best 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 substantially worse, and I think we need to spend some time talking about that.

This bill divides administration and enforcement into two separate bureaus. The INS historically has been all under, and 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 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 worst 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 beyond me. I just do not understand 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 at that point what is happening now even in the existing INS is that enforcement is getting disproportionate amounts of money. 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 get the bulk of the money. Administration will still be inefficient, and it still will 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? No. It just means you 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-step 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 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 1¼ minutes.

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 up from the rolls of ex-Members. She 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 the Judiciary, it is because she was appointed by the President to make a study.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GEKAS), the chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. GEKAS. 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 consistent 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 restructuring 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 lo and 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 under this better service, 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 known to the people seeking citizenship that this is an important, vitally important and valuable step that they are seeing. So by the time they come to take 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, will concentrate, will make sure that the workings of that arm of Immigration and Naturalization Service will be so concentrated that we will see stronger border efforts at keeping illegals out, better screening of all of those who enter our country, and controlling of the now 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.

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

(Ms. LOFGREN asked and was given permission to revise and extend her remarks.)

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 things that concern me, and in this case the details do very much matter, is 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.

□ 1215

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.

Furthermore, 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 argue that the people who are in 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. It needs 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 has been 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 manager's amendment a pilot project that will help us do that, but we also need to give the Commissioner or the Associate Attorney General real authority to select new management from the private sector without regard to the attenuated process that we face today. We need to clean house, and we have not in this bill given the tools necessary to completely clean house in the management ranks; and I am not talking about the rank and file, but the management.

Finally, we have an amendment I will discuss when it comes up, but an amendment to assist with the procurement 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. He 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 understand what 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 member for their very 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 as have many others in this body and, more importantly, around the country, and I am very pleased and honored to support the Barbara Jordan bill. This has been a long, long road, 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 along 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 on the chore 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 legitimate applicants 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 conflicted. On the one hand, 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. This causes 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 8 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 conclude, is to simply abolish it, dismantle, start over, and this bill achieves that by separating these conflicted 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 as citizens 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 $68 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 by the 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. CONYERS. Mr. Chairman, I am pleased to yield 3½ minutes to the gentleman from Texas (Mr. REYES), the Chair of the Hispanic Caucus, who himself has worked in this area, has introduced legislation, worked with the Judiciary Committee many times.

Mr. REYES. Mr. Chairman, I thank the gentleman from Michigan for yielding me the time, and I want to thank both the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (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 have been in Congress, and countless others during my 26 years with INS. They all failed because cooking the books and changing some of the titles never really gets the job done. We need to do more than shuffle boxes if we are going to reform the INS.

Let me just say that I am today not piling on. I have a vested interest in the INS. I spent more than 26 years with the INS and I want to see our Immigration Service properly serve our country like I know that it can. I want to see this conflicted, struggling agency elevated in stature as it is the Sensenbrenner bill so that it will receive the kind of attention and support that it deserves. A well-functioning immigration system is critical to our national security.

I have advocated for restructuring 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.

□ 1230

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

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. 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.

Other congressional offices have 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—the Bureau of 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 bureaus directors, coordinates the administration of national policy and reconciles conflicting policies.

Finally, the legislation addresses many of the problems with 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 current agency.

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 a cosponsor on 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 Houston, it can take up to 3½ years to process green card applications. Immigrants must often wait long hours under extreme weather conditions before even setting foot inside the INS office. And for most immigrants, this is not 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, would they be deported, 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 home told 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 a 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 SPENCER BACHUS,
Cannon House Office Building, House of Representatives, Washington, DC.

DEAR 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 drivers license, had no insurance, but is employed 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 driver's 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 and myself. When I did some checking I was told there is not even an INS representative in Birmingham full time. These individuals are in this country illegally, pay no U.S. taxes and can hit someone and virtually 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 shameful. As 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 through the City of Hoover I would like to know what I can do, and what your stand is as my congressman on this situation.

Congressman, I know you get many letters that are considered ''off the wall''. However, as a Vice-President of Alabama's largest insurance company and as a longtime resident of your congressional district, I want to assure you that I do not write this letter lightly, but rather out of concern over a situation that is apparently getting out of hand in the City of Hoover. I await your response. The best to you and your family for the holiday season.

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 worked harder on the Committee 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 was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member very much for yielding me this time and for his persistence 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 had begun this discussion with 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 the way to solve 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 oversight role 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 chairperson, 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 gentleman 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. It is to recognize the work 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 that abounded even then with the INS, to begin to 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 stay away from castigating 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 in my district, 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 right now, but 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 would 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 promoted 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 that will affect the running of 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 to get the job done.

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 is to embrace the founding principles of this country, where all of us came here to work and seek opportunity but, at the same time, recognize that the Immigration and Naturalization Service, this new agency, must stand on the underpinnings of law, protecting us against illegal immigration but allowing those to access legalization.

I believe this is a bill that begins that, Mr. Chairman; and we will finish the job by working together.

Mr. SENSENBRENNER. 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.

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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. SENSENBRENNER) 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, we can say 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. SENSENBRENNER) 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 subcommittee chairman, 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 note that the chairman of 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.

But I remind my colleagues 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. SENSENBRENNER. Mr. Chairman, I yield 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. SENSENBRENNER) 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 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 provided 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, negligent service that our constituents, the American citizens, and 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 sure 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, as they do in my district, 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' 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 in this country, 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 have 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 the INS and take a comprehensive approach to reorganizing 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 away with the old Immigration and Naturalization Service, and implement a system that will work more efficiently.

Anyone wanting proof of this need only look to the March issuance of student visas to not one, 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

this issue was addressed in the bill H.R. 3525, which requires the INS to implement a student visa tracking system. That bill was passed unanimously on a voice vote by the House of Representatives on December 19. The other body passed this bill with amendments on April 18. We will be having a vote on concurring with those amendments some time shortly, and the student visa tracking legislation, together with an entry-exit system tracking, will be on its way to the President for his expected signature.

We are going to be across the finish line with this before the current bill goes before the President.

Mr. BILIRAKIS. Mr. Chairman, I thank the gentleman for that explanation. I was asking for a moratorium to give them an opportunity to get those things done.

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

Mr. Chairman, I would like to express my appreciation to all of the members of the committee, to the bipartisan committee staff, to the ranking member, the gentleman from Michigan (Mr. CONYERS), to the ranking subcommittee member, the gentlewoman from Texas (Ms. JACKSON-LEE) in putting together a bill which has huge bipartisan support.

I also express my thanks to the President and the Attorney General for recognizing the need for legislative action and restructuring the Immigration Service so that it can be functional.

I think we all recognize that this bill is not a panacea. The problems that we have heard about for the last 2.5 hours have taken years to develop: the 5 million backlog in processing applications for immigration services; the over 300,000 people who have had their day in court and have been ordered deported, that the INS has no idea where they are except that they are still in the United States of America.

So should this bill pass and be signed into law, which I earnestly hope that it will before this Congress expires, it will take a long time for us to put our immigration affairs back in order. But this is the essential first start, because if we do not restructure the INS, telling them that they are supposed to adjudicate millions more applications when they are 5 million behind is just going to mean that new immigrants will be at the bottom of the pile and will have to wait much longer.

To tell the current INS that they have to do a better job of enforcing against the Mohammed Attas that may still be in the country, when they have over 300,000 people already ordered deported and are still here, is going to complicate this system and have a further backlog. By restructuring the INS, we are on a good start. I urge Members to support this legislation.

Mr. TOM DAVIS of Virginia. I rise today in support of H.R. 3231, the Barbara Jordan Immigration Reform & Accountability Act.

The magnitude of the INS' 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 300,000 criminal and deportable aliens ordered removed by immigration judges have absconded. Much of the INS' failure stems from the conflict between its enforcement and service missions. Mr. Chairman, the INS is unable to adequately perform either of its missions. Rather, the agency appears to move from one crisis to the next, with no coherent strategy of how to accomplish both missions successfully.

Reponding 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 mediation backlogs 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 deportment along the border and in the interior.

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 detain terrorists, internal reorganization is not working. This bill creates a clear chain of command and greater accountability.

Mr. Chairman, I urge all of 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 with 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 forced to witness the difficult truth 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 and their families in the United States.

I am pleased to support H.R. 3231 for several reasons, not the last of which is its innovative approach to the reorganization of the Immigration and Naturalization Service (INS). Beyond reorganizing the INS into two separate bureaus 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.

With 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 efforts to strengthen border security 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 seeks 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. The need for reform of 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 the separate bureaus for services and enforcement. H.R. 3231 allows the separate bureaus to focus on the distinct missions of providing services and enforcement.

Another core principle to 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 offices which should remain at the core of the 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 a coherent national immigration policy.

Although I am pleased we have made strides toward elevating the Office of Children's Affairs, I do not think this legislation adequately addresses the needs of unaccompanied minors. I am particularly concerned with 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 ensure that they are appropriately counseled and represented as they navigate our extremely complicated immigration courts and system. The only thing this legislation specifies is that the Director of the OCA is responsible for ''compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children.'' How will that benefit an infant or a toddler who can not speak much less read? I hope my colleagues in 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 language that would elevate the 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 office of 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 unfair cost shifting 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 gentlewoman 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 this 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 floor.

Mr. BLUMENAUER. 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 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 Dept.

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 redeem itself from 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 GEKAS 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 serving those who are served daily 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 procedures, the INS is not properly serving 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 since 1993.

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 not in a better position to internally 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. The two new organizations will have 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 clear chains of commands 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 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 managed to send visa 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 the hard work and tireless efforts of 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 agency to stem the flow of undocumented 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 restructuring 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 SILVESTRE REYES in 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 measure transfers authority for implementing immigration law directly to the two bureau directors, and authorizes such sums as may be necessary to abolish the INS an establish the immigration service an enforcement bureaus.

Additionally, the measure establishes an Office of Children's Affairs, which would be responsible for coordinating and implementing 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 is a long 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 maintains 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, which is supported by the Administration, 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 after the fact 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 bill 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. CONYERS) for their efforts in crafting the bipartisan bill before the House today.

Certainly, this Member certainly supports efforts to restructure 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 infrastructure are necessary to protect U.S. citizens from outbreaks of infectious disease and from crime, certainly including terrorism. As more information becomes available about the terrorists who conducted the unspeakable and horrific terrorist attacks of September 11, 2001, there is increasing momentum to revamp the current immigration process.

Despite this Member's support for restructuring, this Member would like to 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, despite the 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, on the basis of the overall 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 request 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 fine record and well-earned reputation for efficiency. 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 these reasons, this Member believes it is critical that, as any immigration restructuring efforts are implemented, the Nebraska Service Center to remain in Lincoln, Nebraska.

Again, this Member urges his colleagues to support H.R. 3231.

Mr. CALVERT. Mr. Chairman, I commend Judiciary Committee Chairman JAMES SENSENBRENNER and Ranking Member JOHN CONYERS for their work on bringing this important 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-based technologies be implemented to track immigration applications—technologies that can alert Americans now, not later when it's already to 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 attempted numerous internal reorganizations—reorganizations that have obviously not worked. INS's present mission to both administer immigration benefits and enforce immigration 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's 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.

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 Immigration 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 partake of the American dream. These conflicting missions 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 hundred cases. With only three employees working four days a week, the service problems have not been adequately resolved.

Border and immigration security is of paramount importance as we find, arrest, and

prosecute terrorists in order to protect the American public. On the other hand, legal immigrants seeking better jobs and family life in America must be treated with respect. Nationwide problems of law enforcement are consuming larger and larger portions of the INS budget. This occurs at the cost of the legal immigrant, who sees less and less of the INS devoted to service.

When legal immigrants become less important in the eyes of the INS, they become victims of the process. Law enforcement should not be funded at the cost of service, and service should not compromise enforcement of our immigration laws. Dividing these responsibilities 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 cosponsor of this bill, which will help us begin to address chronic and longstanding problems at the Immigration and Naturalization Service. The recent discoveries that the INS processed visa extensions for two of the dead September 11th hijackers and that INS inspectors allowed Pakistani seamen to come ashore in Virginia (after which three of them disappeared) are only two of the latest embarrassments attributable to INS mismanagement.

I know that efforts to overhaul INS predate my time here in Congress by several decades. But I'm glad that I'm here to witness the beginning of this long overdue restructuring. I think we can all agree that an agency that is expected to wear two distinct hats—one to serve our immigrant population, and one to watch our borders and enforce immigration laws—is bound to run into problems. And indeed, the INS has run into problems wearing both hats simultaneously, especially as we have asked it to accomplish disparate tasks using the same tools and the same staff. This bill would change that, and that's why it deserves support.

H.R. 3231 would effectively abolish the INS as we know it, establishing separate enforcement and service divisions. But it would maintain important coordinating functions through a new associate attorney general for immigration affairs to oversee both bureaus.

I know there are concerns that the coordinating role the bill establishes won't be strong enough to enable the two bureaus to share information and work closely together. I also want to ensure that resource allocation is fair and that the appropriate amount of funding goes both to adjudication and to enforcement. There are also calls for the long backlogs at INS to be reduced before any reorganization goes into effect. There is some merit to these ideas, and I am hopeful that the version of this bill that emerges from House and Senate consideration will address them and any other concerns about the bill that might arise. At the same time, I think it's important we pass this bill now. We need to send a strong message that the days of the INS as we know it are over, and that soon there will be changes for the better—both in how immigrants are served, and in how we enforce immigration laws that are already on the books.

Mr. Chairman, passage of this bill today is yet another step the House has taken in the months after September 11th to try to fix a system that doesn't work as well as it should. 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 improve our ability to screen and keep track of those who enter this country. That bill would also allow those who already quality for immigration because of their family or employer ties to complete the process in the U.S. Also known as Section 245(i), this provision does not grant an amnesty, give immigrants the right to work, or protect them from deportation if they are living in the U.S. illegally. What it does do is keep families together and encourage those who qualify for permanent residency to continue filling an economic need and to become part of a regulated system.

Restructuring the INS—as H.R. 3231 would do—is just one part of comprehensive immigration reform. Strengthening our border security mechanisms is another. A third part involves modernizing our immigration laws to be enforceable as well as responsive to our country's labor needs. This is where some of the toughest decisions will lie. The Administration and the Congress need to work together to find workable and sound answers for some of these broader issues—such as determining whether our legal immigration levels are sustainable; figuring out how best to stem illegal immigration, both for security reasons and to ensure that American workers are not displaced; and addressing questions about the status of people already in this country.

The challenge we face is to implement measures that will make our country more secure 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 amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose 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 Representatives of the United States of America 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 contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Abolishment of Immigration and Naturalization Service; establishment of Office of Associate Attorney General for Immigration Affairs.
Sec. 3. Positions within Office of Associate Attorney 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. Savings provisions.
Sec. 10. Transfer and allocation of appropriations and personnel.
Sec. 11. Authorization of appropriations; prohibition on transfer of fees; leasing or acquisition of property; sense of Congress.
Sec. 12. Reports and implementation plans.
Sec. 13. Application of Internet-based technologies.
Sec. 14. Definitions.
Sec. 15. Effective date; transition.
Sec. 16. Conforming amendment.

SEC. 2. ABOLISHMENT OF IMMIGRATION AND NATURALIZATION SERVICE; ESTABLISHMENT 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 is established in the Department of Justice an office to be known as 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 experience in managing a large and complex organization.

(3) COMPENSATION AT LEVEL III OF EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Associate Attorney General for Immigration Affairs.''.

(c) FUNCTIONS.—The Associate Attorney General 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 Director of the Bureau of Immigration Enforcement;

(2) coordinating the administration of national immigration policy, including coordinating the operations of the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement, and reconciling conflicting policies of such bureaus; and

(3) allocating and coordinating resources involved in supporting shared support functions for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement, through the Office of Shared Services established by section 3.

SEC. 3. POSITIONS WITHIN OFFICE OF ASSOCIATE ATTORNEY GENERAL FOR IMMIGRATION 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 policy; and

(B) coordinating and reconciling the resolution of policy issues by the Bureau of Citizenship 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 Associate Attorney General for Immigration Affairs. The General Counsel shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any 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;

(B) representing 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 issues; 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 (h) to the extent that the Associate Attorney General for Immigration Affairs does not delegate such functions to the General Counsel.

(c) CHIEF FINANCIAL OFFICER.—

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

(2) FUNCTIONS.—The Chief Financial Officer shall be responsible for—

(A) financial 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 and shall have the authorities and functions described in section 902 of title 31, United States Code, in relation to financial activities of such office and bureaus;

(B) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement; and

(C) coordinating all budget and other financial management issues with the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(d) DIRECTOR OF SHARED SERVICES.—

(1) IN GENERAL.—There shall be a position of Director of the Office of Shared Services for the Associate Attorney General for Immigration Affairs.

(2) FUNCTIONS.—The Director of the Office of Shared Services shall be responsible for the appropriate allocation and coordination of resources involved in supporting shared support functions for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement, including—

(A) facilities management;

(B) information resources management, including computer databases and information technology;

(C) records and file management; and

(D) forms management.

(e) OFFICE OF THE OMBUDSMAN.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established in the Office of the Associate Attorney General for Immigration Affairs an office to be known as the ''Office of the Ombudsman''.

(B) OMBUDSMAN.—

(i) IN GENERAL.—The Office of the Ombudsman shall be under the supervision and direction of an official to be known as the ''Ombudsman''. The Ombudsman shall report directly to the Associate Attorney General for Immigration Affairs.

(ii) QUALIFICATIONS.—The Ombudsman shall have a background in customer service as well as immigration law.

(2) FUNCTIONS OF OFFICE.—The Ombudsman shall perform the functions described in section 5.

(f) OFFICE OF PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.—

(1) IN GENERAL.—There is established in the Office of the Associate Attorney General for Immigration Affairs an office to be known as the ''Office of Professional Responsibility and Quality Review''. The head of the Office of Professional Responsibility and Quality Review shall be the Director of the Office of Professional Responsibility and Quality Review. The Director of the Office of Professional Responsibility and Quality Review shall be responsible for—

(A) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement that are not subject to investigation by the Department of Justice Office of the Inspector General;

(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 providing assessments of the quality of the operations of such office and bureaus as a whole and each of their components; 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 a decision of 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;

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

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

(g) 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.—

(A) IN GENERAL.—The Director of the Office of Children's Affairs shall be responsible for—

(i) coordinating and implementing law and policy for unaccompanied alien children who come into the custody of the Department of Justice;

(ii) ensuring that the interests of the child are considered in decisions and actions 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 individuals, entities, and facilities to house unaccompanied alien children;

(vii) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(viii) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(ix) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(x) maintaining statistical information and other data on unaccompanied alien children in the Office's custody and care, which shall include—

(I) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(II) the date on which the child came into the custody of the Department of Justice;

(III) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(IV) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(V) the disposition of any actions in which the child is the subject;

(xi) collecting and compiling statistical information from the Office of the Associate Attorney General, Bureau of Citizenship and Immigration Services, and Bureau of Enforcement (including Border Patrol and inspections officers), on the unaccompanied alien children with whom they come into contact; and

(xii) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(B) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in subparagraph (A)(iii), the Director of the Office of Children's Affairs—

(i) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Director of the Bureau of Immigration Enforcement to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(I) are likely to appear for all hearings or proceedings in which they are involved;

(II) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(III) are placed in a setting in which they not likely to pose a danger to themselves or others; and

(ii) shall not release such children upon their own recognizance.

(C) 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).

(D) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in subparagraph (A)(vii), 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.

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

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

(B) the term ''unaccompanied alien child'' means a child who—

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

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

(iii) with respect to whom—

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

(II) no parent or legal guardian in the United States 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 Division, to the Associate Attorney General for Immigration Affairs all functions performed by the Office of Immigration Litigation, and all personnel, infrastructure, 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 Affairs may, in the Associate Attorney General's discretion, charge the General Counsel to the Associate Attorney General for Immigration Affairs with such functions.

(i) EMPLOYEE DISCIPLINE FOR WILLFUL DECEIT.—The Associate Attorney General for Immigration Affairs may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, or the Bureau of Immigration Enforcement who willfully deceives the Congress or agency leadership on any matter.

(j) REFERENCES.—With respect to any function transferred by this section or Act to, and exercised on or after the effective date specified in section 15(a) by, the Associate Attorney General for Immigration Affairs or any other official whose functions are described in this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component 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 for Immigration Affairs.

SEC. 4. ESTABLISHMENT OF BUREAU OF CITIZENSHIP 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 Immigration Services, 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 the rendering of adjudications on the provision of government benefits or services, at least 5 of which shall have been years of service in a managerial capacity or in a position affording comparable management experience.

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

(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 the Director by law;

(B) shall oversee the administration of such policies;

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

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

(E) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman's annual report to the Congress within 3 months after its submission to the Congress.

(4) STUDENT VISA PROGRAMS.—The Director of the Bureau of Citizenship and Immigration Services shall designate an official to be responsible for administering student visa programs and the Student and Exchange Visitor Information System established under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), and successor programs and systems, until September 30, 2004. The Director may continue such policy after September 30, 2004, at the Director's discretion. The Director shall provide any information collected by the Student and Exchange Visitor Information System to the Director of the Bureau of Immigration Enforcement that is necessary for the performance of the functions of the Bureau of Immigration Enforcement.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—There are transferred from the Commissioner of the Immigration and Naturalization Service to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 15(a):

(1) Adjudications of nonimmigrant and immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 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 head 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; and

(3) coordinating immigration policy issues with the Chief of the Office of Policy and Strategy for the Bureau of Immigration Enforcement 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 Citizenship and Immigration Services.

(e) 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 responsible for formulating and executing the budget of the Bureau of Citizenship and Immigration Services. The Chief Budget Officer shall report to the Director of the Bureau of Citizenship and Immigration Services 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 Citizenship and Immigration Services 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 services to the Congress, including information on specific cases relating to immigration services;

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

(3) responding to inquiries from the media and general public on immigration services issues.

(g) OFFICE OF CITIZENSHIP.—There is established in the Bureau of Citizenship and Immigration 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 instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

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

(i) FIELD OFFICES.—Headed by field directors, who may be assisted by deputy field directors, field offices of the Bureau of Citizenship and Immigration Services shall be responsible for assisting the Director of the Bureau of Citizenship and Immigration Services in carrying out the Director's functions. 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 Citizenship and Immigration Services. All field directors shall remain accountable to, and receive their authority from, the Director of the Bureau of Citizenship and Immigration Services, in order to ensure consistent application and implementation of policies nationwide.

(j) SERVICE CENTERS.—Headed by service center directors, service centers of the Bureau of Citizenship and Immigration Services shall be responsible for assisting the Director of the Bureau of Citizenship and Immigration Services in carrying out the Director's functions that can be effectively carried out at remote locations. Service center directors are subject to the general supervision and direction of their respective sector director, except that all service center directors shall remain accountable to, and receive their authority from, the Director of the Bureau of Citizenship and Immigration Services, in order to ensure consistent application and implementation of policies nationwide.

(k) TRANSFER AND REMOVAL.—Notwithstanding any other provision of law, the Director of the Bureau of Citizenship and Immigration Services may, in the Director's discretion, transfer or remove any sector director, field director, or service center director.

(l) 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 Citizenship and Immigration Services and the Associate Attorney General for Immigration Affairs in order to ensure the development of a cohesive and consistent national immigration policy.

(m) REFERENCES.—With respect to any function transferred by this section or Act to, and exercised on or after the effective date specified in section 15(a) by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

SEC. 5. OFFICE OF THE OMBUDSMAN.

(a) FUNCTIONS.—It shall be the function of the Office of the Ombudsman established under section 3—

(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 have 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 calendar year, 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 nature 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 action remains to be completed and 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 no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of 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 may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without 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 meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present 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 respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of 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 response to all recommendations submitted to such director by the Ombudsman within 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 in the Office of the Associate 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 disclose to the 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 other means of 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 the Director by law;

(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 all functions performed under the following programs, and 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 the Chief of the Office of Policy and Strategy. In consultation with Bureau of Immigration Enforcement personnel in field offices, the Chief 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 issues; and

(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) responding to inquiries from the media 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, field offices of the Bureau of Immigration Enforcement shall be responsible for assisting the Director of the Bureau of Immigration Enforcement in carrying out the Director's functions. 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 situated in at least every location where there is situated a field office of the Bureau of Citizenship and Immigration Services.

(i) BORDER PATROL SECTORS.—Headed by chief patrol agents, who may be assisted by deputy chief patrol agents, border patrol sectors of the Bureau of Immigration Enforcement shall be responsible for the enforcement of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other laws relating to immigration and naturalization within their assigned geographic areas of activity, unless any such power and authority is required to be exercised by higher authority or has been exclusively delegated to another immigration official or class of immigration officer. Chief patrol agents are subject to the general supervision and direction of their respective sector director, except that they 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.

(j) 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 on or after the effective date specified in section 15(a) by, the Director of the Bureau of Immigration Enforcement, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Immigration Enforcement; or

(2) to such component is deemed to refer to the Bureau of Immigration Enforcement.

SEC. 7. OFFICE OF IMMIGRATION STATISTICS WITHIN BUREAU OF JUSTICE STATISTICS.

(a) IN GENERAL.—Part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731 et seq.) is amended by adding at the end the following:

''OFFICE OF IMMIGRATION STATISTICS

''SEC. 305. (a) There is established within the Bureau of Justice Statistics of the Department of Justice an Office of Immigration Statistics (in this section referred to as the 'Office'), which shall be headed by a Director who shall be appointed by the Attorney General and who shall report to the Director of Justice Statistics.

''(b) The Director of the Office shall be responsible for the following:

''(1) Maintenance of all immigration statistical information of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review. Such statistical information shall include information and statistics of the type contained in the publication entitled 'Statistical Yearbook of the Immigration and Naturalization Service' prepared by the Immigration and Naturalization Service (as in effect on the day prior to the effective date specified in section 15(a) of the Barbara Jordan Immigration Reform and Accountability Act of 2002).

''(2) Establishment of standards of reliability and validity for immigration statistics collected by the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review.

''(c) The Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review shall provide statistical information to the Office of Immigration Statistics from the operational data systems controlled by the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration Enforcement, and the Executive Office for Immigration Review, respectively, for the purpose of meeting the responsibilities of the Director.''.

(b) TRANSFER OF FUNCTIONS.—There are transferred to the Office of Immigration Statistics established under section 305 of the Omnibus Crime Control and Safe Streets Act of 1968, as added by subsection (a), the functions performed by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service on the day before the effective date specified in section 15(a).

(c) CONFORMING AMENDMENTS.—Section 302(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(c)) is amended—

(1) by striking ''and'' at the end of paragraph (22);

(2) by striking the period at the end of paragraph (23) and inserting ''; and''; and

(3) by adding at the end the following:

''(24) collect, maintain, compile, analyze, publish, and disseminate information and statistics about immigration in the United States, including information and statistics involving the functions of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, 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.—

(1) 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) REFERENCES.—In a case in which the Attorney General performs a function described in paragraph (1), any reference in any other Federal law, Executive order, rule, regulation, document, or delegation of authority to the official otherwise responsible for the function is deemed to refer to the Attorney General.

(c) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed to preclude or limit in any way the powers, authorities, or duties of the Secretary of State and special agents of the Department of State and the Foreign Service under the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651 note), the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), or any other Act, to investigate illegal passport or visa issuance or use.

SEC. 9. SAVINGS PROVISIONS.

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

(1) that have been issued, made, granted, or allowed to become effective by the President, the Attorney General, the Commissioner of the Immigration and Naturalization Service, their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

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 operation of law.

(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 proceedings and 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.

(c) SUITS.—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 and with the same effect 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 abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under 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 other 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 administrative or judicial review that apply to any function transferred by this Act shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred by this Act.

SEC. 10. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—The personnel of the Department of Justice employed in connection with the functions transferred by this Act (and functions that the Attorney General determines are properly related to the functions of the Bureau of Citizenship and Immigration Services or the Bureau of Immigration Enforcement and would, if transferred, further the purposes of the bureau to which the function is transferred), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service or the Office of Immigration Litigation of the Civil Division in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Associate Attorney General for Immigration Affairs for allocation 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) DELEGATION 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 redelegations 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 regard to the functions transferred by this Act, and may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available 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) the electronic docketing 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, or a notice to alien 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 immigration authorities, without regard 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), and to carry out any other duty related to the reorganization of the immigration and naturalization functions that is made necessary by this Act (or any such amendment).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) shall remain available until expended.

(3) TRANSITION ACCOUNT.—

(A) 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 Reorganization Transition Account'' (in this paragraph referred to as the ''Account'').

(B) USE OF ACCOUNT.—There shall be deposited into the Account all amounts appropriated under paragraph (1).

(C) ADVANCED AVAILABILITY OF FUNDS.—To the extent provided in appropriations Acts, funds in the Account shall be available for expenditure before the effective date specified in section 15(a).

(b) SEPARATION OF FUNDING.—

(1) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

(2) SEPARATE BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(3) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under paragraph (1) that is for the bureau with jurisdiction over the function to which the fee relates.

(4) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

(5) ESTABLISHMENT OF FEES FOR ADJUDICATION AND NATURALIZATION SERVICES.—Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking ''services, including the costs of similar services provided without charge to asylum applicants or other immigrants.'' and inserting ''services.''.

(6) AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE AND ASYLUM ADJUDICATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act (8 U.S.C. 1157–1159). All funds appropriated under this paragraph shall be deposited into the Immigration Examinations Fee Account established under section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) and shall remain available until expended.

(c) LEASING OR ACQUISITION OF PROPERTY.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend, from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of establishing the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement under this Act.

(d) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the missions of the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement are equally important and, accordingly, they each should be adequately funded; and

(2) the functions of the Associate Attorney General for Immigration Affairs described in section 3, the immigration adjudication and service functions referred to in section 4, and the immigration enforcement functions referred to in section 6 should not operate at levels below that in existence prior to the enactment of this Act.

(e) ELIMINATION OF LIMITATION ON EXPENDITURES FOR BACKLOG REDUCTION.—Section 204(b) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(b)) is amended by striking paragraph (4).

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 and the Judiciary of the United States House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, 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 a report on the proposed division of personnel among the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement.

(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 termination of fiscal year 2005, 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 this Act.

(2) CONTENTS.—The implementation plan should 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 office and bureaus.

(D) 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 that director's bureau.

(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.).

(I) Establishment of a transition team.

(J) Ways to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement in instances where separate systems are more efficient or effective.

(d) REPORT ON IMPROVING IMMIGRATION SERVICES.—

(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 the Judiciary and Appropriations of the United

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 within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 4(b).

(2) CONTENTS.—For each type of adjudication to be undertaken 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 implemented without affecting the quality of the adjudication.

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

(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 for applying for and making adjudications described in section 4(b) and related processes.

(e) 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 programs described in paragraphs (1) through (5) of section 6(b), will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such programs.

(2) 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 the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Associate Attorney General for Immigration Affairs, the Director of the Bureau of Citizenship and Immigration Services, the Director of the Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

(f) REPORT ON SHARED SERVICES.—The Attorney General, not later than 3 years after the effective date specified in section 15(a), shall submit to the Committees on the Judiciary and Appropriations of the United States House of Representatives and of the Senate a report on whether the Director of Shared Services is properly serving the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement. The report should address whether it would be more efficient to transfer one or more of the functions described in section 3 to the Director of the Bureau of Citizenship and Immigration Services or the Director of the Bureau of Immigration Enforcement, and shall include an estimate of the cost of any such transfer that the Attorney General recommends. The report should also address whether it would be more efficient to transfer one or more of the functions described in sections 4 and 6 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.

(g) COMPTROLLER GENERAL STUDIES AND REPORTS.—

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the effective date specified in section 15(a), and every 6 months thereafter, until full implementation of this Act has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the United States House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by sections 4 and 6 have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by sections 4 and 6 have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the effective date specified in section 15(a), the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the United States House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement, and the transfer of functions from the Immigration and Naturalization Service and the Office of Immigration Litigation of the Civil Division to the Office of the Associate Attorney General for Immigration Affairs, under this Act have improved, with respect to each function transferred, the following:

(i) Operations.

(ii) Management, including accountability and communication.

(iii) Financial administration.

(iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement.

(h) REPORT ON INTERIOR CHECKPOINTS.—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 whether all permanent interior checkpoints operated by the Immigration and Naturalization Service ought to be closed, and the funds that otherwise would be expended for the operation of such checkpoints ought to be reallocated for protecting and maintaining the integrity of the borders of the United States and increasing enforcement at other points of entry into the United States.

(i) REPORT ON RESPONDING TO FLUCTUATING NEEDS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the effective date specified in section 15(a), the Bureau of Citizenship and Immigration Services, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

SEC. 13. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

(a) ESTABLISHMENT OF TRACKING SYSTEM.—The Attorney General, not later than 1 year after the date of the enactment of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Attorney General for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.—

(1) ONLINE FILING.—The Attorney General, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

(2) REPORT.—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the United States House of Representatives and the Senate not later than 1 year after the date of the enactment of this Act.

(c) TECHNOLOGY ADVISORY COMMITTEE.—

(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 in—

(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.

(2) COMPOSITION.—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

SEC. 14. DEFINITIONS.

For purposes of this Act:

(1) The term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) The term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

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) TRANSITION 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

4 and 6 for both the Bureau of Citizenship and Immigration Services and the Bureau of Immigration Enforcement.

SEC. 16. CONFORMING AMENDMENT.

Section 5315 of title 5, United States Code, is amended by striking the following:

''Commissioner of Immigration and Naturalization, Department of Justice.''.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 107–419. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

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It is now in order to consider amendment No. 1 printed in House Report 107–419.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 2, after the item relating to section 10, insert the following (and redesignate succeeding items accordingly):

''Sec. 11. Voluntary separation incentive payments.

''Sec. 12. Authority to conduct a demonstration project relating to disciplinary action.

Page 15, line 15, strike ''15(a)'' and insert ''17(a)''.

Page 17, line 9, strike ''15(a)'' and insert ''17(a)''.

Page 18, line 1, strike ''15(a)'' and insert ''17(a)''.

Page 20, after line 21, insert the following:

(5) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 18(a), the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall, as a condition on further promotion—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center 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 21, line 4, strike ''15(a)'' and insert ''17(a)''.

Page 21, line 13, strike ''15(a)'' and insert ''17(a)''.

Page 25, line 20, strike ''15(a)'' and insert ''17(a)''.

Page 32, after line 20, insert the following:

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 17(a), the Director of the Bureau of Immigration Enforcement shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS–14 or above, shall, as a condition on further promotion—

(i) gain some experience in all the major 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 PAYMENTS.

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

(1) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who—

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

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

but does not include any person under subparagraphs (A)-(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; and

(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—

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

(2) 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—

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

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

(3) shall be equal to the lesser of—

(A) the amount the employee 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;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

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

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

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO 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 for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement 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).

(3) 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 incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection 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 THE GOVERNMENT.—An 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).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—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 redeploy or use the full-time equivalent positions vacated by voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

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

(a) IN GENERAL.—The Attorney General may, during a period ending not later than 5 years after the date of the enactment of this Act, 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; and

(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 expeditious, fair, and independent review of any action to which 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) ACTIONS INVOLVING DISCRIMINATION.—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(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 subsection (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 7702(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 grievance 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 fourth 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. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment which has been worked out on a bipartisan basis by 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 their respective bureaus and will have worked out in the field. I want to thank the gentleman from Arizona (Mr. FLAKE) for crafting this important provision.

Second, this amendment permits the Attorney General to offer buyouts to INS employees. That is essential to reshaping the agency.

Third, and most importantly, the amendment authorizes a 5-year demonstration project relating to disciplinary actions. It permits the AG to change policies and procedures regarding methods of disciplining employees in order to improve the quality of INS management. This would ensure discipline for both employee malfeasance and nonfeasance.

The demonstration project must encourage the use of alternative means of dispute resolution, where appropriate, and require expeditious, fair and independent review of disciplinary actions. The amendment provides needed flexibility for managing the new immigration components.

I want to thank the Committee on Government Reform for its work, support and patience in drafting this amendment. I want to thank three members of the Committee on the Judiciary, the gentleman from Utah (Mr. CANNON), the gentlewoman from California (Ms. LOFGREN), and the gentleman from California (Mr. ISSA) who worked particularly hard to ensure that the Justice Department would have the personnel flexibility to 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 SENSENBRENNER 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. SENSENBRENNER. 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. SENSENBRENNER. 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. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 107–419.

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 at the end the following: '', including developing a plan to be submitted to the Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act''.

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

The Chair recognizes the gentlewoman from Wisconsin (Ms. BALDWIN).

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 5,000 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 what is 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 would encourage the gentlewoman to complete her remarks, so I will not take up a lot of the time, but I do want to congratulate the gentlewoman for an excellent amendment. Working, of course, as I do with the Congressional Children's Caucus, we are always seeing the diminished rights of children many times when they are unequal in our systems and particularly the court systems. And so coming from a border State like Texas, I can assure you that in the detention centers we find large numbers of unaccompanied children. Also being familiar with Haitian children in the parts of the land in which they come, particularly the State of Florida, we have seen many tragic incidences of citizen Haitian children with parents who are then forced to be sent back and with no independent representation. It happens to many, many immigrants.

And so let me say that this is an important addition to the children's bureau. I would like to join you as I am on the amendment in asking our colleagues to support it.

Ms. BALDWIN. 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 takes 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 as mandated by law but also 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 in the way 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 receiving legal counsel that is rife with conflicts of interest. I would point out that this amendment states that any plan developed by the new Office of Children's Affairs will be brought back before Congress for careful examination. It is essential that Congress be able to give suggestions and ask questions about how we can best protect these children's interests.

In closing, I would like to make this point very clearly: Most of the unaccompanied alien children are here for reasons beyond their control. In reforming and restructuring the INS, we hope to more effectively separate those people who want to tear our country down, from those who want to build it up. By passing this amendment, we have a great chance of making these children want to do the latter.

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

The CHAIRMAN. Does any Member rise in opposition to the amendment to claim that time?

The gentlewoman from Wisconsin is then recognized for the balance of her time.

Ms. BALDWIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I do want to include in the RECORD for the gentlewoman's amendment and for the gentlewoman's information that we are seeing over the last couple of weeks and months carriers of heroin, 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.

In 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 or labor. Many 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 intent and purpose has become as blurry 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 defend herself. 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 forced to fill out complex legal forms that determine their future life here in the United

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 of developing a plan on how to do 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 back to this Congress so Members 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 87 HEROIN CONDOMS

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

The boy's father is imprisoned in the United States for recruiting drug mules to smuggle heroin into Georgia.

The boy, identified as Prince Nnaedozie Umegbolu, was listed in stable condition at New York Hospital Medical Center of Queens. Officials said 85 of the 87 condoms had left his system as of Thursday evening.

The boy has been charged with juvenile delinquency drug possession of a controlled dangerous substance, said Steve Coleman, a spokesman for the Port Authority of New York and New Jersey, which runs area airports. His case will be handled in family Court.

Airport detectives said it is not uncommon to find adults acting as drug mules, but it is rare for a child.

The boy arrived alone at John F. Kennedy International Airport at 10:30 p.m. Wednesday on a British Airways flight from London, Coleman said. He hailed a cab and went to a Brooklyn address, but no one was there, Coleman said. He then went to LaGuardia Airport before becoming ill.

Authorities did not know for whom Umegbolu was carrying the heroin.

Umegbolu, an American citizen, had been living with his grandparents for the past two years in Abuja, Nigeria, Coleman said. His mother, Alissa Walden, lives in Norcross, Georgia. There was no telephone listing for her, and she could not immediately be contacted for comment.

The boy's father, Chukwunwieke Umegbolu, is imprisoned in Petersburg, Virginia, according to court records. The elder Umegbolu was convicted in 1995 for his role in a drug ring that imported at least $33 million in heroin into Georgia over a decade.

Ms. BALDWIN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

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

Mr. HOSTETTLER. Mr. Chairman, I thank the gentlewoman from Wisconsin for this opportunity to speak on behalf of the amendment.

Article 1, section 8 of the United States Constitution gives the Federal Government jurisdiction to establish uniform naturalization laws. We have been given constitutional authority to establish these laws, and it is our responsibility to make adequate provisions for children who find themselves in conflict with our laws through no fault of their own. This amendment requires the Office of Children's Affairs to report to Congress on a plan that would aid unaccompanied children in the naturalization process.

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 4,700 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 gentlewoman from Wisconsin has 1 minute remaining.

Ms. BALDWIN. Mr. Chairman, I yield that 1 minute to the gentlewoman 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 best 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 that comes back. I think and 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 in a dependency case, with advocacy of their best interests. I very much appreciate the effort that the gentlewoman from Wisconsin (Ms. BALDWIN) has put into this.

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

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 107–419.

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 FEES.—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 396, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman 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 establishing of a bureau of services and a bureau of enforcement, one of the major concerns in this legislation and as well in the fault of the INS.

□ 1315

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 do occur can get 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.

To 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 Committee on 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 worthwhile 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. Does any Member claim the time in opposition to the amendment?

If not, the gentlewoman is invited to consume her time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield back 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 gentleman 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 records 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 that if one 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 in 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 creates 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 note 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 vast differences in denial 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 gentlewoman from California (Ms. ROYBAL-ALLARD).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 5 printed in House report 107–419.

AMENDMENT NO. 5 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. VELÁZQUEZ:

Page 20, after line 21, insert the following:

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

Page 51, strike lines 16 through 20 and insert the following:

(e) BACKLOG ELIMINATION.—Section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)) is amended by striking ''October 17, 2000;'' and inserting ''the effective date specified in section 15(a) of the Barbara Jordan Immigration Reform and Accountability Act of 2002;''.

The CHAIRMAN. Pursuant to House Resolution 396, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

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

Mr. Chairman, first and foremost, I would like to commend and congratulate the chairmen and ranking members of the Committee on the Judiciary and the Subcommittee on Immigration for all of their hard work on the bill we have before us today, which takes the long overdue step of restructuring the INS.

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

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

Mr. SENSENBRENNER. Mr. Chairman, I believe this amendment is also a very constructive amendment. Before we figure out how to deal with new immigrants, we have to figure 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.

Ms. VELÁZQUEZ. Mr. Chairman, reclaiming 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 with pending applications 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, be proud.

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 exhaust her time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the gentlelady from New York's amendment. This 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 Services and Infrastructure Improvements 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 futures and maybe those of 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) POSITIONS IN EXCEPTED SERVICE.—All positions in the Office of the Associate Attorney General for Immigration Affairs, the Bureau of Citizenship and Immigration Services, and the Bureau of Immigration Enforcement are positions in the excepted service, as defined by section 2103 of title 5, United States Code.

(2) ELIMINATING RESTRICTIONS ON CERTAIN DISCIPLINARY AND OTHER ADVERSE ACTIONS TAKEN AGAINST EMPLOYEES.—Section 7511(b)(8) 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, 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.

The Chair recognizes the gentleman from California (Mr. ISSA).

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 failing 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.

□ 1330

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.

Mr. Chairman, 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 bureaus be excepted service (Bureau 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 to cancel Atta's 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 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, I rise in opposition.

The CHAIRMAN. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 10 minutes.

Ms. JACKSON-LEE 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 various 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 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 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, major debacle that backed up 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 tracking office, and therefore, to cite the heinousness of the act of September 11, and then 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

ages when cronyism and patronage ran rampant. 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 would be based on how it affected your patron rather than on whether it was good policy. The civil service program was carefully crafted to eliminate this egregious behavior. The INS has been able to hire thousands of employees year after year and there has been no showing that the civil service program is ineffective. Yet, the Issa amendment would once again allow people to be hired based on who they know rather than whether they are qualified.

The Issa amendment also eliminates most of the procedures that protect employees from summarily being fired. All protections in 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. Moreover, persons could be fired because of their political affiliation. Employee attrition at the agency is already at an unprecedented level due to low morale and the stripping of these basic labor protections certainly will not help the matter any.

This amendment guts labor law and civil service protections that remain critical to the successful restructuring of this agency. Without these protections, the delicate compromise reached on this bipartisan legislation will be jeopardized. I urge you to oppose this amendment.

Mr. Chairman, I include the following material for the RECORD:

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,
Washington, DC, April 25, 2002.

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 fundamentally jeopardize basic employee rights, limit the ability of Congress to gain access to critical information about agency activities and dramatically increase an already severe attrition rate within the I&NS. The following is a description of the amendment and the problems we believe it would create:

Paragragh (1)—(Making all I&NS positions excepted service:

This proposal would give the agency the authority to circumvent the civil service system for hiring purposes. Essentially it would be a throw-back to the era of federal hiring based on patronage and cronyism—which the civil service system was created to prevent. The amendment, which would at a minimum facilitate and possibly even encourage such abuse, is particularly problematic when applied to a beleaguered agency such as the Immigration and Naturalization Service. While it is likely the intention of this amendment would be to give the agency the ability to seek outside professionals to provide expertise in specific areas not currently available within the agency, its sweeping nature, which would include the total elimination of the Senior Executive Service Corps, could well lead to widespread abuse and worsen the problems at the I&NS.

Paragraph (2)—Eliminating restrictions on certain disciplinary and other adverse actions taken against employees:

The effect of this section of the Issa Amendment would be to eliminate existing procedural protections for all I&NS employees for any offense ostensibly committed by any employee. This includes collective bargaining protections pertaining to disciplinary actions. The basic right of I&NS employees to due process protection and independent review and appeal would be eliminated. The due process system currently in place has served both the agency and its employees well for many years, and serves as a check and balance against arbitrary and capricious actions. The popular misconception that it is difficult or impossible to fire Federal employees is convincingly refuted by a recent study released by the Merit Systems Protection Board. Further, the provision 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 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. Even under current law, the agency viewed these honest expressions of the current situation as a fundamental violation of I&NS policy and proposed to suspend and demote the agents. However, at least under current circumstances, the agents would be able to avail themselves of basic procedural protections, including a post-action hearing and appeal process. Under the Issa amendment, no such protections would exist. Ultimately this would have a chilling effect on Congress' ability to gather critical information in making policy decisions as they relate to the agency.

Finally, there is no doubt whatsoever that the Issa Amendment will exacerbate an already critical attrition problem within the agency. According to I&NS statistics, the FY 2002 loss rate for Border Patrol agents is 14% and will potentially rise to 20% by the end of the year. For Immigration Inspectors, the FY 2002 rate is 10.1% and is predicted to go as high as 15%. Based on reliable anecdotal information, over half of all current Border Patrol agents have applied for air marshal positions. It is a little known fact that the agency is losing agents faster than it can hire them—despite all the efforts and funding directed toward expanding the workforce. Such attrition rates are unsustainable in any agency, much less the I&NS. Taking away the basic due process protections available to similarly situated employees (like Customs Service employees) would turn I&NS into an employer of last resort, leaving them to recruit from a less desirable pool of potential employees.

In the interest of protecting employee rights and the effectiveness of the newly restructured I&NS, we urge you to vote no on the Issa Amendment.

Sincerely,

BETH MOTEN,
Legislative Director.

NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL–CIO,
Camps, CA, April 25, 2002.

Hon. JOHN CONYERS, Jr.,
Ranking Member, Judiciary Committee, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS: The National Border Patrol Council, representing over 9,000 Border Patrol employees, strongly opposes an amendment to be offered by Representative Darrell Issa to H.R. 3231, the Immigration Reform and Accountability Act of 2002. In addition to making all employees in the newly-created agency exempt from civil service hiring and promotion procedures, it would eliminate the procedural protections in disciplinary actions that are currently provided to them under law and collective bargaining agreements.

Exempting employees from civil service hiring and promotion procedures would not enhance the ability of the agency to recruit or promote skilled employees, but would actually hinder such efforts by facilitating actions based on favoritism rather than merit.

Eliminating the procedural protections currently afforded to employees in disciplinary actions would subject them to arbitrary and capricious disciplinary actions, and would have a chilling effect on protected activities, including whistleblower disclosures to Congress and the media.

These detrimental provisions would further demoralize employees and exacerbate an attrition rate that is already unacceptably high. For these reasons, your opposition to this amendment is encouraged.

Sincerely,

T.J. BONNER,
President.

Mr. Chairman, I yield my time to 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. SENSENBRENNER. 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 adopted 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 most appropriate, effective, 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

are different types of organizations than the INS. The Bureau of Citizenship and Immigration Services created by this bill will be staffed mostly with clerks and adjudicators. The hiring and discipline rules followed by the competitive service might be most appropriate for these employees.

In any event, the question of placing all immigration employees in the excepted service merits extensive investigation before it is done. A change as radical as this, by placing them in the excepted service, should be carefully considered.

Before introducing this bill, I did extensive investigation and oversight in practically every part of the country where the Immigration Service has a lot of business, including in San Diego, I might add. And some of the most useful information that we have heard today and during the consideration of this bill came from the unionized employees that I insisted upon meeting with, apart from management, to find out what was really going on. If they did not have the protection of the civil service laws, we would not have much of this information.

I have never had employees of the FBI or the CIA or other agencies in the excepted service be as frank and honest with me during the time that I have served in Congress as I have tried to learn how these agencies work.

So keeping them out of the excepted service I think is important, at least in terms of having candor on the part of the employees. That is something that the amendment of the gentleman from New York (Mr. ISSA) would take away. I would not have found out about all the problems in San Diego if the employees that met with me were afraid that they would be fired by their district director because they were meeting face to face with me and I came out with information in public on how bad things were.

Finally, I would like to point out that the adoption of this amendment would threaten the incredible bipartisan support that is enjoyed by this bill. I may not, in the end, necessarily agree with those bills' supporters, who could not accept under any circumstances placing immigration employees in the excepted service, but I do not want an ancillary issue like this, where the time is not right for making a decision, and the fact that the Congress does not have all of the data to be able to deal with this in an intelligent way and a fair way and with a full deck of cards, to erode support for this important bill.

I would strongly urge my colleagues to oppose this amendment, and join with the other members of the Committee on the Judiciary and the Committee on Government Reform in doing so.

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

Mr. ISSA. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

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 (Mr. 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 offered 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. If we can get a chart 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, we have had almost the exact same increase in the number of petitions 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 those changes, and making 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?

There was no objection.

Mr. CONYERS. Mr. Chairman, I thank my colleague, the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for yielding time to me, and I yield myself such time as I may consume.

Mr. Chairman, I have not been surprised by many amendments before, but here is an amendment that proposes to set aside the civil service laws as applied to hiring people at INS, and to set aside civil service law as it applies to their discharge.

In other words, the gentleman from California (Mr. ISSA) wants to go back to the bad old days. What does he have in mind, patronage, or what? And why would we come up with such a narrow eviscerating of civil service law? Nobody has attacked civil service law on either side of the aisle, in my memory, and now it is being done here.

Mr. Chairman, I yield to my colleague, the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for yielding to me.

Led by President Bush, there has been new appreciation for civil servants, Mr. Chairman. This is a brazen attack on merit hiring and promotion. When I came to chair the EEOC, I found the same thing; everybody blamed the employees. It turned out what they needed was a new management system.

That is what we need here. Let us deal first with the management of the agency. We will know if the agency is well managed if it can hire and keep good employees.

Mr. CONYERS. Mr. Chairman, I yield to the gentlewoman from California (Ms. LOFGREN), a member of the committee.

Ms. LOFGREN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, all of us are frustrated at the agency, and maybe some people are even tempted by this sort of ''blow it up'' amendment. But I think it would be unwise.

I respect the gentleman from California (Mr. ISSA) and the efforts he has put in, but I think we have our pilot project in the manager's amendment that deals with the management, and that is the problem. It is not the rank and file, it is the management that is the problem.

I commend the chairman for including that in his manager's amendment. I just wish that the other amendment to contract with management had been made in order.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent that we have 1 minute each on both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. SENSENBRENNER. Mr. Chairman, reserving the right to object, I would like to have some time to be able to yield to the gentleman from Virginia (Mr. DAVIS).

The CHAIRMAN. Is it 2 minutes on each side that we are asking?

Mr. CONYERS. Yes, sir.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

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).

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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 basically 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. CONYERS. 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 gentlewoman from the District of Columbia (Ms. NORTON), and I am sure the gentlewoman 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 first major 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 been part of a union for over 20 years and others covered by that order hold clerical and administrative positions.

This administration is also considering what rights Federal baggage screeners will have.

Let there be no doubt, if the administration 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 the Issa amendment.

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. And it would effectively deny Congress critical information on a wide range of immigration issues because current employee protections would be removed. Consequently, employee whistle blowers 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 a kind of political patronage and cronyism the civil service system was created to prevent. I urge a "no" vote.

I rise today to urge a no" vote on Congressman ISSA's amendment. This amendment has several provisions that are problematic.

While this amendment purports to give the newly created Agency for Immigration Affairs more 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.

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 brining 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 yet we now have 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 is designed for failure. Our experience has convinced most California members that the top priority of this agency is not providing service to legal immigrants or deporting illegals. The top priority is self-protection of those within the INS, which has led to gross inefficiency, a nearly total lack of accountability, and promotion of supervisors who are not respected by employees and who often display a disdain for those who they are charged to serve.

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 this 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 undermined 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 protections that would be, in our opinion, undermined by the Issa amendment. Is there any evidence that they contributed in any way to the problems?

Mr. FLAKE. Reclaiming my time, all we are seeking to do here is 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 at the INS. One of which is that little fiefdoms 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 fiefdoms 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. That is why I support my colleague from California (Mr. ISSA) with this important amendment.

Mr. ISSA. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman has 6 minutes remaining.

Mr. ISSA. Mr. Chairman, I yield myself the balance of my time to close.

Mr. Chairman, while they are bringing up the appropriate face of this amendment, I think it is important to answer the criticisms made by my colleagues, most of them fellow Committee on the Judiciary members. I agree with the chairman that this bill is an improvement, a considerable improvement in the characteristics of the INS. But it does not go far enough at all unless it addresses the question of whether managers can be fired.

I, myself, was a manager for 20 years in business. And I served at will. You serve at will as a manager because your ineptness pays a dear price for many, many more people. At the present time, the people who allowed Mohammed Atta to come to this country wrongly, once, twice, three times have not been fired. The people who, in fact, failed to protect us have not been made accountable. They may have been moved, transferred or even promoted. That is not accountability. And when we talk about patronage, and I respect my colleagues' defense of the status quo of jobs for life that often exist within the Federal service, I might remind them that the FBI does not enjoy that and the FBI is not a patronage organization. The CIA does not enjoy that, and no one would say it was patronage. The United States Army, the United States Navy, the United States Marine Corps, the Coast Guard does not enjoy the job protection that they presently have at the dysfunctional INS.

I ask my colleagues one more time to ask should this man having gone into flight training against the regulations, continued flight training and learned how to fly a 757 into the World Trade Center, should he in fact have been admitted once, twice, and yet a third time. I have no doubt that there has been plenty of discussion.

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

Mr. ISSA. I yield to the gentleman from Michigan.

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. ISSA. Reclaiming my time, 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 as quickly as 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 the 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 if they had called, they would 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 in understanding 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 getting the kind of 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 will management have the ability to terminate the people who should have been there to protect us and were 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 whistleblowers to be fired as a result of their actions.

This amendment compromises basic federal employee rights, limits the ability 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 and summarily dismiss them outside of the civil service process, the INS would have the authority to circumvent the civil service system for hiring purposes. It would bring us back to a federal hiring system based on patronage and cronyism, which the 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

not currently available within the agency, the consequence of this amendment could eliminate the Senior Executive Service Corps and exacerbate problems within the INS.

The other provision of this amendment, eliminating restrictions on certain disciplinary and other adverse actions taken against employees, would do away with the due process protection and independent review and appeal that has served INS and its employees well for many years.

Mr. Chairman, INS workers deserve basic rights and freedoms as federal employees such as the freedom to ''blow the whistle'' on practices that do not serve the best intersts of the INS and of our nation. Adopting the Issa amendment jeopardizes the basic employee rights and privileges guaranteed by the civil service system, and it further hampers the ability of the INS to attract and retain dedicated and loyal employees to do the work associated with one of our country's most important responsibilities: immigration. I urge my colleagues to vote ''no'' on this amendment.

Mrs. CHRISTENSEN. Mr. Chairman, I rise in opposition to Congressman ISSA'S amendment to H.R. 3231.

Mr. ISSA'S amendment would remove existing civil service laws that are currently in place to protect against hiring on the basis of patronage and cronyism and eliminate all procedural protections in disciplinary proceeding, including those in collective bargaining agreements. This proposal would give the agency the authority to circumvent the civil service system for hiring purposes. It would also eliminate existing procedural protections for all INS employees for any offense ostensibly committed by an employee including collective bargaining protections pertaining to disciplinary actions.

After the events of September 11th, it became evident that there was a need to restructure the Immigration and Naturalization Service (INS) in order to improve our national security. I commend my colleagues for their leadership in bringing this bill on the floor today after months of investigation and hearings on this matter. I support the INS reform but not at the expense of protecting employee rights. Mr. ISSA'S amendment does this.

Why would we strip INS employees from safeguards against unfair hiring and firing practices? As it stands today, the system that INS currently has in place for dealing with labor related issues is failing their employees. Since I have been a member of Congress I have received several personnel related complaints from INS employees in or from my district. Many others have been handled through their union. The Issa amendment would further exasperate these issues by leaving INS rank and file employees with no recourse against possible unfair practices by management.

The purpose of the Barbara Jordan Reform Bill is to restructure the INS. It is the system that failed us and not the employees. This amendment undermines the intent of the Barbara Jordan Reform Bill.

Let's not use this bill as an opportunity to punish the INS employees. We must continue to protect and value the employees of this and every other agency or business. Despite reservations about the current administrations policies with regard to justice and civil rights, I do support the base bill for its efforts to create a more efficient Service. I congratulate my colleagues on their efforts.

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).

The question was taken; and the Chairman announced that the noes appeared to have it.

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 point of no quorum is 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, 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 entities referred to in the preceding sentence 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) DEEMING PRODUCTS AND SERVICES AS COMMERCIAL ITEMS.—Any product or service procured by the Attorney General as described in subsection (a) may be deemed to be a commercial item (as defined in section 4(12) of the Office of Federal Procurement Act (41 U.S.C. 403)) for purposes of sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430) and section 303(g) of 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. 427(a)(2)), and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) 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 a purchase of products or services in excess of $5,000,000 under the authority of this section.

(c) STREAMLINED PROCEDURES FOR THE PROCUREMENT OF INFORMATION TECHNOLOGY.—The Attorney General shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement described in subsection (a), including authorities and procedures that are provided under the following provisions of law:

(1) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(d) NONDISCRIMINATION AGAINST SMALL-BUSINESS CONCERNS.—This section shall be applied in a manner that does not discriminate against small-business concerns (within the meaning of such term as used in the Small Business Act (15 U.S.C. 632 et seq.)) or any type of small-business concern.

(e) PERIOD OF AUTHORITY.—The authorities provided in this section shall apply with respect to any procurement of information technology products or services described in subsection (a) during fiscal years 2002 through 2004.

(f) REVIEW AND REPORT BY COMPTROLLER GENERAL.—Not later than 180 days after the end of fiscal year 2004, the Comptroller General shall 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 a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which products and services acquired using authorities provided under this section contributed to the capacity of the entities referred to in subsection (a) to carry out their missions.

(2) Any recommendations of the Comptroller General taking into account the assessment performed under paragraph (1).

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

The Chair recognizes the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I ask unanimous consent to divide the time evenly with the gentleman from Utah (Mr. CANNON) and that he be allowed to control such time.

I would note that this amendment has been offered with the gentleman from Utah (Mr. CANNON) as well as the gentlewoman from Texas (Ms. JACKSON-LEE), gentlewoman from California (Mrs. BONO), and the gentleman from Arizona (Mr. FLAKE).

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

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

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 important to note 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 nondiscrimination provision against small businesses so that we can continue to have small business play a vigorous and vital role in the provision of IT and there is also protection in the Truth and Negotiating Act which would continue to apply, as well as the Federal Cost Accounting Standards Act that would continue to protect taxpayers.

The immigration service is an agency that is in the dark ages technologically. I am of the belief that until we allow and actually insist and give the tools to management to bring technology, they will never get ahead of their problem. Mr. Ziegler, the current commissioner, told the House Committee on the Judiciary in March that, ''The INS is big on information but small on technology.''

I would say that is an understatement. Recently, at home in Silicon Valley, there was a convention of IT professionals meeting from the government, the Federal Government primarily, meeting with CEOs and technology wizards in Silicon Valley, and I would like to read what the INS CIO George Bollinger said relative to his role at the INS. ''I am to high tech what Danny DeVito is to the NBA.''

That is the quote of the guy who is in charge of information technology at the INS describing his ability to manage IT.

This amendment would allow management to be brought in. I think if we failed to do this, and its proposal is for a 2-year time period only, INS only, we are going to continue to fall further and further behind. This is an agency that is still creating paper files, an agency that is putting material on microfiche. There are over 100 databases that cannot communicate with each other.

□ 1400

There is no ability within the agency to even devise an enterprise architecture program, something that the new Commissioner has actually freely admitted. When I asked the last Congress for the technology plan, I was told that they hope someday to update their DOS system. I kid my colleagues not.

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

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 10 minutes.

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

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 govern 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 should be 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 this way can we ensure 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 on Government Reform, that has got principal jurisdiction over this topic, have 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, the Committee 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).

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time.

Everyone knows my respect for the gentlewoman from California (Ms. LOFGREN), but I hope that she will have a better answer than I do for the minority contractors in my district and hers, who are catching it right now with procurement rules, tossing them out. I just want to find out what we tell them if her amendment prevails.

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

Mr. CANNON. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Chairman, this is yet another example of when a manager's deal is done, some things get left out. And this is a very worthwhile part of the reform, this is just as bipartisan.

My colleague from California, my colleague from Utah, in fact, are often opposed on bills, but not this time. Why? Because we want a streamlined organization. We want to empower this organization to do what it needs to do and do it efficiently. That has been the complaint for more than 30 years.

INS failure is bipartisan. Administration after administration have failed to do what we seek to do here today, and I strongly support the Lofgren-Cannon amendment because it is bipartisan. It will lead to efficiencies. It is about making this organization do a better job for all of us.

Ms. LOFGREN. Mr. Chairman, how much time remains?

The CHAIRMAN pro tempore. The gentlewoman from California has 1½ minutes remaining. The gentleman from Utah has 4 minutes remaining. The gentleman from Wisconsin has 7½ minutes remaining.

Ms. LOFGREN. Mr. Chairman, I reserve my time.

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

I rise in support of this amendment to speed up the adoption of new information technology by the restructured agency. I offer this amendment together with the gentlewoman from California (Ms. LOFGREN) and other Members of this body, including the gentleman from California (Mr. BERMAN), the gentlewoman 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 that happens.

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 bureaus 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 together important documents on microfilm and boxing them up for storage rather than making them available to line officers via computer.

The technology is already critical and will get worse if we do not do something, provide some temporary flexibility to the Attorney General to buy technology solutions while this agency restructures itself.

Under the simplified acquisition procedures in this amendment, there are shorter waiting periods after notices are issued, more flexibility in how requests for proposals are put together. Fewer potential bidders have to be notified. The competition is still required. Bids must be solicited from at least three bidders.

It is also important to note that although this amendment will speed it up, that is, information technology acquisitions, there are still a number of important safeguards that protect the agency and the taxpayers. Two of the most important laws that still apply are the Truth in Negotiating Act.

TINA requires contractors to provide cost and pricing data to the Federal Government and certify their accuracy. False certifications result in downward adjustments. Such procurements are not exempt from Federal cost accounting standards that help prevent contractors from inflating their costs.

I understand some Members of the Committee on Government Reform do not like this amendment, and I am a member of that committee myself. We worked with the majority staff and OMB to try to address their concerns. And in an ideal world, we could have hearings and studies and recommendations in that committee about government procurement policy generally to address 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 want an agency 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).

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 would make excepted employees of INS employees and give them, I 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 2 minutes to the gentleman 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 look at the record of the INS, it has shown a total inability to successfully implement information technology advancements.

The Inspector General at the Department of Justice said that the INS ''made huge investments in automation technology and information systems that have yielded questionable results,'' and continues ''to spend hundreds of millions of dollars'' on information technology initiatives ''without being able to explain how the money was spent or what was accomplished.''

This amendment would waive the requirement for full and open competition on information technology products and services for the INS through 2004. The INS would be able to purchase a multimillion-dollar computer technology improvement without any requirement for competitive bids or review under existing law.

There are six exceptions already in law that would allow them to avoid the requirement of open competition if they saw fit to do so; things like a national security requirement; maybe there is only one responsible bidder. The law provides for unusual and compelling circumstances that would do harm to the government as an exception. And, finally, if the head of the INS determines that it is in the public interest to avoid competition, all they have to do is notify Congress 30 days before they award the contract to give us the opportunity to express our concern.

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 Tiefter, 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 gentleman from Wisconsin (Mr. SENSENBRENNER) has the right to close.

Ms. LOFGREN. Mr. Chairman, I reserve my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me the time, and I join him and the gentleman from Michigan (Mr. CONYERS) in a bipartisan effort to uphold the laws of our country in terms of procurement which were put in place for better government oversight, to save taxpayers' dollars, and to be sure that there is full and open competition for the billions of dollars that this government spends in contracts.

One of my dear friends and colleagues mentioned earlier in debate that we were going to get past the redtape. I would hardly call competitive bidding and allowing people to compete for the right to provide services at the best price redtape. I would call that, saving taxpayers' dollars, good government and what should be done in this Congress.

I tell my colleagues that the fact that the INS is one of the worst-managed systems, and it has been called by their own IG, an information system that has a top management challenge. The fact that it is poorly managed is more of a reason that we should have these safeguards that the gentleman before me mentioned. There are exemptions that they can take if they so need, but for billion-dollar, multimillion-dollar contracts, I would say regular order, competitive bidding, and let us follow the laws of this country.

The procurement laws were put in place not only to have good oversight and good management and to protect taxpayers' dollars but also to allow small companies and small businesses a door into government, the ability to compete for work.

Why should we slam the door in their face? We are just talking about saving taxpayers' dollars and getting the best form of government there to serve the people. And we must ensure that there is an opportunity for companies to fairly compete by allowing the INS to get around existing procurement laws.

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 CHAIRMAN pro tempore. The gentlewoman from California (Ms. LOFGREN) has 1½ minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 3½ 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.

□ 1415

So he does not know that much about minority procurement rules, but the rest of my colleagues here do. Tell me what I tell the African American people, business persons, that have been trying to get in the door for 20 years?

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

Mr. CONYERS. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, let me remind the gentleman that Utah is really one of the high-tech havens on earth; and interestingly, many of our minorities are running our high-tech companies. Let me also make two points in particular. One, they are willing to compete; and, two, this is a very narrow exemption. A very, very narrow exemption.

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. CANNON. 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 misunderstandings 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 technology 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 cannot do that.

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 continuing 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 this agency, that deplorable 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 lowest 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 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 (Mr. SIMPSON). All time for debate on the amendment has expired.

The question is on the amendment offered by the gentlewoman from California (Ms. LOFGREN).

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

Mr. CANNON. Mr. Chairman, I demand a recorded vote.

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.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

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	Everett	Nethercutt
Akin	Flake	Northup
Armey	Forbes	Norwood
Bachus	Fossella	Osborne
Baker	Frelinghuysen	Otter
Ballenger	Gibbons	Oxley
Barr	Goode	Paul
Bartlett	Goodlatte	Pence
Barton	Goss	Peterson (PA)
Bass	Graham	Pickering
Bilirakis	Granger	Pitts
Blunt	Graves	Platts
Bonilla	Green (WI)	Pombo
Bono	Greenwood	Portman
Boozman	Gutknecht	Putnam
Brady (TX)	Hall (TX)	Radanovich
Brown (SC)	Hansen	Ramstad
Bryant	Hastings (WA)	Rehberg
Buyer	Hayworth	Riley
Callahan	Hefley	Rogers (MI)
Calvert	Herger	Royce
Camp	Hilleary	Ryan (WI)
Cannon	Houghton	Ryun (KS)
Cantor	Hunter	Schrock
Chabot	Hyde	Sessions
Chambliss	Issa	Shadegg
Coble	Istook	Sherwood
Collins	Johnson, Sam	Shuster
Combest	Kelly	Simpson
Condit	Kennedy (MN)	Souder
Cox	Kerns	Stearns
Crane	Kirk	Stump
Crenshaw	Kolbe	Sullivan
Cubin	Lewis (KY)	Sununu
Culberson	Linder	Tancredo
Cunningham	Lucas (OK)	Tauzin
Deal	Manzullo	Taylor (MS)
DeLay	McCrery	Taylor (NC)
DeMint	McInnis	Terry
Doolittle	McKeon	Thomas
Dreier	Mica	Thornberry
Duncan	Miller, Dan	Thune
Ehlers	Miller, Gary	Tiahrt
Ehrlich	Miller, Jeff	Toomey
Emerson	Moran (KS)	Upton

Vitter
Walden
Wamp
Watkins (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)

NOES—272

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barcia
Barrett
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blumenauer
Boehlert
Boehner
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Burr
Burton
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dunn
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Fletcher
Foley
Ford
Frank
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Gordon
Green (TX)
Grucci
Gutierrez
Hall (OH)
Hart
Hastings (FL)
Hayes
Hill
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley
Horn
Hostettler
Hoyer
Inslee
Isakson
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Phelps
Pomeroy
Price (NC)
Pryce (OH)
Quinn
Rahall
Regula
Reyes
Reynolds
Rivers
Roemer
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Shows
Simmons
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Visclosky
Walsh
Waters
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Baldacci
Blagojevich
Cooksey
Harman
Hinojosa
Holt
Hulshof
Jones (NC)
Leach
Matsui
Rangel
Rodriguez
Schaffer
Smith (WA)
Tanner
Traficant
Waxman

□ 1446

Mr. KENNEDY of Rhode Island, Mr. SAWYER, Mrs. CAPITO, and Mrs. McCARTHY of New York changed their vote from ''aye'' to ''no.''

Messrs. REHBERG, 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 result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON). Pursuant to clause 6 of rule XVIII, the Chair announces he will reduce to 5 minutes the minimum time period for which a vote by electronic device will be taken on the remaining amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 7 OFFERED BY MS. LOFGREN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from California (Ms. LOFGREN) on which further proceedings were postponed and on which the noes prevailed by 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 CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 105, noes 312, not voting 17, as follows:

[Roll No. 115]

AYES—105

Aderholt
Akin
Armey
Baker
Ballenger
Barr
Bartlett
Bass
Berman
Bilirakis
Bonilla
Bono
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Cannon
Cantor
Coble
Combest
Cox
Crane
Cunningham
Davis, Jo Ann
Davis, Tom
DeGette
Delahunt
DeMint
Dooley
Doolittle
Duncan
Ehlers
Eshoo
Farr
Flake
Frank
Ganske
Gibbons
Goodlatte
Graham
Gutknecht
Hall (TX)
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Honda
Horn
Hunter
Isakson
Issa
Johnson, Sam
Kennedy (MN)
Kennedy (RI)
Kind (WI)
Kingston
Kirk
Kolbe
Linder
Lofgren
McInnis
McKeon
McKinney
Mica
Miller, Dan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Nussle
Olver
Osborne
Oxley
Paul
Pickering
Pombo
Ramstad
Ryan (WI)
Ryun (KS)
Sessions
Shadegg
Shimkus
Smith (NJ)
Souder
Stearns
Sununu
Thornberry
Vitter
Walden
Wamp
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu

NOES—312

Abercrombie
Ackerman
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barcia
Barrett
Barton
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Boozman
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Brown (SC)
Buyer
Callahan
Calvert
Camp
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Costello
Coyne
Cramer
Crenshaw
Crowley
Cubin
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Doyle
Dreier
Edwards
Ehrlich
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Hall (OH)
Hansen
Hart
Hayes
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Hostettler
Houghton
Hoyer
Hyde
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kerns
Kildee
Kilpatrick
King (NY)
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Nadler
Napolitano
Neal
Ney
Northup
Norwood
Oberstar
Obey
Ortiz
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pitts
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Snyder
Solis
Spratt
Stark
Stenholm

Strickland
Stump
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Walsh
Waters
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wynn
Young (AK)
Young (FL)

NOT VOTING—17

Baldacci
Blagojevich
Cooksey
Dunn
Hinojosa
Holt
Hulshof
Jones (NC)
Leach
Murtha
Rangel
Rodriguez
Schaffer
Smith (WA)
Tanner
Traficant
Waxman

□ 1455

Mr. KERNS and Mr. WATT of North Carolina changed their vote from ''aye'' to ''no.''

Ms. 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). There being no further amendments in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes, pursuant to House Resolution 396, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The 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. SENSENBRENNER. Mr. Speaker, I demand a recorded vote.

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

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nadler
Napolitano
Neal
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—9

Abercrombie
Clayton
Honda
Kolbe
Lofgren
Mink
Pomeroy
Sanders
Watt (NC)

NOT VOTING—21

Baldacci
Blagojevich
Cooksey
Davis, Tom
Hinojosa
Holt
Hulshof
John
Jones (NC)
Lantos
Meeks (NY)
Murtha
Nethercutt
Rangel
Rodriguez
Sandlin
Schaffer
Smith (WA)
Tanner
Traficant
Waxman

□ 1513

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill 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 Services, and the Bureau of Immigration Enforcement, and for other purposes.

A motion to reconsider was laid on the table.

Stated for:

Mr. SCHAFFER. Mr. Speaker, I was unavoidably 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 next meet 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 be more specific about which days these four bills will come up. I know the gentleman said on Wednesday and Thursday, does the gentleman have any more specific information about which days each of these bills might be taken up?

□ 1515

Mr. PORTMAN. If the gentlewoman will continue to yield, I believe the first three measures, which is the Ex-Im Bank, the multinational development banks, and the resolution of disapproval, would be on Wednesday, and the fourth measure we mentioned, the Afghanistan Freedom Support Act, is likely to be on Thursday.

Ms. PELOSI. Mr. Speaker, could the gentleman shed some light on what day the Nevada nuclear waste bill would be considered, and will it be considered under suspension or under a rule?

Mr. PORTMAN. The Governor's veto of the Yucca Mountain legislation was taken up by the Committee on Energy and Commerce today and marked up. My understanding is that there need to be 5 legislative days prior to its consideration in the House, and therefore the vote would not take place next week, but likely the week after.

I do not know that the decision has been made yet as to whether it will be under suspension or under regular order.

Ms. PELOSI. I thank the gentleman for that information.

One further question, if the gentleman could tell us if he knows or is able to report on when the supplemental is expected to come to the floor.

Mr. PORTMAN. Our understanding from 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 ENTERTAIN 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.

ADJOURNMENT TO MONDAY, APRIL 29, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 30, 2002

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, April 29, 2002, it adjourn to meet at 12:30 p.m. on Tuesday, April 30, for morning hour debates.

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.

Any 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 H–312.

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 the family structure of U.S. residents who have loved ones 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 days 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 type of extra paperwork 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, Minnesota has raised 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 goal 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 communities throughout Minnesota and the Nation to follow Bob Fisher'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 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, and to the entire Lake Minnetonka area, those 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 invite Members to go on to two bills I introduced this week. One is called the Academic Excellence In Environmental Sciences Act of 2002. It aims to make environmentalists and scientists

of young people. We have a real dearth of scientists today. More and more of our kids are going off and doing other things. Yet, in a very real sense, these youngsters are the best messengers for the environment, especially since they are going to inherit whatever environment we leave them.

This bill would encourage hands-on recycling to help children cultivate habits that conserve our resources. While they are at school they learn how to do recycling. My aim is also to help them concretize their interest in science and their understanding of scientific concepts, so as they learn about recycling, science comes alive for them, and they are encouraged to study math and science, to get interested in science earlier, and to maintain that scientific interest.

I see the need for it. I just nominated five of my youngsters to the academies, and I am encouraging my school systems to do more with science and math in order that I will have more youngsters to nominate to the academies.

Getting them involved in recycling helps them to understand science better.

□ 1530

Second bill is called the National Urban Watershed Model Restoration Act. It is aimed at the problem of urban watershed. We all know and love watersheds in the great blue yonder, but the fact is our great cities are often located right in the center of watersheds, terribly polluted. I use my own river, the Anacostia River, which runs through our neighborhoods, as a model for the country so that this notion of working with the EPA, with the Corps of Engineers, and importantly involving the community in clean ups and in preservation of the watershed is what I seek to accomplish.

This would not be cleanup activity. It would be scientific. It would not only clean up communities; it would be a scientific watershed clean up, but done in collaboration with the community so that when it is cleaned up it stays cleaned up. We are located right here on the banks of Anacostia, but my folks cannot get to the Anacostia.

We are about to develop the waterfronts; and when, in fact, the waterfronts get opened up, what they will see is a river polluted by the national government, the Government of 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. Because 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 waterway. We are doing that in the District of Columbia, our Nation's capital. The one difference between us and you is the Federal Government is responsible for our pollution.

We are going to begin here and spread this idea throughout the country. I would like my colleagues to go to both of these bills and look for their ''Dear Colleague'' letters soon.

PETE CONRAD AWARDS BILL

The SPEAKER pro tempore (Mr. SIMPSON). Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, today I am introducing the Charles Pete Conrad Astronomy Award Act. This act is intended to encourage amateur astronomers to discover new and attract previously identified astroids and other heavenly bodies, particularly those that threaten a close approach to the Earth. This act is named after the legendary pilot, astronomer and space entrepreneur, Pete Conrad, who I was honored to know. He was a constituent of mine as well. 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 astroid 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 update Minor Planet Center's catalog of known astroids.

Let me just state that for those people who believe that there is no threat and that we live in a world today where those movies that talked about astroids colliding with the world and the threat that it posed, that that is all science fiction, I have got bad news for them. It is not science fiction.

There are numerous examples of astroids and comets in the last few years that have come very near to the world and not been undetected until the last minute or even after they pass by the world. One of them was coming in from the Sun and was not seen until after it passed the Earth's orbit. If any of these astroids or comets would have hit the Earth, it would have been a catastrophic occasion, perhaps killing hundreds of millions of people. Perhaps in one case in the past, millions of years ago, that is perhaps what eliminated the dinosaur life on our planet.

The following is a list of examples of recently observed asteroids:

An asteroid about 300 meters in size crossed a near-Earth orbit about 500,000 miles from our planet in October of last year.

An asteroid about the size of three football fields made its closest approach to the Earth (roughly the same distance: twice the Moon's distance from the Earth) on January 7, 2002.

An asteroid reportedly the size of an 18-story building on a close approach to Earth (just a bit farther out than the Moon) was observed on March 8.

The disturbing point about this asteroid is that it was seen from Earth again only after it had moved out of the glare of the Sun and into the night sky on March 12.

For each nearby asteroid that is spotted there are several that pass entirely unnoticed.

Some researchers estimated that there are roughly 25 asteroids, roughly the size of the one observed on March 12, cross a near-Earth orbit that is closer than the Moon.

Astronomers believe that the number of undiscovered asteroids far exceeds the known list currently available to the scientific community.

We need to know if there is a threat coming at the world. And having our young people, giving them awards, having amateur astronomers look into the sky to help us find those objects is something that we are mobilizing the people to help us discover that possible threat. If we see something coming at us that is years away, then we can handle that. We can do something about it. If we do not find out until a mere month or two beforehand, the Earth could be in real danger.

I was the chairman of a hearing in which we had the experts testify on this issue; and one expert said, 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 find a way to identify threats. 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 the real world may well be dealing with threats coming to us from outer space from great distances away, asteroids and comets 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 startling 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/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 on 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 point, Mr. Speaker, 2 weeks ago the Congressional Black Caucus Health Braintrust, chaired by the gentlewoman from the Virgin Islands (Mrs. 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 tend to 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 California (Mr. ISSA) is recognized for 5 minutes.

Mr. ISSA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. SHOWS) is recognized for 5 minutes.

Mr. SHOWS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

BANNING COCKFIGHTING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I appreciate the opportunity to spend a moment on the floor of the House this afternoon dealing with an issue that passed this House by voice vote overwhelmingly during the discussion on the agricultural bill earlier this session.

We now have in conference the ag bill that seems to be moving forward. I have grave concerns in one particular area, Mr. Speaker, that I am going to be working over the course of the next few days to seek clarification because I want to make sure that the intent of the House and the Senate are preserved in the final form that comes out of conference.

Mr. Speaker, there has been a practice of cockfighting, game hens, that has been tolerated by this Congress even though it is now illegal in 47 States. The public long ago has come to the point that this practice is inherently inhuman and barbaric.

□ 1545

The handlers of these fighting birds drug the animals to heighten their aggression and to clot the blood. They affix knives or ice picks like gaffs to their legs and place them into a pit to fight until one of them is dead, all for amusement and illegal gambling.

Mr. Speaker, this barbaric practice is slowly being made illegal around the country. It is currently legal in only three States. The problem is that under current law it is still legal to transport these birds from States where it is illegal to States that it is legal, and this loophole is exploited to allow people to maintain, to train, and it facilitates illegal game bird fighting.

Last October, my colleague, the gentleman from Colorado (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 were 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 deal only with matters in disagreement between the House and the Senate. It may not change language that both have previously approved.

Unfortunately, it is pretty clear to me that people are, in fact, looking at watering down the penalty provisions in particular, and to deal with problems, some people are saying, I have been told by one high-ranking member of the conference committee that they are concerned that there is not a problem with 4–H clubs dealing with raising these chickens that the 4–H'ers produce.

Well, first of all, to prosecute a cockfighting case, law enforcement officers must have evidence of the illegal activity. The birds intended to be used in these cock fights are identifiable by several indicators, including the special structures that they are kept in, the fighting paraphernalia, the specific drugs that are provided to them to heighten the aggression and to aid the blood clotting.

The Animal Welfare Act already prohibits interstate transports for dogs for fighting purposes, and we have not had anybody come to this floor and say, well, we have these provisions in Federal law and we cannot have legitimate show-dog activities, that it is interfering with the buying, transport, and delivery of animals for purposes that do not impact animal fighting. Of course not. Reasonable people apply the laws reasonably, and this is absolutely specious.

There is a problem, however, because people will run through this loophole to continue to exploit the illegal game fighting that is happening in these States where it is illegal but it is legal to grow them, legal to train them, legal to transport them.

One of the problems is that the current penalties are 26 years old. They are not high enough to warrant prosecution of violations. What we hear from the U.S. Department of Justice and the USDA, that they have indicated that they would give more consideration if they were a felony and included higher fines and jail time.

That is what the House passed. That is what the conference committee should protect, and if we are not able to do that, Mr. Speaker, it is my intention to bring a motion to this floor to instruct the conferees to respect the rights and the will of the House and the Senate and to do what the American people want and end this cruel and barbaric practice.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BALDACCI (at the request of Mr. GEPHARDT) for today on account of a family medical emergency.

Mr. HOLT (at the request of Mr. GEPHARDT) for today on account of attending a funeral in the district.

Mr. RANGEL (at the request of Mr. GEPHARDT) for today on account of business in the district.

Mr. JONES of North Carolina (at the request of Mr. ARMEY) for today after 2:00 p.m. on account of official business in the district.

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.

ADJOURNMENT

Mr. BLUMENAUER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 50 minutes p.m.), under its 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.

6388. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report entitled, ''Report to Congress on Abnormal Occurrences, Fiscal Year 2001,'' pursuant to 42 U.S.C. 5848; to the Committee on Energy and Commerce.

6389. A letter from the Assistant Secretary for Legislative 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 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6391. A letter from the Secretary, Department of Energy, transmitting the semiannual report on activities of the Office of Inspector General for the period April 1, 2001, through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(d); to the Committee on Government Reform.

6392. A letter from the Secretary, Deoartment 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 the Treasury, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6394. A letter from the Secretary, Department of Education, transmitting the twentyfifth 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.

6395. A letter from the 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.

6396. 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.

6397. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting the Department's Commercial Activities Inventory for Fiscal Year 2001; to the Committee on Government Reform.

6398. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 2001, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

6399. A letter from the Chairman, International Trade Commission, transmitting the semiannual report of the Office of the Inspector General for the period April 1, 2001 through September 30, 2001, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

6400. A letter from the Assistant Administration for Human Resources and Education, National Aeronautics and Space Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6401. A letter from the Assistant Administration for Human Resources and Education, National Aeronautics and Space Administration, 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 the Foundation's Performance Report for FY 2001; to the Committee on Government Reform.

6404. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30295; Amdt. No. 2093] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6405. A letter from the Administrator, Department of Transportation, transmitting a study of recent changes in flight patterns of aircraft using the Sky Harbor Airport in Phoenix, Arizona, pursuant to Section 746 of P. L. 106–181, the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century; to the Committee on Transportation and Infrastructure.

6406. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—IFR Altitudes; Miscellaneous Amendments [Docket No. 30299; Amdt. No. 434] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6407. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30300; Amdt. No. 2097] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6408. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bell Helicopter Textron, Inc.—Manufactured Model OH–13E, OH–13H, and OH–13S Helicopters [Docket No. 2001–SW–17–AD; Amendment 39–12657; AD 2002–03–16] (RIN: 2120–AA64) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6409. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30301; Amdt. No. 2098] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6410. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A319 Series Airplanes and A320–200 Series Airplanes [Docket No. 2001–NM–252–AD; Amendment 39–12667; AD 2002–04–10] (RIN: 2120–AA64) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6411. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737– 600, –700, –700C, and –800 Series Airplanes [Docket No. 2001–NM–37–AD; Amendment 39–12665; AD 2002–04–08] (RIN: 2120–AA64) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6412. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); and A310 Series Airplanes [Docket No. 2002–NM–75–AD; Amendment 39–12686; AD 2002–06–09] (RIN: 2120–AA64) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6413. A letter from the Secretary, Department of Commerce, transmitting the 2001 Annual Report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology (NIST), pursuant to Public Law 100–418, section 5131(b) (102 Stat. 1443); to the Committee on Science.

6414. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Recordkeeping and Reporting for Qualified Tuition Plans (Notice 2001–81) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6415. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit or abatement; determination of correct tax liability (Rev. Proc. 2001–52) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6416. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Frequent Flyer Miles Attributable to Business or Official Travel (Announcement 2002–18) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6417. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Limitations on Benefits and Contributions Under Qualified Plans (Rev. Rul. 2001–51) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6418. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2002–16) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6419. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Maximum Capital Gains Rate (Rev. Rul. 2001–57) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6420. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Differential Earnings Rate for Mutual Life Insurance Companies (Notice 2002–19) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6421. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2002–3) received April 22, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6422. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Interest Rate (Rev. Rul. 2001–63) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6423. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Deduction for Bad Debts (Rev. Rul. 2001–59) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6424. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2001–58) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6425. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rulings and determination letters (Rev. Proc. 2001–55) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6426. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, First-out inventories (Rev. Rul. 2001–54) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

6427. A letter from the Chairman, IRS Oversight Board, transmitting the Board's annual report for 2001; to the Committee on Ways and Means.

6428. A letter from the Secretary, Department of Veterans' Affairs, transmitting a draft bill, ''To amend Title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security, and law enforcement functions, and for other purposes''; jointly to the Committees on Veterans' Affairs and Government Reform.

6429. A letter from the General Counsel, Department of Defense, transmitting the Department's proposed legislation entitled, ''Military Construction Authorizations''; jointly to the Committees on Armed Services, Government Reform, and Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on International Relations. H.R. 3994. A bill to authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries; with an amendment (Rept. 107–420). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. DOOLITTLE:

H.R. 4589. A bill to provide for expedited decisions on wilderness study areas, to provide that lands designated as wilderness study areas for more than 15 years shall be used in accordance with the Multiple-Use Sustained-Yield Act of 1960, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, 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 Ms. CARSON of Indiana (for herself, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BRADY of Pennsylvania, Ms. BROWN of Florida, Mrs. CHRISTENSEN, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. FATTAH, Mr. FORD, Mr. FROST, Mr. GEPHARDT, Mr. HASTINGS of Florida, Mr. HILLIARD, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. LAHOOD, Mr. LANTOS, Ms. LEE, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Ms. MCKINNEY, Mr. MARKEY, Mrs. MALONEY of New York, Mrs. MEEK of Florida, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Mr. MOLLOHAN, Mr. NADLER, Ms. NORTON, Mr. OWENS, Mr. PAYNE, Ms. PELOSI, Mr. RANGEL, Mr. REYES, Mr. ROHRABACHER, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SABO, Mr. SANDERS, Ms.

SCHAKOWSKY, Mr. SCOTT, Mr. SERRANO, Ms. SOLIS, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mr. TRAFICANT, Mr. UNDERWOOD, Ms. WATERS, Ms. WATSON, Mr. WATT of North Carolina, and Mr. WYNN):

H.R. 4590. A bill to authorize the President to award a gold medal on behalf of Congress to Muhammad Ali in recognition of his contributions to the Nation; to the Committee on Financial Services.

By Mr. HYDE (for himself, Mr. BALLENGER, Ms. ROS-LEHTINEN, Mr. BURTON of Indiana, Mr. GALLEGLY, Mrs. JO ANN DAVIS of Virginia, Mr. SMITH of New Jersey, Mr. GILMAN, Mr. ROYCE, Mr. CHABOT, and Mr. TANCREDO):

H.R. 4591. A bill to support the democratically elected Government of Colombia and the unified campaign against illicit narcotics trafficking, terrorist 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. COX (for himself, Mr. WAXMAN, Mrs. BONO, Mr. DREIER, Mr. ROHRABACHER, Mr. LEWIS of California, Mr. ROYCE, Mr. POMBO, Mr. CALVERT, and Mr. MCKEON):

H.R. 4592. A bill to name the chapel located in the national cemetery in Los Angeles, California, as the ''Bob Hope Veterans Chapel''; to the Committee on Veterans' Affairs.

By Mr. HILL (for himself, Mr. MATHESON, Mr. TURNER, Mr. STENHOLM, Mr. BOYD, Mr. MOORE, Mr. TANNER, Mr. BERRY, Mr. HOLDEN, Mr. ROSS, Mr. BISHOP, and 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. BISHOP, Mr. SCHIFF, Mr. ISRAEL, Mr. MATHESON, Mr. PHELPS, Ms. 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 Social Security; to the Committee on Ways and Means, and in addition to the Committees on the Budget, and 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. 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, Mrs. MALONEY of New York, Mr. KENNEDY of Rhode Island, Mr. MCNULTY, Mr. TOWNS, Ms. BROWN of Florida, Mr. FILNER, Mr. SERRANO, and Mr. LYNCH):

H.R. 4596. A bill to provide for a comprehensive Federal effort relating to treatments 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 provisions 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. PELOSI, Mr. SENSENBRENNER, Mr. SMITH of Texas, Mr. BISHOP, Mr. CONDIT, Mr. HOEKSTRA, Mr. ROEMER, Mr. BURR of North Carolina, Mr. REYES, Mr. BEREUTER, Mr. BOSWELL, Mr. PETERSON of Minnesota, Mr. CRAMER, Mr. HASTINGS of Florida, Mr. ROGERS of Michigan, Mr. FRANK, Mr. BARR of Georgia, Mr. FROST, Mr. SULLIVAN, Mr. BALDACCI, Mr. SESSIONS, Mr. DEUTSCH, Mr. TIERNEY, and Ms. HART):

H.R. 4598. A bill to provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities; to the Committee on Intelligence (Permanent Select), and in addition to the Committee on the Judiciary, 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 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 elementary and secondary schools by the National 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. MORAN of Virginia, Mr. PETERSON of Minnesota, Mr. STENHOLM, Mr. LUCAS of Kentucky, Mr. PICKERING, 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 burden the liability system places on the health care delivery system; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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. DEFAZIO:

H.R. 4601. A bill to provide for the conveyance of a small parcel of Bureau of Land Management land in Douglas County, Oregon, 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 Resources.

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 for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; to the Committee on Energy and Commerce.

By Mr. GILLMOR:

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 certain islands; to the Committee on Ways and Means.

By Ms. GRANGER (for herself, Mr. WYNN, Mr. COOKSEY, 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 refundable 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 addition to the Committee on Transportation and Infrastructure, 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. MARKEY (for himself, Mr. DINGELL, and Mr. SMITH of New Jersey):

H.R. 4606. A bill to amend the Public Health Service Act to provide for Alzheimer's disease research and demonstration grants; to the Committee on Energy and Commerce.

By Mr. MARKEY (for himself, Mr. HANSEN, Mr. OLVER, Mr. NEAL of Massachusetts, Mr. MCGOVERN, Mr. FRANK, Mr. MEEHAN, Mr. TIERNEY, 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 Commerce.

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 Department of Veterans Affairs Medical Center''; to the Committee on Veterans' Affairs.

By Mr. NETHERCUTT (for himself and Mr. OTTER):

H.R. 4609. A bill to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington; to the Committee on Resources.

By Ms. NORTON:

H.R. 4610. A bill to direct the Administrator of the Environmental Protection Agency to carry out a pilot program for restoration of urban watersheds and community environments in the Anacostia River watershed, District of Columbia and Maryland, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OLVER (for himself, Mr. ALLEN, Mr. INSLEE, Mr. HINCHEY, Mr. GILCHREST, Mr. GEORGE MILLER of California, and Mr. FARR of California):

H.R. 4611. A bill to amend the Clean Air Act to establish an inventory, registry, and information system of United States greenhouse 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.

By Mr. OSE (for himself and Mr. DIAZ-BALART):

H.R. 4612. 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 with near-Earth orbit trajectories; to the Committee on House Administration.

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. THORNBERRY, Mr. SKEEN, 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. JOHN, Mr. BOYD, Mr. TURNER, Mr. STENHOLM, Mr. BOSWELL, Mr. TAYLOR of Mississippi, Ms. HARMAN, Mr. ROSS, Mr. SANDLIN, Mr. HALL of Texas, Mr. SCHIFF, Mr. HILL, Mr. PHELPS, Mr. LIPINSKI, Mr. BISHOP, Mr. CONDIT, and Mr. EDWARDS):

H.J. 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. UPTON, Mr. HILLEARY, Mr. BOEHNER, Mr. CASTLE, Mr. TANCREDO, Mr. ROEMER, Mr. ISAKSON, Mr. PENCE, Mr. TIBERI, Mr. SOUDER, Mr. PETRI, Mr. MCKEON, Mr. BURR of North Carolina, Mr. SCHAFFER, and Mr. HOEKSTRA):

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. 387. 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. NORWOOD):

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TANNER (for himself, Mr. MATHESON, Mr. HILL, Mr. MOORE, Mr. STENHOLM, Mr. PHELPS, Mr. BERRY, Mr. SANDLIN, Mr. HOLDEN, Mr. ROSS, Mr. SCHIFF, Mr. ISRAEL, and Mr. BISHOP):

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. MURTHA, Mrs. ROUKEMA, Mr. KENNEDY of Rhode Island, Mr. WYNN, Mr. OLVER, 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. HASTERT, and Mr. CANNON):

H. Res. 399. A resolution honoring Cael Sanderson 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. ROTHMAN, Mr. MENENDEZ, Mr. LEVIN, Mr. PLATTS, Mr. LANGEVIN, Mr. GOODLATTE, Mrs. MALONEY of New York, Mr. GILMAN, Mr. SHAYS, Mr. DAVIS of Florida, Mr. LYNCH, Mr. CANTOR, Mrs. MORELLA, Mr. REYES, and Mr. GOODE):

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 training and support 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. SAWYER.

H.R. 786: 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. MASCARA.

H.R. 902: Mr. BACHUS.

H.R. 938: Mr. HOEFFEL.

H.R. 951: Mr. SANDLIN, Mr. GRUCCI, and Mr. TURNER.

H.R. 952: Mr. LUCAS of Kentucky.

H.R. 1090: Mr. JENKINS, Mr. LAMPSON, Ms. 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. 1268: Mr. BRADY of Texas.

H.R. 1296: Mr. VITTER and Mr. KENNEDY of Minnesota.

H.R. 1305: Mr. DIAZ-BALART.

H.R. 1307: Mr. WATT of North Carolina and Mr. BISHOP.

H.R. 1331: Mr. HAYES.

H.R. 1354: Ms. BROWN of Florida.

H.R. 1371: Mr. DAVIS of Illnois.

H.R. 1433: Mr. SNYDER.

H.R. 1436: Mr. PICKERING, Mr. LUCAS of Oklahoma, and Mr. Lynch.

H.R. 1598: Mr. FORD, Mr. LARSEN of Washington, Mr. TOWNS, Mrs. MALONEY of New York, and Mr. ABERCROMBIE.

H.R. 1604: Mr. BOOZMAN.

H.R. 1609: Mr. BURR of North Carolina and Mr. PRICE of North Carolina.

H.R. 1642: Mr. MCDERMOTT, Mr. FORD, Mr. FALEOMAVAEGA, Mr. MCNULTY, Mrs. JONES of Ohio, and Mr. HINCHEY.

H.R. 1764: Mr. SABO.

H.R. 1795: Ms. BROWN of Florida, Mr. HASTINGS of Florida, Mr. TANCREDO, Mr. DAVIS of Florida, Mr. QUINN, Mr. THOMPSON of California, Mr. BACA, and Mr. BROWN of Ohio.

H.R. 1808: 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: Ms. 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. 2555: 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 Ms. PRYCE of Ohio.

H.R. 2835: Mr. BERMAN, Mr. ROYCE, and Mr. TANCREDO.

H.R. 2874: Mr. LANGEVIN, Mr. MCGOVERN, Ms. VELAZQUEZ, Ms. MILLENDER-MCDONALD, and Mr. MORAN of Virginia.

H.R. 3006: Mr. MANZULLO.

H.R. 3064: Mr. EVANS.

H.R. 3131: Mr. NADLER and Mr. ABERCROMBIE.

H.R. 3132: Mr. FILNER and Mr. BONIOR.

H.R. 3244: Mr. SANDERS.

H.R. 3273: Mrs. ROUKEMA.

H.R. 3414: Mr. DICKS.

H.R. 3415: Mr. BONIOR.

H.R. 3431: Mr. DEUTSCH, 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. LOWEY, Mr. GONZALEZ, Ms. SCHAKOWSKY, Mrs. CHRISTENSEN, Ms. BALDWIN, Ms. VELAZQUEZ, Ms. JACKSON-LEE of Texas, Mr. ANDREWS, Mr. WEXLER, Mr. BLUMENAUER, Mr. SMITH of Washington, Mr. JEFFERSON, Mr. PRICE of North Carolina, Mr. BAIRD, Mr. HOLT, Mrs. JONES of Ohio, Mr. PASTOR, 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. KILDEE and Mr. BACA.

H.R. 3512: Ms. HART.

H.R. 3524: Mrs. CLAYTON.

H.R. 3585: Mr. RANGEL.

H.R. 3625: Mr. UDALL of Colorado, Ms. ESHOO, Ms. MCCARTHY of Missouri, and Mr. POMEROY.

H.R. 3659: Mr. MEEHAN, Mr. SANDERS, Mr. LARSON of Connecticut, Mr. OSBORNE, 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. GALLEGLY, 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. 4002: Ms. CARSON of Indiana.
H.R. 4003: 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. CUBIN.
H.R. 4175: Ms. GRANGER.
H.R. 4176: Ms. GRANGER.
H.R. 4177: Ms. GRANGER.
H.R. 4209: Mr. CLEMENT and Mr. GONZALEZ.
H.R. 4483: Mr. GIBBONS, 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. 86: Mr. BURTON of Indiana.
H. Con. Res. 42: Mrs. NAPOLITANO and Mr. BISHOP.
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. ARMEY, 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. CRANE, Mr. GUTIERREZ, Mr. GRAVES, Mr. MATSUI, Mr. FOLEY, Mr. WELDON of Florida, Mr. COBLE, Mr. SAXTON, Mr. PENCE, Mr. WEINER, Mr. HASTINGS of Florida, Mr. GIBBONS, 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.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

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Senate

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

PRAYER

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

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

For Ambition to be the yokefellow of humility;

For Behavior worthy to be copied;

For Courage in the face of difficulties;

For Decisions based on eternal principles;

For Encouragement when the walls of loneliness surround them;

For Faith when doubt knocks on the door;

For Gentleness to rule over harshness;

For Hope in the midst of despair;

For Impulsiveness to be counteracted with thoughtfulness;

For Joy in their journey of service;

For Knowledge to grapple with the monumental challenges;

For Light to shatter strongholds of darkness;

For Modesty to be the wardrobe of ego;

For Nobility to be the pathway of choice;

For Objectivity to grace every vote;

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

For Quiet times to hear Your whispers to their hearts;

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

For Servanthood to be more significant than success;

For Truth to outduel falsehood at every encounter;

For Urgent to be under the thumb of the important;

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

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

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

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

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

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

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

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

To the Senate:

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

ROBERT C. BYRD,
Pesident pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

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

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

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

RESERVATION OF LEADER TIME

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

The Senator from Florida.

WELCOME REVEREND JIM HENRY

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

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

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

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

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

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

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

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

I yield the floor.

EXECUTIVE SESSION

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

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

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

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

The bill clerk called the roll.

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

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

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

[Rollcall Vote No. 85 Ex.]

YEAS—99

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

NOT VOTING—1

Helms

The nomination was confirmed.

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

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

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

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

The senior assistant bill clerk called the roll.

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

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

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

[Rollcall Vote No. 86 Ex.]

YEAS—99

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

NOT VOTING—1

Helms

The nomination was confirmed.

STATEMENTS ON THE NOMINATIONS OF PERCY ANDERSON AND JACK WALTER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Some on the other side of the aisle have falsely charged that if a nominee has a record as a conservative Republican, he will not be considered by the Committee. That is simply untrue. Senator HATCH has emphasized that Mr. Anderson and Mr. Walter were nominated by the George H.W. Bush Administration and the current Bush Administration. I do not think that either President Bush thought he was nominating liberals to the bench. I do not think so either. These are two more examples of conservative nominees being strongly supported by Democrats on the Judiciary Committee and throughout the Senate.

Another recent example is the nomination of Jeffrey Howard. Just 2 years ago, he campaigned for the Republican nomination for Governor of New Hampshire and he has been a prominent figure in Republican politics in New Hampshire for many years. Thus, it would be wrong to claim that we will not consider President George W. Bush's nominees with conservative credentials. We have done so repeatedly. The next time Republican critics are bandying around charges that the Democratic majority has failed to consider conservative judicial nominees, I hope someone will ask those critics about the many other conservative nominees we have proceeded to consider and confirm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEGISLATIVE SESSION

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report the bill.

The assistant legislative clerk read as follows:

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

Pending:

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

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

Feinstein amendment No. 3225 (to amendment No. 2917) to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3311

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

The PRESIDING OFFICER. That amendment is already pending.

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

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

The senior assistant bill clerk read as follows:

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

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator from Washington.

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

Mrs. BOXER. I will be happy to yield.

AMENDMENT NO. 3326 TO AMENDMENT NO. 2917

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

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

The assistant legislative clerk read as follows:

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

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

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

The amendment is as follows:

(Purpose: To modify the specifications for a fuel cell power plant eligible for the extension of the energy tax credit)

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Florida.

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

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

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

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

Mr. MURKOWSKI. The Senator does object.

The PRESIDING OFFICER. Objection is heard.

The Senator from California.

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

Mr. KYL. Will the Senator from California yield?

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Nevada.

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

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

Mr. SCHUMER. Will the Senator from California yield?

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

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

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

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

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

Mrs. BOXER. Yes.

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

The PRESIDING OFFICER. The Senator from California.

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

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

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

AMENDMENT NO. 3311

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. DURBIN. I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

MEMOS SHOW POSSIBLE ETHANOL PRICE-FIXING

(By Zachary Coile, Chronicle Washington Bureau)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mrs. BOXER. We are not.

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

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

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

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

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

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

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

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

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

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

Mrs. BOXER. I agree.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

April 16, 2002.

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

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

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

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

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

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

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

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

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

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

That is of course the larger picture.

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

Mrs. FEINSTEIN. Will my colleague yield?

Mrs. BOXER. I am happy to yield.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The assistant majority leader.

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

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

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

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

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

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

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

The PRESIDING OFFICER. Does the Senator modify his request?

Mr. REID. That would be fine.

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

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

Mrs. FEINSTEIN. One-half hour.

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

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

Mrs. FEINSTEIN. I agree to that.

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

Mrs. FEINSTEIN. The 1 year.

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

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

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

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

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

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

Without objection, it is so ordered.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The deputy majority leader.

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

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

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

The PRESIDING OFFICER. The Senator from Iowa.

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

The Senator from Nebraska.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This is very clear.

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

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

It goes on.

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

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

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

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

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

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

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

The Senator from Alaska.

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

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

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

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

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

retain all rights he or she has under current law.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Who seeks time?

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

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

The Senator from California has 8 minutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator has 1 minute.

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

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

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

I yield the floor.

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

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

The Senator from New Mexico.

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

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

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

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

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

AMENDMENT NO. 3132 WITHDRAWN

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

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

AMENDMENT NO. 3225

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

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

The PRESIDING OFFICER. Six minutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. REID. There is no time.

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

Mr. REID. I object.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from Nebraska.

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

AMENDMENT NO. 3332

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

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

AMENDMENT NO. 3333

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

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

AMENDMENT NO. 3370

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

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

AMENDMENT NO. 3372

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

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

SEC. . LIMITATION ON EFFECTIVE DATES.

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

AMENDMENT NO. 3239, AS MODIFIED

Strike all after the title heading and insert the following:

SEC. 1101. PURPOSE.

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

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

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

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

SEC. 1102. DEFINITIONS.

In this title:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

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

SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.

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

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.

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

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

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

(i) direct emissions from stationary sources;

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

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

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

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

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

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

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

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

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

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

(V) product use phase emissions;

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

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

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

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

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

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

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

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

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

(3) EXEMPTIONS FROM REPORTING.—

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

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

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

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

(B) ENTITIES ALREADY REPORTING.—

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

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

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

(A) has been accurately reported; and

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

(i) actual reductions in direct greenhouse gas emissions—

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

(II) net of any increases in—

(aa) direct emissions; and

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

(ii) actual increases in net sequestration.

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

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

(A) obtain independent third-party verification; and

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

(7) AVAILABILITY OF DATA.—

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

(i) published;

(ii) accessible to the public; and

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

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

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

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

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

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

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

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

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

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

(i) to take into account that information; and

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

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

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

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

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

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

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) STANDARDS.—

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

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

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

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

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

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

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

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

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

(i) organic soil carbon sequestration practices; and

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

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

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

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

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

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

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

(d) EXPERTS AND CONSULTANTS.—

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

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

SEC. 1107. INDEPENDENT REVIEWS.

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

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

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

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

(B) to achieve the purposes of this title.

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

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

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

(A) those methods and standards; and

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

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

SEC. 1108. REVIEW OF PARTICIPATION.

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

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

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

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

(A) not later than the earlier of—

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

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

(B) annually thereafter.

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

SEC. 1109. ENFORCEMENT.

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

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

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

SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.

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

AMENDMENT NO. 3146, AS FURTHER MODIFIED

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

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

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

SEC. 1102. PURPOSE.

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

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

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

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

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

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

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

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

SEC. 1103. DEFINITIONS.

In this title—

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

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

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

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

(5) ''greenhouse gas'' means—

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

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

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

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

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

SEC. 1104. ESTABLISHMENT.

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

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

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

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

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

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

SEC. 1105. IMPLEMENTATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1106. VOLUNTARY AGREEMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1107. MEASUREMENT AND VERIFICATION.

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

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

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

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

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

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

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

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

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

(A) organic soil carbon sequestration practices;

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

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

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

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

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

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

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

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

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

SEC. 1109. REPORT TO CONGRESS.

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

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

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

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

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

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

SEC. 1110. REVIEW OF PARTICIPATION.

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

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

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

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

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

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

(i) direct emissions from statutory sources;

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

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

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

(A) not later than the earlier of—

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

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

(B) annually thereafter.

(c) EXEMPTIONS FROM REPORTING.—

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

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

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

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

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

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

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

SEC. 1111. NATIONAL ACADEMY REVIEW.

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

AMENDMENT NO. 3082

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

At the appropriate place, insert the following:

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

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

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

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

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

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

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

AMENDMENT NO. 3355

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

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $1,000 for each kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

AMENDMENT NO. 3335

(Purpose: To amend the Internal Revenue Code of 1986 to extend the credit for the production of fuel from non-conventional sources with respect to certain existing facilities)

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

AMENDMENTS NOS. 3258 AND 3170

Mr. BINGAMAN. Madam President, I ask unanimous consent that, notwithstanding rule XXII, it now be in order for the Senate to consider, en bloc, amendment No. 3258 and amendment No. 3170; that the latter be modified with the changes that are at the desk; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3258 and 3170, as modified), en bloc, were agreed to, as follows:

AMENDMENT NO. 3258

(Purpose: To strike the provision authorizing loan guarantees for an Alaska natural gas transportation project)

Strike section 708.

AMENDMENT NO. 317

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

''(B) PETITIONS FOR WAIVERS.—The Administrator in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

AMENDMENTS NOS. 3082, 3130, 3331, 3336, 3338, 3349, 3350, 3351, 3352, 3353, 3356, AND 3359

Mr. BINGAMAN. Madam President, I ask unanimous consent that, notwithstanding rule XXII, it now be in order for the Senate to consider, en bloc, amendments No. 3082, No. 3130, No. 3331, No. 3336, No. 3338, No. 3349, No. 3350, No. 3351, No. 3352, No. 3353, No. 3356, and No. 3359; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3082, 3130, 3331, 3336, 3338, 3349, 3350, 3351, 3352, 3353, 3356 and 3359) were agreed to, as follows:

AMENDMENT NO. 3082

(Purpose: To provide that certain gasoline and diesel fuel be treated as entered into the customs territory of the United States)

At the appropriate place, insert the following:

SEC. ___. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.

(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—

(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(2) by inserting after paragraph (5) the following:

''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.

(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3130

(Purpose: To amend the Internal Revenue Code of 1986 to allow a credit against income tax for taxpayers owning certain commercial power takeoff vehicles)

On page 73, between lines 2 and 3, insert the following:

SEC. ___. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 45K. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

''(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the commercial power takeoff vehicles credit under section 45K(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45K. Commercial power takeoff vehicles credit.''.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45K(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT NO. 3331

(Purpose: To further encourage development of hydrogen refueling infrastructure)

In Division H, on page 50, strike lines 23 and 24, and insert the following:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2006.''.

(b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

AMENDMENT NO. 3336

(Purpose: To amend the Internal Revenue Code of 1986 to provide for nonrecognition of grain on dispositions of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, and for other purposes)

In Division H, on page 216, after line 21, add the following:

SEC. ___. TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

''(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

''(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

''(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

''(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.

''(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

''(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.

''(2) QUALIFIED DISPOSITION.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

''(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

''(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

''(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

''(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

''(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

''(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

''(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

''(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

''SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.

''(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

''(b) QUALIFIED RECLAMATION EXPENDITURE.—

''(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

''(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

''(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.''.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199B. Expensing of dairy property reclamation costs.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

AMENDMENT NO. 3338

(Purpose: To amend the Internal Revenue Code of 1986 to modify energy credit for combined heat and power system property)

In Division H, on page 123, after line 25, add the following:

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make the use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

AMENDMENT NO. 3349

(Purpose: To modify the credit for the production of fuel from nonconventional sources regarding refined coal)

In Division H, on page 199, lines 5 through 7, strike ''at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide'' and insert ''at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury.''

AMENDMENT NO. 3350

(Purpose: To modify the credit for the production of electricity to include small irrigation power)

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) small irrigation power.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3351

(Purpose: To modify the credit for residential energy efficient property by substituting natural gas furnances for naturla gas heat pumps)

In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

''(iii) $250 for each advanced natural gas furnace,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),''.

AMENDMENT NO. 3352

(Purpose: To modify the incentives for biodiesel)

In Division H, beginning on page 64, line 1, strike all through page 73, line 2, and insert the following:

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

''SEC. 40B. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

''(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from non-virgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

''(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

AMENDMENT NO. 3353

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the treatment of sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

AMENDMENT NO. 3356

(Purpose: To apply temporary regulations to certain output contracts)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

AMENDMENT NO. 3359

(Purpose: To modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home)

In Division H, on page 74, line 16, strike ''Code'' and insert ''Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy''.

Mr. REID. Madam President, pursuant to the previous order, I now move to table the Boxer amendment No. 3139, and I ask for the yeas and nays on behalf of the majority leader.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—57

Allard	Crapo	Kohl
Allen	Daschle	Landrieu
Baucus	DeWine	Lincoln
Bayh	Domenici	Lott
Bennett	Dorgan	Lugar
Bond	Edwards	McConnell
Breaux	Enzi	Miller
Brownback	Frist	Murkowski
Bunning	Grassley	Nelson (NE)
Burns	Gregg	Nickles
Byrd	Hagel	Roberts
Campbell	Harkin	Santorum
Carnahan	Hatch	Sessions
Chafee	Hutchinson	Shelby
Cleland	Hutchison	Smith (NH)
Cochran	Inhofe	
Conrad	Jeffords	
Craig	Johnson	
Stabenow	Thomas	Thurmond
Stevens	Thompson	Voinovich

NAYS—42

Akaka	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bingaman	Graham	Reed
Boxer	Gramm	Reid
Cantwell	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Clinton	Kennedy	Schumer
Collins	Kerry	Smith (OR)
Corzine	Kyl	Snowe
Dayton	Leahy	Specter
Dodd	Levin	Torricelli
Durbin	Lieberman	Warner
Ensign	McCain	Wellstone
Feingold	Mikulski	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. BINGAMAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3225

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Feinstein amendment No. 3225.

The Senator from Nevada.

Mr. REID. Madam President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3225. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. EDWARDS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—60

Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Bond	Edwards	Lott
Breaux	Feingold	Lugar
Brownback	Fitzgerald	McConnell
Bunning	Frist	Mikulski
Burns	Graham	Miller
Campbell	Grassley	Murkowski
Carnahan	Gregg	Nelson (FL)
Carper	Hagel	Nelson (NE)
Chafee	Harkin	Roberts
Cochran	Hollings	Sarbanes
Conrad	Hutchinson	Sessions
Craig	Inhofe	Smith (NH)
Crapo	Inouye	Stabenow
Daschle	Jeffords	Stevens
Dayton	Johnson	Thurmond
DeWine	Kerry	Torricelli
Dodd	Kohl	Voinovich
Domenici	Landrieu	Wellstone

NAYS—39

Akaka	Corzine	Murray
Allard	Ensign	Nickles
Allen	Enzi	Reed
Bennett	Feinstein	Reid
Biden	Gramm	Rockefeller
Bingaman	Hatch	Santorum
Boxer	Hutchison	Schumer
Byrd	Kennedy	Shelby
Cantwell	Kyl	Smith (OR)
Cleland	Leahy	
Clinton	Lieberman	
Collins	McCain	
Snowe	Thomas	Warner
Specter	Thompson	Wyden

NOT VOTING—1

Helms

The motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

CHANGE OF VOTE

Mr. McCONNELL. Mr. President, on rollcall vote No. 88, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it would not affect the outcome.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we have approximately 2 hours until all time runs out on this legislation as a result of the postcloture rules. The following amendments are about all we are going to have time to work on before 3:30. I ask unanimous consent that Senator DURBIN be allowed to offer amendment No. 3342, with 10 minutes equally divided; Senator HARKIN, amendment No. 3195, 20 minutes equally divided, and that Senator DORGAN be granted 10 minutes of that 20 in opposition; Carper amendment No. 3198, with 40 minutes equally divided; amendment No. 3326, the Murray amendment, 10 minutes equally divided; Kyl amendments Nos. 3332 and 3333, 20 minutes total for the two amendments equally divided.

I ask unanimous consent that following the completion of the debate on these amendments there be a series of votes in stacked sequence with no intervening second-degree amendments.

The votes would be on or in relation to the amendments.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. This does not waive points of order on the amendments?

Mr. REID. It waives no points of order.

Mr. LEVIN. One other issue. There are other amendments at the desk, including one in which I am interested.

Mr. REID. Yes. I will work on that.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Reserving the right to object, and I will probably not object, but we have an amendment on climate change issues that I did not hear made mention of. I inquire of the assistant majority leader with regard to that amendment.

Mr. REID. I say to my friend from Kansas, we have taken these amendments in the sequence they are now listed. Sadly, is the best way I can say it, there are eight amendments to which we are simply not going to have time to get. The reason I have asked these people to take less time than they are entitled is so we can get to as many of them as possible.

I say to my friend, if we are able to complete this unanimous consent agreement, what we are going to do is ask unanimous consent as to all amendments that are in order, that are on this list, Senators would have 2 minutes for and 2 minutes against each amendment. Other than that, that is the best we can do because that is 4 minutes more than the amendments are entitled to under the rule.

Mr. BROWNBACK. If I could inquire, does that include, then, the amendment we have put forward?

Mr. REID. It will include that.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. It is my understanding we do not need a vote on the Durbin amendment, that a voice vote would be adequate, if that is all right with the author of the amendment.

Mr. REID. We hope that is the case. That is my understanding.

Mr. CRAIG. Fine. That is what we believe can be done over on this side.

Mr. REID. I say to my friend from Idaho, if we get lucky, there may be one or two others that may not require a vote. If that is the case, I say to my friend from Kansas, we will try to move down the list a little more. But 3:30 is the drop dead time under the rule.

Mr. CRAIG. That is correct. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nevada.

AMENDMENT NO. 3336 TO AMENDMENT NO. 2917

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside temporarily in order to call up amendment No. 3336 for Senator LEVIN. This has been cleared on the other side.

Mr. LEVIN. Mr. President, I do not know that it has been cleared on the other side.

Mr. REID. Yes, it has been. It has not been cleared for acceptance. This unanimous consent agreement has been cleared.

Mr. CRAIG. The unanimous consent agreement?

Mr. REID. To allow the amendment to be listed.

Mr. CRAIG. To have it listed, is that the unanimous consent request?

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I withdraw.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN, proposes an amendment numbered 3366 to amendment No. 2917.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the incentives for alternative fuel motor vehicles and refueling properties)

In Division H, on page 73, between lines 2 and 3, insert the following:

SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''5 percent'' and inserting ''4 percent''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

Mr. REID. I call for regular order.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 3342

Mr. DURBIN. Mr. President, yesterday I had reported by the clerk amendment No. 3342 and it was laid aside. I do not know if it is necessary for the clerk to report it again. I will speak briefly to the amendment. Is it necessary for the clerk to report?

The PRESIDING OFFICER. The amendment is pending.

Mr. DURBIN. Mr. President, I will be brief because I believe this amendment is going to be agreed to by a voice vote. I thank all those who are involved in that: Senator BINGAMAN, Senator MURKOWSKI, as well as Senator NICKLES, Senator GRASSLEY, Senator BAUCUS, and others who have followed this matter.

We clearly need to reduce our dependence on fossil fuels, particularly on imported oil. We should focus on sources of energy that are clean, free, and literally limitless. One of those sources is wind. Wind power is now creating opportunity for the generation of electricity across the United States. I introduced legislation last year to create a tax credit to help defray the cost of installing a small wind energy system to generate electricity for homes, farms, and businesses. I hope this legislation will ultimately become the law of the land.

Today, with this amendment, we take an important step forward in providing for equal treatment of wind energy used in business and nonbusiness applications. It certainly would apply to our quest to reduce our dependence on foreign oil. This is extremely important.

A recent USA Today poll showed 91 percent of the public favors incentives for wind, solar, and fuel cells. We think this amendment is one that will give us an opportunity to use wind power across America, to generate electricity, particularly in applications for farms and ranches and businesses.

This map I have illustrates the areas of the United States where there are wind resources that could generate electricity. I am surprised, in looking at the map, that there is no indication that Washington, DC, is a source of wind, but those who visit Capitol Hill might argue otherwise.

I think if we take a look at this map, though, we can see we have ample opportunities across the United States for a clean, literally limitless, source of electricity.

I urge adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 3342) was agreed to.

Mr. REID. I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3195

Mr. REID. Mr. President, I ask unanimous consent that the time on the Harkin amendment, the next in order as I understand it, start running against that amendment.

Mr. COCHRAN. Reserving the right to object, I didn't understand the request.

Mr. REID. The Harkin amendment has 20 minutes evenly divided, and I think the time should start running against that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am a cosponsor of the Harkin amendment, along with Senator GRASSLEY and Senator LINCOLN. This amendment was offered last night. We had a discussion of the amendment at that time. The issue presented by this amendment is whether the bill, as taken up on the floor of the Senate as it relates to energy-efficient ratios of air-conditioning units, should be adopted by the Senate or another ratio that would provide virtually the same amount of efficiency but at a lower ratio and leave in place production plants that are producing coils for air-conditioning units on the market today and the entire air-conditioning units to continue to function.

Let me give a parochial example of the implications of this issue for my State of Mississippi. There are over 7,000 workers employed in facilities that produce either components for or total air-conditioning units. One plant employs 2,500 people in Grenada, MS. Our amendment allows the use, sale, manufacture, and use by citizens of air-conditioning units with an energy efficiency ratio of 12. These are numeric. The bill before the Senate requires a ratio of 13. If the committee bill is adopted, or the bill before the Senate—the committee didn't have a whole lot to do with writing this bill, incidentally—if the bill before the Senate is adopted without amendment to this section, that plant at Grenada, MS, will shut down and those 2,500 workers will be out of work. This will be replicated not only throughout my State and other manufacturing facilities but throughout the country.

So you need to check to see what the results will be in your State before you vote on this amendment.

The other side of the story is, the cost of air-conditioning units is going to skyrocket. I mean that seriously. An additional $700 per air-conditioning unit is going to be added to the cost to those who want to buy an air-conditioning unit. Think about that. If you have a State where people work for the minimum wage or low salaries, they can forget about buying an air-conditioning unit. They are not going to be able to afford air-conditioning.

One of the main purposes of this legislation is to improve energy efficiency. We are for that. The current energy efficiency ratio for air-conditioning units is at the level of 10. This amendment raises that by 20 percent to 12. We are suggesting—the Senators from Iowa, the Senator from Arkansas and I—with this amendment, that the ratio of 12 is the correct level.

We are not a regulatory body. Think about this. This bill is requiring the Senate to choose a regulatory standard. A rulemaking was in process at the Department of Energy. This legislation preempts that process and arbitrarily sets a limit that is going to unreasonably raise costs of air-conditioning units and put a lot of people out of work for no really good, justifiable reason.

I urge the Senate to think carefully about the implications of this amendment and its consequences. We urge Members to vote for the level that is more appropriate, that we think the Department of Energy would move toward and establish by its rulemaking power—which it should have been allowed to do. This bill preempts that process, stops the rulemaking in its tracks, and imposes a new energy efficiency standard. It is too high. It is too high for the reasons I stated.

I urge the Senate to adopt the Harkin-Cochran-Grassley-Lincoln amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time is available?

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. DORGAN. Mr. President, I was not available when Senator HARKIN introduced the amendment last evening, but I want to come to the floor to support the standard that exists in the energy bill we are now considering.

This issue is in many ways complicated, but it is also the issue that deals with energy efficiency. We are talking about increased production, conservation, efficiency, as well as the promotion of limitless, renewable sources of energy. This issue is called the Seasonal Energy Efficiency Ratio. Almost no one knows what it is. It is called the SEER standard. The standard in the bill is established at 13 SEER, which is a standard that was published in the Federal Register almost a year and a half ago, January 2001. It would increase residential air-conditioner efficiency by 30 percent over the prior 10 SEER standard.

The Goodman Manufacturing Company, for example, said in testimony they have given at hearings: There have been claims that the 13 SEER standard would cost consumers substantially more money than the proposed rollback to a 12 SEER standard. According to the Department of Energy, the average difference in cost between a 13 SEER unit and a 12 SEER unit is approximately $122. That is what I am told the Department of Energy says is the difference.

The Department of Energy also indicates that cost will be recovered in a very short period of time, because of the added efficiency in a 13 SEER standard. According to the Goodman Company, which is the second-largest manufacture of air-conditioners in the country, and who supports the 13 SEER standard in the bill, the incremental cost to the manufacturer to produce a 13 SEER unit is about $100. They say: We believe the most efficient technology should be available to people of all income levels at an affordable price. Not all manufacturers may have this same marketing philosophy. Some may seek a protection of higher profit margins on their more efficient equipment. A 13 SEER standard would force all manufacturers to be truly competitive and provide all consumers with the most affordable energy-efficient technology for air-conditioners that is available today.

This issue deals with a mix of things we have to do in a successful energy policy. We are talking about production, conservation, efficiency, and limitless, renewable sources of energy. This is the efficiency piece that deals with air-conditioners.

Most of us understand that at peak loads at certain times of the year, the use of air-conditioners consumes a substantial amount of the energy in our country. Much has been said about it. Let me show a couple of charts that describe a couple of other alternatives.

Pat Wood, former chairman of the Texas Public Utility Commission said:

> Such a significantly strengthened standard to SEER 13 would have the triple benefits of improving electric system reliability, reducing air pollution, and cutting cooling costs for our customers.

The National Association of Regulatory Utility Commissioners—of the various States—say:

> Keeping the SEER 13 standard for residential air-conditioners is a crucial component for curbing future demand growth while retaining consumer needs for affordable cooling.

And the EPA says:

> A 13 SEER standard will do more to stimulate energy savings that benefit the consumer, reduce fossil fuel consumption and limit emissions of air pollutants.

All of those represent the benefits of the 13 SEER standard as opposed to the 12 SEER standard.

History has shown us, on virtually all of these areas of technology, that once a standard is implemented, the markets drive prices down and make the more efficient equipment even more affordable for all consumers. The incremental cost to the manufacturer to produce the 13 SEER standard, according to the Goodman Manufacturing Company, the second largest air-conditioning manufacturing company in the country—and, incidentally, a supporter of the 13 SEER standard—is about $100. The Goodman Manufacturing company, the EPA, and others say that will be recouped in lower electricity costs by a more efficient air-conditioner in a very short period of time.

I mentioned Pat Wood from Texas in a chart. The Texas electric rates were 27th in the Nation compared to other States. One of the primary uses of electricity in Texas is air-conditioning. Approximately 90 percent of the homes in Texas have air-conditioning, and Texans spend more on air-conditioning than on space heating.

If the 13 SEER standard is implemented, for example, Texas electric

companies will save $241 million by the year 2010. It is estimated in 2020 they will have saved $785 million in electric costs.

Consumer organizations and low-income advocacy organizations support the 13 SEER standard.

It seems to me, at a time when we want to ensure energy security, increasing the efficiency of our appliances makes good sense. We have testimony not only from one of the large air-conditioning manufacturers, but also from smaller air-conditioning manufacturers, that they support this. This can be done and can be done in a manner that is helpful to all Americans.

Goodman Manufacturing, the second largest manufacturer, a couple of small manufacturers—Goettl of Arizona and Aaon, Inc. of Tulsa, Oklahoma—also support the 30-percent increase in efficiency.

I know there is not the time to adequately discuss a number of these issues in the energy bill. As I indicated when I began, these are complicated issues. I know there are disagreements about them within the manufacturing sector on air-conditioning units. But with respect to legislation that deals with a range of issues in a comprehensive energy policy, on the efficiency side, the 13 SEER standard makes sense.

The 13 SEER standard will save energy. It will promote a substantial movement by the manufacturing base to produce these at an affordable cost. It will save money and also be friendly to our environment. All of this make sense as part of an energy policy.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 20 seconds.

Mr. DORGAN. I reserve the remainder of my time.

Mr. MURKOWSKI. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There remains 4 minutes 18 seconds.

Mr. MURKOWSKI. Mr. President, I was going to speak on behalf of the amendment, but I will defer to Senator HARKIN. He controls the time.

Mr. HARKIN. I am sorry, how much time remains?

The PRESIDING OFFICER. The Chair corrects the time. There remain 5 minutes 32 seconds.

Mr. MURKOWSKI. Will my colleague proceed now. I am going to take 2 minutes.

Mr. HARKIN. Whatever the Senator wants.

Mr. MURKOWSKI. I will yield to the Senator the remaining time.

Mr. HARKIN. I thank my colleague.

Mr. MURKOWSKI. Mr. President, this amendment strikes the mandate for a 13 SEER standard for residential air-conditioners and heat pumps. As we know, the DOE would be required to issue a new 12 SEER efficiency standard within 90 days. This would result in the same standard as recommended by the DOE staff during the previous administration, and constitute a 20-percent increase in efficiency, which is not a rollback by any means, as some would indicate.

Here we are again in the situation, just as in the CAFE debate, where certain Senators want you to believe they know better. Instead of letting the agency, in this case the DOE, act on a reasonable efficiency and cost standard, the number 13 was picked out of the air even though it meant higher costs and fewer choices for consumers.

To give some idea, the nonpartisan Energy Administration estimates the 12 SEER standard saves consumers money. The 13 SEER standard is a net cost, that is, about $600 million over 10 years. To give some idea, the 12 SEER saves $2.3 billion over the 10-year period.

During the last rulemaking in 2000, DOE staff considered a wide range of possible efficiency standards. Based on a review of all factors, DOE staff proposed a new 12 SEER standard—a 20 percent increase in energy efficiency. However, Secretary Richardson arbitrarily decided—without any further study—to issue a new 13 SEER rule in the final days of the Clinton Administration. This rule was placed under further review.

This higher level was not supported by the rulemaking—and it certainly is not economically justifiable. To justify the last minute 13 SEER standard, DOE in the prior Administration disregarded the industry data that it had used throughout the entire rulemaking. The cost of an air conditioner will increase by $712—nearly 30 percent—if a 13 SEER standard is imposed. For most consumers in the Midwest and northern regions of the country the ''payback'' time for recovery of the additional costs is well over 10 years. For these consumers—the extra cost of the more efficient unit just simply isn't worth it over the life of the equipment.

This dramatic increase in the cost of a new air conditioner under a 13 SEER standard will make air conditioning unaffordable for many seniors, working families, and low-income consumers, many of whom own single family homes and many of whom rely on air conditioning for their health and well being.

For small and manufactured homes, the expense is even greater. The size of an air conditioner under a 13 SEER standard is substantially larger than under a 10 or 12 SEER standard. This creates enormous retrofitting problems and much higher cost, particularly in manufactured housing. The larger cooling coils simply cannot fit in the space made for the smaller unit.

Because of the substantial increase in cost, many consumers will choose to fix older units that are less energy efficient instead of make a new purchase. This would defeat the purpose of higher standards—to save energy and reduce heating and cooling expenses.

A 13 SEER standard would have tremendously negative impacts on industry competition and small businesses: 84 percent of all central air conditioning models would be suddenly obsolete; as would 86 percent of all heat pump models; redesign and retooling of manufacturing facilities would cost the industry $350 million—reducing profits and jobs.

Nearly half of the original equipment manufacturers selling air conditioners in the U.S. today do not offer 13 SEER products. The Department of Justice and the Small Business Administration have both expressed concerns over the loss of competition and the closure of many small manufacturers.

But most of all—the 13 SEER standard is not economically justifiable as is required under existing law. Industry figures show that both the 12 and the 13 SEER standards will cost consumers billions after electricity savings are factored in, and the non-partisan Energy Information Administration estimates that the 12 SEER standard saves consumers money; while the 13 SEER standard is a net cost.

These are the reasons DOE staff initially recommended the 12 SEER standard as the ''economically justifiable'' level of efficiency, and this is why the DOE has proposed a 12 SEER standard as a final rule after its further review of the record. We should respect the expertise of the DOE—and let them carry out their duties under existing law.

A 13 SEER standard would have a devastating effect on the industry, eliminate competition, and cost thousands of jobs. By contrast, a 12 SEER standard will benefit consumers, preserve jobs and competition, and truly save energy. I support the amendment to strike the 13 SEER standard, and I encourage my colleagues to do the same.

I yield the remaining time to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the distinguished Senator from Alaska for his comments. I support him in favor of a 12 SEER standard instead of a 13. I join with my friend from Mississippi. I thank him for his strong support of this amendment.

It always sounds nice. You do a 13, you are going to save a lot of energy and can quote from EPA and that stuff. But the fact remains, No. 1, the Department of Justice in the last Administration had real concerns about a 13 standard and this administration said this would be harmful to small businesses, this would not be competitive.

No. 2, the professionals in the Department of Energy in both the past administration and in this one have said a 12 standard is the best standard.

What happens if you go to a 13? The cost of these air-conditioners will be higher. The elderly, modest-income people, people who live in manufactured homes, will be less able to afford them.

What they will do is they will keep their old air-conditioners, and those are less energy efficient. They will not move to the new ones.

The cost of going from 10 to 13 will be more than $700 per air-conditioner. To go to a 12, it is about $407.

Keep in mind, under the rules the Department of Energy has to abide by, they have to look not just at the energy use, they have to look at the impact it has on certain subgroups, such as those of modest means. Under the 13 that is in this bill, it will mean a lot of low-income people in this country are going to be harmed. It will mean the elderly who need air-conditioning, when it really gets hot, their health and their well-being, will be unable to have the air-conditioning they need. Is this what we want to do around here?

When Senators come to vote on this issue, I hope this is not some kind of a knee-jerk reaction: 13 is higher than 12 and we want to have a higher energy efficiency standard, so we will vote for 13, without thinking about what the implications will mean, what it will mean to consumers, the elderly, the low-income people all over this country.

Last, what is it going to mean to jobs? We have thousands of jobs in my State of Iowa that are in jeopardy, dire jeopardy if the standard of 13 stays in this bill. These are companies that produce good quality equipment. You have all heard of Lennox. It is a great company. But I can tell you right now, if it goes to 13, Lennox will be squeezed and jobs will be lost in my state of Iowa.

Any way you cut it, the 13 standard that is in the substitute amendment now before this body is not going to achieve the goals of lower electric energy use people hope for. Instead, it is going to hurt our elderly, our low income, and especially the jobs of the people who work in these industries today.

I reserve the remainder of my time, however much it might be.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. CANTWELL. Mr. President, I rise today in opposition to this amendment, which would leave it to the Secretary of Energy to decide what efficiency standard should be applied to residential air conditioners and heat pumps. This is an attempt to reduce by at least 10 percent the energy efficiency requirement proposed in this bill, which reflects the standard promulgated by the Department of Energy in January 2001—the result of a comprehensive rulemaking effort and multiple years of hearings and analysis.

The new standard, called SEER 13, seasonal energy efficiency ratio, was supposed to take effect last February, but it was delayed by the Bush administration's suspension of a long list of Clinton era environmental rules in what's come to be known as the ''Card Memo''—the legality of which is still subject to litigation.

My colleagues may be aware of a number of other rules that came under the Bush administration's scrutiny as a result of this freeze on environmental protections. The list is long and includes: the attempt to roll back the arsenic standard for drinking water; suspension of the roadless rule, designed to protect more than 60 million acres of untouched national forests from road building and logging; and even the Clinton administration's New Source Review policy, restricting harmful emissions from power plants.

Given this laundry list of environmental reversals, it should probably not surprise us that the Bush administration also took steps to undermine the air conditioning efficiency standard. After merely 2 months of review—compared to the 8-year rulemaking process of the Clinton administration—the Department of Energy last April proposed lowering the air conditioning efficiency standard to SEER 12, or by at least 10 percent relative to the Clinton rule. What is more, the Bush standard wouldn't even go into effect until 2006.

And so, the fix is in. If we leave this important standard to the discretion of this administration's Department of Energy, we will needlessly lower the bar for the efficiency of appliances that use as much as 28 percent of all the electricity consumed in this nation on hot summer days. Thus, this amendment would adversely impact our environment, the reliability of our transmission grid and our Nation's consumers.

I also think it's interesting to note that the Bush administration's proposed standard has been vigorously challenged—not just by consumer groups, environmental and energy efficiency organizations, but also by utilities themselves, State utility regulators, some of the same large and small appliance manufacturers that this amendment purports to help, and even the Bush administration's own Environmental Protection Agency.

Indeed, in comments on the Department of Energy's rulemaking, the Deputy Administrator of the EPA wrote that ''the EPA believes there is a strong rationale to support a 13 SEER standard,'' put in place by the Clinton rule, and further alleged that several DOE's arguments in justifying its proposed rollback contained ''overestimates,'' ''underestimates,'' and ''misinformation.''

Now, why this fight over a seemingly obscure requirement? What is the difference between a 12 SEER and 13 SEER standard?

By 2020, the Bush administration's proposal—which this amendment would render a foregone conclusion—would increase by nearly 14,500 Megawatts the peak electricity demand across this country. That is roughly the same as the output from 48 new power plants.

It would, every year, add 2.5 million metric tons of carbon emissions into our air;

It would cost American consumers $1 billion dollars on their electricity bills.

And it would degrade the reliability of our already strained transmission grid.

I believe these alone are compelling facts. But I also want to talk about a benefit of the 13 SEER standard—the standard that is now in this bill—that became obvious to us in Washington State during the height of the Western energy crisis.

Now, in my State, we don't have a lot of air-conditioning load during the summer because our major population centers are located in a temperate climate where temperatures eclipse 80 for only a few days a year. In fact, our peak energy usage occurs during the winter—for heating purposes. But this is an important issue for ratepayers in my State nonetheless, because we are upstream from—and interconnected, through Oregon, to—California. And in California, air conditioners account for as much as 30 percent of peak energy demand on hot summer days. That is, during the business hours when our economy requires the most energy to function—during the day, when temperatures are also at their height—air conditioning alone uses almost a third of all the energy consumed in that State.

Now, a very painful lesson was driven home up and down the west coast last year. That is, when supply is tightest—during periods of peak demand—the grid is also the most constrained and wholesale power prices are the most volatile. When supply is tight, utilities switch on their so-called ''peaker'' plants—plants that are usually the most obsolete, least efficient, environmentally damaging and run for only a few hours a year. And as my colleagues are aware—because of the unique nature of electricity as a commodity that cannot be stored—that very last megawatt of electricity needed to meet demand is by far the most expensive. It can have an almost exponential effect on power supply costs across a market. And it's a primary driver in price spikes and volatility.

So by increasing the efficiency of air conditioners—by 30 percent under the Clinton administration standard that this bill contains—we would essentially be helping to drive down peak demand in a way that will also lessen volatility in electricity markets, enhance the reliability of the grid and spare our environment emissions from these peaker plants.

I believe the efficiency standard contained in this bill is right for consumers and it is right for the environment. Contrary to what some of my colleagues may assert, it is also imminently achievable for industry. All manufacturers already make air conditioning models that comply with the 30 percent savings standard contained in this bill—so clearly, the technology already exists. And the Department of

Energy concluded in its 8-year rulemaking that the standard would actually increase—not reduce—manufacturing jobs in this sector.

So I think the choice is clear. The evidence supports the standard contained in this bill. This is an opportunity for this body to resist yet another Bush administration environmental rollback. So I ask my colleagues to oppose this amendment.

Mr. BINGAMAN. How much time remains for the opponents?

The PRESIDING OFFICER. There remain 2 minutes 17 seconds.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, to just put this in perspective, this is another one of these amendments that we have seen a few of during this debate over the last several weeks—the sky is falling, don't try requiring anything that is onerous.

The truth is the provision in the bill says that by the year 2006 we believe the air-conditioners sold in the country ought to meet this SEER standard. Lennox, the manufacturer which is the one the Senator from Iowa referred to today, has over 19 models of air-conditioners, and 130 of those models already meet the standard in 2002. We are saying that 4 years from now we would like for the others to meet the standards as well.

Carrier lists 1,000 models that they make available. Of those, fewer than 100 have a SEER standard of less than 13. They don't have any air-conditioners on the market with a SEER standard of less than 12.25. So we are saying, 4 years from now let's move to the higher standard.

The EPA—not just the EPA of the prior administration but the EPA of this administration—agrees with our position.

I ask unanimous consent that following my remarks, we have printed in the RECORD a letter dated October 19 from Linda Fisher, Deputy Administrator of EPA, saying that EPA believes there is a strong rationale for the 13 SEER standard we have in this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BINGAMAN. Mr. President, it is clear to me there are a great many benefits to be achieved for our country, for consumers, and for the environment, in lower electricity bills, by going ahead and maintaining the provision we have in the bill, the 13 SEER standard. My colleague from Iowa says it is going to cost a tremendous number of jobs. The Department of Energy itself—this Department of Energy—says this will create jobs and it will not lose jobs. It requires a few more workers to produce these air-conditioners with this higher standard. Instead of losing jobs in 2006 when this new mandate will be effective, we will be creating jobs.

If this is an effort to protect jobs for manufacturers in this industry, it is a misguided effort. I believe strongly that the provision we have in the bill is the right provision.

I urge my colleagues not to support the amendment that is offered by the Senator from Iowa.

EXHIBIT 1

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, October 19, 2001.

Ms. BRENDA EDWARDS-JONES,
U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Energy Conservation Program for Consumer Products: Central Air Conditioners and Heat Pumps, Docket No. EE–RM/STD–98–440, Washington, DC.

DEAR MS. EDWARDS-JONES: On behalf of the U.S. Environmental Protection Agency, I am pleased to submit the attached comments to Docket No: EE–RM–98–440, the Department of Energy's Proposed Rule: Energy Conservation Program for Consumer Products; Central Air Conditioners and Heat Pumps Energy Conservation Standards.

DOE has proposed a change to its previously issued standard that decreases energy efficiency requirements for residential air conditioners and heat pumps. DOE proposes to withdraw its previously issued 13 SEER standard and replace it with a 12 SEER standard. These comments affirm EPA's support for DOE's original 13 SEER standard.

EPA believes there is a strong rationale to support a 13 SEER standard. A 13 SEER standard represents a 30% increase in the minimum efficiency requirements for central air conditioners and air source heat pumps. In contrast, a 12 SEER standard represents only a 20% increase. The Administration's National Energy Policy stresses the important role that energy efficiency plays in our energy future. A 13 SEER DOE standard will do more to stimulate energy savings that benefit the consumer. DOE has quantified these savings at approximately 4.2 quads of energy over the 2006–2030 period, equivalent to the annual energy use of 26 million households and resulting in net benefits to the consumer of approximately $1 billion by 2020. In comparison, DOE projects that only 3 quads of energy would be saved over that same period with a 12 SEER standard.

A 13 SEER standard will also do more to reduce fossil fuel consumption and more to limit emissions of air pollutants. For example, by avoiding the construction of 39 400 megawatt power plants, a 13 SEER standard will reduce nitrous oxides (NO_x) emissions by up to 85 thousand metric tons versus up to 73 thousand metric tons that would be reduced with a 12 SEER standard. A 13 SEER standard will also result in cumulative greenhouse gas emission reductions of up to 33 million metric tons (Mt) of carbon. This is in contrast to a 12 SEER rule which will reduce up to 24 Mt of carbon equivalent by avoiding the construction of 27 400 megawatt power plants. At a time when many areas across the nation are struggling to improve their air quality, the additional emissions reductions achieved by a 13 SEER standard are especially important.

Thank you for the opportunity to provide these written comments. Should you have any questions, please contact Dave Godwin in EPA's Office of Air and Radiation at 202–564–3517 or via e-mail at godwin.dave@epa.gov.

Sincerely,

LINDA J. FISHER,
Deputy Administrator.

COMMENTS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY ON THE PROPOSED RULE, ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS, CENTRAL AIR CONDITIONERS AND HEAT PUMPS ENERGY CONSERVATION STANDARDS, DOCKET NO. EE–RM–98–440, OCTOBER 10, 2001

OVERVIEW OF EPA COMMENTS

The Environmental Protection Agency welcomes the opportunity to comment on the Department of Energy's Proposed Rule setting forth energy conservation standards for residential central air conditioners and central air conditioning heat pumps. EPA recognizes that the new proposed DOE rule represents a 20% increase in minimum efficiency standards for central air conditioning and heat pumps. However, we instead support the previous final rule of a 30% increase.

EPA has issue with several of the arguments DOE used to justify the withdrawal of the previous final rule as outlined within the Federal Register Notice of July 25, 2001 and the Technical Support Document. In summary, EPA believes that the information in the Federal Register Notice of July 25, 2001:

overstates the regulatory burden on manufacturers due to HCFC phase-out and concludes that the industry is under greater financial pressure from a 13 SEER standard than it is,

understates the savings benefits of the 13 SEER standard,

over and underestimates certain distributional inequalities,

mischaracterizes the number of manufacturers that already produce at the 13 SEER level or could produce at the 13 SEER level through modest changes to the products, and thereby mischaracterizes the availability of 13 SEER product.

EPA believes there is a strong rationale to support a 13 SEER standard. EPA also believes that the more stringent standard will be more representative of the long term goals of the administration's energy policy and will do more to reduce both the number of new power plants that need to be constructed, as well as the emissions resulting from these plants. EPA's more detailed comments are provided below.

OVERSTATED REGULATORY BURDEN DUE TO HCFC PHASEOUT

EPA analysis indicates that the Department of Energy's (DOE) projected cost for manufacturers to transition from HCFT–22 to a substitute for residential central air conditioners and heat pumps is likely to be a significant overestimate. Both EPA's own analyses, and estimates from at least one large manufacturer indicate that the DOE estimates in their Technical Support Document (TSD) are at least twice as high as warranted based on prior industry transitions and more recent trends.

The attached analysis from EPA's contractor, ICF Consulting, suggests a more reasonable estimate of the cost to be around $20 to $30 million per company, rather than the $50 million estimated by DOE, for the following reasons (see Exhibit 1):

The costs to retool a facility to accept new compressors is estimated at only $2 million.

The capital cost for converting from CFC–12 to HFC–134a for the entire U.S. refrigerator industry was estimated to range from $7 million to $23 million.

Projects approved under the Multilateral Fund of the Montreal Protocol for conversion of refrigerator manufacturing plants from use of CFCs to both HFC–134a refrigerant, and HCFC or hydrocarbon foam processes, show incremental cost estimates of $200,000 to $1 million.

These estimates are based on the expectation that the industry will transition to one or both of the two refrigerant HFC blends

that have emerged as likely replacements for HCFC–22 (as cited in the TSD), R–407C and R–410A, and appear to provide roughly equivalent or better energy efficiency.

Furthermore, many manufacturers can produce 13 SEER units with only minor modifications to their facilities. DOE already acknowledges in the TSD that using ''407C lowers the efficiency of unmodified R–22 systems by 5–10 percent under the SEER test conditions.'' (TSD, page 4–49). Thus, an unmodified R–22 system of 13.7 to 14.4 SEER, charged with R–407C, would achieve a 13 SEER. Of the seven manufacturers listed in the TSD, six (Carrier, Goodman, Rheem, Lennox, Trane and York) currently offer certified products with a SEER of 14.4 or greater, Nordyne makes units up to 14 SEER. Furthermore, it can only be assumed that minor design changes accounting for the use of R–407C would lower or eliminate the 5–10% efficiency loss.

With respect to R–410A, the TSD states that ''manufacturers can preserve system capacity by reducing tube diameter (and tube costs). Furthermore, 410A can provide a slight efficiency boost at the SEER testing points.'' (TSD, page 4–49). Thus, the use of R–410A, while likely requiring more redesign of equipment, may actually increase efficiencies. This increase would eliminate the need to take some of the steps outlined in the TSD necessary to comply with a 13 SEER rule while using HCFC–22 refrigerant. The TSD necessary to comply with a 13 SEER rule while using HCFC–22 refrigerant. The TSD notes that ''Carrier introduced a line of products based on 410A in 1998 and most other major manufacturers have since followed suit.'' (TSD page 4–50).

Carrier, the manufacturer with the largest (31%) share of the residential central air conditioner market (TSD, page 8–60), already offers efficient R–410A units. ARI lists over 1000 models manufactured by Carrier that use R–410A, ranging in cooling capacity from 23,200 Btuh (less than 2 tons) to 60,000 Btuh (5 tons). Of these, only a few dozen have a SEER of less than 13, and all have a SEER of at least 12.25. The maximum SEER listed is 18. While these models do not represent all of Carrier's products, it is apparent that switching to R–410A and achieving SEER ratings of 13 is very much possible. Carrier may now be in a position to increase its manufacturing capacity of these R–410A lines by the 2006 DOE deadline, thus meeting a 13 SEER standard with little or no additional regulatory burden. To the extent that Carrier cannot increase its production of R–410A by 2006 to meet demand, it can supplement production with high-efficiency HCFC–22 units until 2010.

Goodman, the manufacturer with the second largest share (19%) of the market, had already expressed support for the 13 SEER. Goodman has analyzed the costs associated with switching refrigerants and meeting a 13 SEER standard and expects the combined cost for both will be on the order of half of DOE's $50 million estimate for just the refrigerant transition. They feel that this $25 million per company is representative of the vast majority of the industry.

Many other companies offer or are well into the development of equipment using alternatives to HCFC–22. For instance, Lennox offers products with R–410A, ranging from 11.35 to 15. 15 SEER. Of 199 models listed, with capacities ranging from 23,600 to 61,000 Btuh, 130 models meet or exceed 13 SEER.

As we look forward over the next decade, there are a number of paths that companies can take to keep these costs low as they work to comply with the EPA regulations banning the shipping of new equipment charged with HCFC–22 starting January 1, 2010 and work to comply with the DOE efficiency rule (whether 12 SEER or 13 SEER) by 2006. One example would be:

Step up current production of high efficiency HCFC–22 equipment;

Meanwhile, phase out production of lower efficiency HCFC–22 units by 2006;

By 2010, switch these high-efficiency production lines to a new refrigerant while ensuring the efficiency standards are still met.

Another example would be:

Move directly to producing R–407C and/or R–410A units that meet the new DOE efficiency regulations;

Increase the production of these units to meet customer demand by 2006;

Meanwhile, phase out all HCFC–22 units by 2006.

Of course, some combination of these strategies is more likely to be taken and seems to offer the most opportunity for manufacturers to reduce regulatory burden.

The TSD states ''To the extent that manufacturers can introduce new products utilizing the new refrigerant and meeting the new efficiency standard, the cumulative burden will be reduced.'' (TSD page 8–62). EPA believes that there is ample opportunity to meet both a 13 SEER efficiency standard and a ban on HCFC–22 in new equipment with limited regulatory burden.

UNDERESTIMATES OF SAVINGS IN THE COST BENEFIT ANALYSIS

DOE's analysis of the benefits of the withdrawn 13 SEER rule are significantly underestimated. DOE's analysis is based on summer 1996 electricity prices, adjusted downward based on EIA projections of future annual electricity prices. Changes in the electricity market due to utility deregulation has resulted in increased electricity prices overall. DOE did not consider this trend in its analysis.

According to Synapse Energy Economics' wholesale electricity price data, DOE analysis underestimates the cost of electricity for residential air conditioning by an average of approximately $0.02/kWh. In addition, the California Public Utilities Commission raised some residential rates by as much as 37%, affecting more than 10% of the U.S. electricity market and thereby, raising the national average electricity prices above DOE's projections. Adjusting DOE's analysis to include more recent electricity prices will definitely and drastically alter the results indicating that a DOE minimum standard of 13 SEER represents the better decision for the nation.

OVER AND UNDER ESTIMATES OF DISTRIBUTIONAL INEQUITIES

EPA sees distributional inequalities that DOE has not adequately considered. One results from the fact that the residential price of electricity does not capture the complete cost for running systems that largely run at peak times. That is, except in select circumstances, residential customers purchase electricity based upon averages rates, not ''time-of-use'' rates. The actual costs of electricity at peak times are dramatically more and therefore, higher peak rates drive up the average costs. Less efficient equipment operating at peak times drives up the cost of electricity for all customers, including those of low income, who are less likely to have central air conditioning. According to 1997 Residential Energy Consumption Survey (RECS) microdata (the same data set used by DOE in their analysis), of the total 101 million households represented, approximately 46% have central air conditioning, but among poor households, only 25% have central air conditioning; just half the rate of presence among non-poor households (See Exhibit 2).

Also related to distributional equities and according to the RECS data, among households below the poverty level, about 60% rent their housing units. This is in contrast to 27% of above poverty level households that rent (See Exhibit 2). Therefore, low-income consumers, or those defined as ''poor'' in TSD Table 10.1, are not the ones to buy a central A/C or heat pump product, but they would be the one to pay the utility bill (or likely face increased rents if utilities were included in their rent) for the use of that product. Instituting a higher minimum efficiency standard will actually ensure that low-income consumers have lower utility bills, providing a benefit to this population.

MISINFORMATION ON PRODUCT AVAILABILITY

DOE justifies a lower SEER rule because the higher efficiency levels would put manufacturers out of business. However, according to the Air Conditioning and Refrigeration Institute (ARI) database of model combinations, many manufacturers already produce models that meet the 13 SEER requirements. This technology has been available for many years to large and small manufacturers alike. Although confidential ARI shipment information may not reflect large sales of high efficiency equipment, the publicly accessible ARI database of models shows extensive product availability. Over 7,000 air source heat pump model combinations and over 14,000 central air conditioner model combinations currently meet or exceed the 13 SEER level as listed by ARI.

The TSD (TSD page 8–2) describes a group of manufacturers that ''offer more substantial customer and dealer support and more advance products. To cover these higher operating expenses, this group attempts to ''sell-up'' to more efficient products or products with features that consumers and dealers value.'' With a higher standard, these manufacturers would not go out of business, but would rather continue to sell-up, to even higher efficiency levels or additional valued features.

Furthermore, results and upcoming plans for utility programs around the country also document the availability of 13 SEER and above products, as well as the demand for such products. Austin Energy's Residential Efficiency Program 2000–2001 gave rebates to single family existing homes for installation of split systems and heat pumps with efficiencies of 12 SEER and above. Rebates were staged: $150 for 12.0–12.9 SEER; $250 for 13.0–13.9 SEER; $400 for 14.0–14.9 SEER; and $500 for 15.0 and above. In total, 4,000 rebates averaging $312 were given to consumers. These numbers illustrate that a significant portion of the rebates given were for 13 SEER and above units.

In New Jersey, a 3-year rebate structure began in 2000 with a $370 rebate given for the installation of 13.0 SEER equipment and a $550 rebate given for 14.0 SEER equipment. A total of 14,000 rebates were given in the year 2000. As of August 2001, 8000 rebates were given out with approximately 6,000 of these units at the 14.0 SEER level. Overall results in New Jersey show that 27% of the market (1998–2000) are 13 SEER or higher with 60% of those being at the 14 SEER or higher levels.

The Long Island Power Authority (LIPA) instituted a program similar to the one in New Jersey offering rebates for installation of 13.0 and 14.0 SEER equipment. Results to date show that LIPA is on target to reach their goal of approximately 3,500 rebates for 13 SEER equipment. Approximately 80% of these rebates are for SEER 14 equipment. LIPA is expecting to ramp up to 5000 rebates in 2002. Overall, 17% of LIPA's market in 2000 is at 13 SEER or higher, with the market share for existing homes even higher at 22%.

Program plans for 2002 in Texas and California are geared toward equipment at 13 SEER and above. Reliant Energy in Southeast Texas is planning an incentive program

to target 13 SEER and above matched systems. California's two large municipal utilities (Sacramento Municipal Utility District and Los Angeles Department of Water and Power) and four investor owned utilities (San Diego Gas and Electric, Southern California Gas, Southern California Edison, and Pacific Gas and Electric), serving over 30,000,000 consumers, are planning rebate programs to assure California residents receive energy efficient equipment, measures, and practices that provide maximum benefit for the cost. These programs all revolve around 13 SEER equipment or higher. Actual incentive amounts are not yet available.

ORAL STATEMENT FOR DOUG MARTY, EXECUTIVE VICE PRESIDENT, ON BEHALF OF GOODMAN GLOBAL HOLDINGS COMPANY, U.S. DEPARTMENT OF ENERGY, OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY

PUBLIC HEARING REGARDING ENERGY EFFICIENCY STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS—SEPTEMBER 13, 2001

Assistant Secretary David Garman, and other members of the Department of Energy Staff . . . thank you for the opportunity to speak here today.

My name is Doug Marty and I am the Executive Vice President of Goodman Global Holdings out of Houston, Texas. Let me start by giving you a brief background of our company: Goodman is the second largest residential air conditioning and heating manufacturer in the United States. Founded in 1975 by the late Harold Goodman, Goodman remains entirely family-owned. We produce a complete line of residential and light commercial air conditioning and heating equipment with facilities in Houston, Texas as well as Dayton and Fayetteville, Tennessee. Name brands sold by Goodman include Amana®, Goodman®, GmC®, and Janitrol®.

As the nation's second largest manufacturer, my goal here today is to provide you with accurate information regarding the continuing debate to rollback the energy efficiency standard for air conditioners and heat pumps from a level of 13 SEER to 12 SEER. This debate has been fueled by inaccuracies and in some cases outright wrong information. Stronger energy efficiency standards do not place a major burden on manufacturers or limit consumer choice. They do not cause enormous increases in the size of the equipment. Finally, they do not impose unreasonable costs on consumers or hurt the elderly and low-income families. Let me explain.

Given recent events and for purposes of national security, we now face a time when it is imperative to explore alternatives that help to improve the efficiency of our energy use and build our domestic energy infrastructure. As we seek alternatives, it is important to consider options that strike a balance between both environmental and energy needs. One simple option is energy efficiency and conservation; specifically, energy efficiency standards for air conditioners should be strengthened to a level that provides consumers the most efficient technology available today at an affordable price and helps to strengthen our domestic resources. That level is 13 SEER.

Many opponents of the 13 SEER standard have argued that moving to the higher level would be a hardship on small manufacturers and that not all manufacturers have the capability to produce the more efficient equipment, thus limiting consumer choice. In fact, the 13 SEER technology has been available to both large and small manufacturers for approximately 15 years. The Air Conditioning and Refrigeration Institutes' own data shows that virtually all manufacturers produce 13 SEER equipment today. In reality, the only difference between a 10 SEER unit, a 12 SEER unit and a 13 SEER unit is a little more copper and aluminum used in manufacturing different sized coils. Given the fact that the units have equivalent technologies, at Goodman we run all of our equipment through the same facilities and assembly lines. Since Goodman and most other manufacturers currently produce the 13 SEER air conditioner, moving to the higher SEER will simply mean producing a higher volume. This will also mean more jobs at the industry level, thus improving the economy.

There has also been some confusion about the size of the 13 SEER equipment versus the 12 SEER equipment. It has been said that there is an enormous difference in the size of the units and with that a tremendously higher related cost for installation. It is clear that an increased efficiency standard will be established at least at a level of 12 over the current 10 SEER standard. If the decision is made to adopt the 12 SEER standard, the unit size will be slightly bigger and will require some structural modifications to install the indoor portion of the system including ductwork during installation of the unit. Once we acknowledge that there will be a standard that will likely require some structural modification, one must compare the 12 SEER unit to the 13 SEER unit. The difference between our 13 SEER and 12 SEER external equipment is only 3–5 inches in height. The internal equipment size for the 12 and 13 are similar, and there is almost no difference in the installation costs associated with a 13 SEER unit and a 12 SEER unit.

There have also been claims that the 13 SEER standard would cost consumers substantially more money than the proposed rollback to a 12 SEER standard. According to the DOE, the average difference in cost between a 13 SEER unit and a 12 SEER unit today is approximately $122. The difference in costs for Goodman units is comparable to this estimate. Since a 13 SEER unit is 8 percent more efficient that a 12 SEER unit, consumers will save more on their electric bills each and every month for the life of the unit. Thus, over an average life of a home cooling unit, the savings will easily cover the increase in cost, between a 12 SEER and a 13 SEER unit.

Moreover, history has shown us time and time again that once a standard is implemented, the market will drive prices down and make the more efficient equipment even more affordable for all consumers. How do we know this? From experience. In 1992, when the government implemented the efficiency standard at 10 SEER, the cost of the 10 SEER air conditioning unit dropped dramatically across the nation. The reason for the change in price is simple. Once the standard is set, more sales of that type of unit will occur and more volume is manufactured, thereby allowing the manufacturers to run their plant more efficiently and pass the savings on to the consumer. Since most consumers purchase units that perform at the minimum standard, it makes it that much more important to establish the standard at the correct level, 13 SEER.

Finally, in our opinion, Goodman has a marketing philosophy of selling in volume. The incremental cost to the manufacturer to produce a 13 SEER unit is only about $100 and we feel that the most efficient technology should be available to people of all income levels at an affordable price. Unfortunately, all manufacturers may not have this same marketing philosophy. Instead some manufacturers may be seeking protection of higher profit margins on their more efficient equipment. A 13 SEER standard would force all energy manufacturers to be truly competitive and provide all consumers with the most affordable energy efficient technology for air conditioners that is available today.

Just as the Administration has been supportive of energy efficiency and conservation measures, Goodman too supports the use of more energy-efficient appliances, specifically air conditioners and heat pumps. However, rather than rolling the energy efficiency standard back to 12 SEER, a 20 percent increase in efficiency, we support a 13 SEER standard, a 30 percent increase in efficiency.

A 13 SEER standard is achievable today and will certainly be achievable in 2006. A 13 SEER standard will significantly reduce energy consumption, cut utility costs for consumers and improve air quality by reducing the amount of air pollutants and greenhouse gases emitted from fossil-fueled electric power generating facilities.

In closing, Goodman strongly urges you to consider establishing a 13 SEER standard for residential air conditioners and heap pumps beginning in 2006. Again, it is the right thing to do for both the consumer and the environment.

The PRESIDING OFFICER. All time on the amendment has expired.

AMENDMENT NO. 3198

Mr. REID. Mr. President, it is my understanding we are now going to move to the debate on the Carper amendment. Is that a valid statement?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, I ask my two colleagues—the Senator from Delaware and the Senator from Michigan—if there is any way to pare that time down. We are very close to being able to include another amendment in the order prior to the votes. We are now scheduling 40 minutes. Is there any way we can do that in 30, 35, or 25?

Mr. LEVIN. Mr. President, I would be willing to accept whatever Senator CARPER is willing to make.

Mr. CARPER. Mr. President, if the Senator will yield, I am willing to go with 20 or 15.

Mr. REID. Mr. President, I ask unanimous consent that the time for the Carper amendment be taken from 40 minutes to 30 minutes evenly divided.

Mr. SPECTER. Mr. President, reserving the right to object, this is a very brief period of time, 40 minutes.

Mr. REID. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from Delaware.

Mr. CARPER. Mr. President, amendment No. 3198, which is at the desk, I believe is now in order under the previous order.

The PRESIDING OFFICER. The Senator is correct.

Mr. CARPER. Mr. President, I yield myself 5 minutes.

Today, the United States of America will consume some 7.8 million barrels of oil to power our cars, trucks, and vans. Between now and the year 2015, we are told by the Secretary of Energy that 7.8 million barrels of oil per day consumption for our cars, trucks, and vans will rise by some 36 percent to

over 10½ million barrels of oil per day. My own view is that it would be better for our country if we had no increase.

The amendment Senator SPECTER and I offer today is one that seeks to reduce by one-third—1 million barrels of oil per day—the amount of oil we are going to consume in 2015 to power our cars, trucks, and vans.

There are a variety of ways to achieve those savings. Earlier in this debate on the energy bill, Senator LEVIN and Senator BOND offered an amendment that sought to conserve oil with respect to our cars, trucks, and vans. I voted for it, as did Senator SPECTER. I voted for that amendment because I like a number of aspects of it. I will mention a few of those aspects.

No. 1, it has been said that we should use the Government's purchasing power to commercialize new technologies and provide tax credits to consumers to buy more fuel-efficient vehicles, and that the auto industry be given a reasonable lead time. There were a number of very positive aspects to the Levin-Bond amendment.

One thing that was missing in the Levin-Bond amendment was a measurable objective. During the time I served as Governor of Delaware for 8 years, we worked often with measurable objectives—job creation, improving credit rating, getting people off welfare, and reducing the rate of teen pregnancies. In setting the objectives, we tried not to micromanage the process. We set a measurable objective and tried to hold ourselves accountable to that measurable objective.

Today, in offering this amendment, we set a measurable objective. We don't change the Levin-Bond amendment. It is all there in place. We don't change the amendment offered earlier by the Senator from Georgia, Mr. MILLER, with respect to pickup trucks; that remains where it is.

But we say that in 2015 we want the consumption of oil for our cars, trucks, and vans consuming at that time 1 million barrels less than what it otherwise would be without this amendment.

Senator SPECTER, in joining me in this amendment, I thought offered a very constructive change. He suggested that in order to meet these savings, rather than just having the Secretary of Transportation issue a regulation to change the CAFE standard, why don't we ask the Secretary of Transportation to take into consideration a number of other factors, including the use of alternative forms of fuel.

The amendment, as amended by Senator SPECTER, does just that. The Secretary of Transportation, in issuing his regulations in the future, can require so much savings from CAFE changes, so much savings from alternative fuels, including biodiesel, soydiesel, ethanol, even diesel fuel derived from coal waste.

I think our obligation here is to set the objective. The responsibility of the Congress and the President is to say—and we now rely for almost 60 percent of our oil from abroad. We have a $400 billion trade deficit, and it is growing, and one-third of that is attributable to oil, which is troublesome, and the notion that we have global warming, and one-quarter of the carbon dioxide that goes up into the air which comes from cars, trucks, and vans—we have an obligation to set measurable objectives in terms of slowing growth and reserving oil.

This amendment does so in a flexible way. It says to the Secretary of Transportation very clearly: We expect you to rely on working with the auto industry on issuing a regulation that may involve CAFE changes. We also want to make sure we rely on alternative fuels.

For a State such as Delaware, we have a heavy reliance on the raising of soybeans. We like the idea of encouraging soydiesel.

For those who come from States where there is a lot of corn, there is the notion that the Secretary of Transportation can issue regulations to encourage the consumption of ethanol to help power our cars, trucks, and vans in the future.

For those who come from States with a fair amount of coal and coal waste, there is the notion that you can use that waste product to actually create a cleaner diesel fuel that can be used for reducing our reliance on oil, and particularly foreign oil.

I reserve the remainder of my time.

Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator has consumed 4 minutes 45 seconds.

Mr. CARPER. Thank you.

Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Delaware.

Mr. President, I support the Carper amendment because I think it is vitally important that the United States take affirmative steps to free ourselves from dependence upon OPEC oil. This amendment is a modest step in that direction.

While we are using 7.8 million barrels of oil a day to drive our vehicles—the estimate by the Department of Energy is that it will grow to 10.6 million barrels by the year 2015—the Carper-Specter amendment proposes to limit that growth to 9.6 million barrels. We are still going to use about 2 million barrels more. But this amendment makes the modest step of slowing the rate of increase by 1 million barrels of oil.

It is an intolerable situation, for us to be dependent upon OPEC oil. Today's New York Times carries a report about Crown Prince Abdullah of Saudi Arabia's proposed statement to the President concerning using Saudi oil as an ''oil weapon'' against the United States to demand that the United States change our policy in the Mideast. That is blackmail, pure and simple. And the United States ought not to put up with it and ought not to be in the position to have to put up with it.

Then the New York Times article goes on to point out that the Saudi position is that they are prepared to ''move to the right of bin Laden'' if necessary to make the United States capitulate on our policy.

Now, how much more arrogant and inflammatory can a comment be? Saudi Arabia produced bin Laden. Fifteen of the nineteen terrorists who attacked the United States on 9–11 were from Saudi Arabia. Now the Saudis are telling us they are not only embracing bin Laden but are prepared to move to the right of him if the United States does not yield to their demands on changing our policy in the Mideast.

In 1973, we faced lines at the gas station, and I think it would have been a blessing—perhaps a blessing in disguise—if we had not had relief from the oil embargo at that time, so that the United States, in 1973, would have been compelled to find alternative sources of energy. But we went back to our old ways, and the old ways were the easy ways and the ways of consuming vast quantities of OPEC oil.

I have opposed the CAFE standards; that is, for Congress to set a mandatory limit of so many miles per gallon, and earlier in this debate I voted against those CAFE standards.

I recall, about a decade ago, being asked to oppose CAFE standards for 1 year. Well, that year turned into another year, and yet another year. And, finally, it has been a decade or more, and we are still avoiding the imposition of CAFE standards, which is right because Congress ought not to micromanage how much gasoline is used.

But where you have a broad policy consideration, as the Carper-Specter amendment proposes, modestly, to reduce the rate of increase—and bear in mind, again, the statistics are that we use a little over 7 million barrels a day, and we will go to more than 10 million barrels a day by 2015—this amendment simply requires the Department of Energy and the Department of Transportation to find a formula to limit it to 9.6 million barrels a day.

American ingenuity can find the solution to the alternative fuel issue if we are put to the test we always have. After all, we put a man on the Moon. We invented and placed predators—robots—on the battlefield in defense of our troops. We have plans for a strategic defense initiative. The opportunities for scientific advances that will reduce our dependence on foreign oil are virtually limitless in our inventive society.

Back in 1973, when we had the long gas lines, there was blame attached to Israel and there was the undercurrent of anti-Semitism in the United States. Today, we see the outburst of anti-Semitism in Europe and in many parts of the world as a result of the Israeli policy and as a result of the United States backing Israeli policy.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator has used 5 minutes.

Mr. SPECTER. Madam President, I ask for 1 more minute.

Mr. CARPER. Madam President, I yield another minute to the Senator.

Mr. SPECTER. And this issue I raise with some reluctance. But there is no doubt that if we face an embargo and if we face the Saudis joining Iraq in using oil as a weapon, Israel will be blamed and anti-Semitism, which now bubbles just a little below the surface in many parts of the world, will rise to the surface and exceed it.

I think it is vital that the Congress establish a policy to be independent of OPEC oil. Today, in Pottsville, Pennsylvania, there is a plant which converts sludge into diesel fuel. If we set our minds to it, we can use the billions of tons of coal to find an alternative source of oil and not put up with the arrogance and the chutzpah of the Saudis telling us to change our policy in response to their blackmail. A strong statement to follow, Madam President.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Madam President, I yield myself 5 minutes.

Madam President, in March, the Levin-Bond amendment regarding increased fuel standards for cars and trucks was adopted by the Senate with a strong bipartisan vote of 62 to 38. The purpose of the Levin-Bond amendment was explicit. No. 1, we said we want to increase fuel economy. It was specified that way. As a matter of fact, we directed the Department of Transportation, in its rulemaking, to increase fuel economy. It is very explicit.

The other provisions of the bill that we adopted were aimed at protecting the environment, reducing our dependence on foreign oil, but to do this in a way which would not harm the domestic manufacturing industry.

We believe, those 62 of us who voted for it, you could accomplish all of these goals: You could reduce our dependence on foreign oil, you could reduce the amount of oil we use, you could increase fuel economy, you could protect the environment, and you could do that without undermining our economy. That was the purpose of the amendment, and that is the way we explicitly stated it.

The way we accomplish those goals becomes vitally important. That is what gets to the heart of the debate this afternoon. The amendment we adopted did it in two essential ways: First, we included some positive incentives. We provided that there would be joint research and development to a greater extent among Government, industry, and academia than there had been previously or than was proposed by the administration. And we provided for Government purchases of hybrids, requiring those purchases. Just the way we had previously done for the Defense Department in the Defense authorization bill, we did for the general Government in the Levin-Bond amendment.

We also indicated an interest in trying to provide greater tax incentives. And there will be an effort later on this afternoon to do exactly that: To increase the tax incentives that would be available to lead us to the advanced technologies, the advanced hybrids, and the fuel cells.

But then we also did it in a second way. We said there also should be increased CAFE requirements but—and this was central to the Levin-Bond amendment—those requirements should be set after an analysis by the Department of Transportation of all of the factors which should go into that decision—not just what is theoretically, technologically capable regardless of cost, but what are the technological capabilities, what are the costs, what are the impacts on safety, because we had the National Academy of Sciences say there is an impact on safety, that you lose lives when you reduce the weight of the vehicle.

We had additional factors. If I could just read through some of these factors: Economic practicability, the need of the United States to conserve energy, the desirability to reduce U.S. dependence on imported oil, the effects of average fuel economy on other standards, such as relative to passenger safety and air quality. These are all interrelated criteria. And then: What are the adverse effects on the competitiveness of domestic manufacturers? What are the effects on the level of employment in the United States, the costs and lead time? What is the potential of advanced technologies, such as hybrids and fuel cells, to contribute to the achievement of significant reductions in fuel consumption? And a very important one, No. 12: The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with average fuel economy standards adversely affects the availability of resources for the development of advanced technology in the future, for leap-ahead technologies.

We listed 12 factors that we said should be considered by the Department of Transportation prior to concluding what the new standard should be. We said: You have to increase it, but we want you to look at 12 factors.

What the Carper amendment does is it wipes out, it eliminates all of those factors. It sets a mandatory amount. You must reduce by 1 million barrels per day above what is the predicted use of gasoline for those years—by another agency, by the way—and that is what it does. It cuts the heart out of the Levin-Bond amendment.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. LEVIN. I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. LEVIN. When the Senator from Delaware says it doesn't change Levin-Bond, I am afraid he is mistaken. He fundamentally changes the Levin-Bond amendment, which we adopted a month ago. The change he makes is that he says, forget the consideration of all those other factors. You have to reduce it by 1 million barrels a day regardless of the impact on safety, regardless of the effect on long-term investments by these short-term investments for near-term advances, forget economic practical ability, forget cost, forget all the other factors that we directed the National Highway Transportation Safety Administration to consider. Even though he leaves them—he does not strike them technically; he doesn't go out and cancel them; the words still remain—the heart of the matter is gone because the heart of the regulatory matter in Levin-Bond is that we say to the Department of Transportation, you have 15 months. You adopt standards increasing fuel economy. If you don't do it in 15 months, we are going to have an expedited procedure in the Senate and in the House to consider different proposals. If you do adopt standards, they, of course, would be subject to legislative review under a generic statute. Either way, we will have an expedited process to look at the recommended number of the Department of Transportation after they go through a regulatory process, not before.

This amendment prejudges the outcome of the very regulatory process which Levin-Bond put into law, if this law is ever signed.

I hope we will defeat this amendment for all those reasons.

I yield the floor.

Mr. BIDEN. Mr. President, I rise to comment on the vote in relation to amendment number 3198, which was offered by my friend and colleague from the State of Delaware, Senator CARPER. The vote by the Senate is on a motion to table the amendment. I believe that Senator CARPER should be given a straight up-or-down vote on his amendment, and for that reason, I shall vote against the motion to table.

Mr. FEINGOLD. Mr. President, I rise to oppose the amendment offered by the Senator from Delaware, Mr. CARPER. This amendment would add a new section to the conclusion of the fuel economy provisions previously adopted by the Senate, which I supported, and which were offered by my colleague from Michigan, Mr. LEVIN. The new section would require the Secretary of Transportation to issue, within 15 months, regulations to reduce the amount of oil consumed in passenger cars and light trucks in 2015 by 1,000,000 barrels per day compared to consumption without such regulations in place.

I understand and support the desire to reduce the use of oil in the transportation sector. Proponents of this amendment have argued that this amendment is flexible and would allow the Department of Transportation to take other actions, not necessarily through adjustments in the fuel economy program, to achieve oil savings. In

floor debate on this amendment, however, proponents have failed to clearly identify any other means of achieving oil savings other than fuel economy standards. I think there is broad consensus that new fuel economy standards would be the principle tool to achieve oil savings.

I have supported a new rulemaking on fuel economy with my vote in support of the Levin amendment. But the Senate has also passed an amendment on this bill, sponsored by the Senator from Georgia, Mr. MILLER, which I opposed. The Miller amendment weakens current law and exempt pickup trucks from any future increases in fuel economy standards. I feel that a new rulemaking on fuel economy should examine the possibility of fuel economy improvements in all motor vehicles, rather than exempt certain types of vehicles.

I considered the Carper amendment in light of the amendments we have already passes. Had the Carper amendment been included as part of the original Levin amendment, I might have felt differently on this matter. But now that the Senate has already passed the Levin amendment and the Miller amendment, supporting the Carper amendment is no longer a sound policy decision. To include an oil savings requirement, while excluding a whole category of vehicles from making fuel economy improvements, would be a poor policy decision and inconsistent. Certain vehicles should not have to achieve greater fuel efficiency because we chose to exempt a particular category of vehicles.

Fuel efficiency is a critically important issue for our country, and for Wisconsin. I am committed to achieving significant improvements in automobile and light truck fuel efficiency. I look forward to having many of those efficient vehicles built in Wisconsin. I will look forward to a bill in conference that strongly encourages the Department of Transportation to make those improvements.

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. LEVIN. How much time remains on our side?

The PRESIDING OFFICER. Twelve and a half minutes.

Mr. LEVIN. Madam President, I yield 4 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. What we have here is an amendment that would reverse the decision on CAFE. Make no mistake about it. While I am sympathetic with the appeal, particularly from my friend from Pennsylvania, relative to how history is repeating itself as far as our increased dependence on imported oil, I can't help but look back at what we did in 1973. In 1973, we had the Yom Kippur War. We had a situation where our supply from the Mideast was interrupted. We had gas lines around the block. We were blaming each other. We set up the Strategic Petroleum Reserve to ensure that we would never, ever have a situation where we would became so vulnerable.

We thought at the time that, good heavens, if we ever increased 50 percent imports, that would be beyond the consideration of this country from the standpoint of national defense.

The problem with the Carper amendment specifically is it has no teeth in it. We are looking at a situation in the Mideast today where clearly oil is a weapon. We have seen statements suggesting they are going to stand behind bin Laden's theory. They are going to stand behind brother Saddam Hussein.

We had an opportunity a few days ago to debate this issue about reducing our dependence on foreign oil. It was called ANWR. It was substantial. It was defeated. Now we are talking about a smoke-and-mirrors issue where we have no enforcement mechanism.

As a consequence, the Carper amendment would have the same negative impacts on consumer safety, on vehicle costs, auto jobs, as the Kerry-McCain amendment. It would increase the cost of cars. Consumers choice is gone, thousands of jobs, reductions in the rate of growth and several thousand additional deaths and tens of thousands of injuries.

Make no mistake about one thing: We made a decision on CAFE. It was based on consideration of lives being saved by heavier automobiles. You can increase CAFE dramatically by smaller automobiles, but you pay the price. The decision that was made in this body on that issue was very clear. It was an overwhelming vote to reject Kerry-McCain based on consideration for the loss of human lives and injuries.

We are in the same position today. Make no mistake about it. Our vulnerability continues. It has been over a month since we voted 62 to 38 to adopt the Levin-Bond amendment on fuel economy standards. We chose at that time to leave the decisions on fuel economy to the experts.

This group is not an expert group. We choose to let the experts balance the need for increased fuel economy with safety and the needs of the American driving public. The Senate was right once not to pick a fuel economy number out of thin air. Let's not make that mistake now.

I urge my colleagues to reject the Carper amendment. Let's preserve American jobs and save lives on the Nations's highways. That was the basis for our last decision when we visited this issue.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Madam President, how much time on both sides remains?

The PRESIDING OFFICER. Eight and a half to the sponsors and 9 to the opponents.

Mr. LEVIN. I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I rise today to oppose the Carper-Specter amendment. I join with my colleagues in opposition. I note this issue is of great importance to my colleague from Delaware. We have had a lot of conversations about the best approach to increasing fuel efficiency and decreasing our dependence on foreign oil. While I appreciate his effort and the amendment he is bringing forward, I believe the Carper-Specter approach has the same major flaws as the Kerry-Hollings amendment and sets, in fact, an arbitrary CAFE number. It just does it in a different way. It is not called CAFE, but it has the same effect.

The Carper-Specter amendment sets, in fact, an arbitrary number which is exactly what we were debating before. We wanted a process; we wanted NHTSA to have the opportunity to have a number of months to take into consideration all of the factors and not set an arbitrary number.

Our opponents, the makers of the amendment, say this is, in fact, not a CAFE number and that the amendment creates a modest and measurable objective for reducing vehicle gasoline consumption. Unfortunately, it is a mandate. It is a fuel economy mandate in the form of millions of barrels saved that is no less arbitrary than the Kerry-Hollings provision that was replaced in this bill.

Currently, the only regulatory authority that is available to the Department of Transportation to pursue such regulations through passenger and light truck fleets is the CAFE program. No matter what we call it, it is still CAFE. In essence, the amendment would impose this arbitrary oil reduction number as an additional requirement to the Department of Transportation as it sets the CAFE levels, thereby undermining and distorting the rulemaking considerations and the process that we put together through the Levin-Bond proposal.

I am particularly concerned because now that we have essentially eliminated pickup trucks from the equation, it puts even more pressure on the other light trucks and SUVs that are made in the United States, which involve the employment of literally hundreds of thousands of American workers. So it is even more distorted, given the amendment that passed in the prior discussion.

Unfortunately, this amendment undermines the Levin-Bond proposal, and I urge us to maintain our position of supporting the process set up in the Levin-Bond amendment, which passed by such a wide margin, because this sets up a positive, new set of rules and guidance from Congress and requires us to address CAFE's impact on a wide variety of issues in order to increase our fuel efficiency standards.

We have to look at safety, jobs, the environment, which is very important to all of us—particularly those of us in Michigan. It makes sure we don't have a discriminatory impact on the U.S.

automakers—I know that is of concern to all of us—so that we set the standard given all of these criteria.

By requiring an overriding oil reduction number, the amendment sets a hard target, on top of the other considerations, that the rulemaking would otherwise try to balance.

So I believe this amendment puts the cart before the horse. We have an excellent approach in front of us—I believe the best approach. We are not arguing that we should continue the freeze on CAFE. In fact, we are saying let's put in process the way to get to the new technologies. We have a combination of market incentives and investments in new technologies and tax incentives. We have in place the package of incentives, a requirement by NHTSA of deadlines in terms of numbered months and the criteria to look at. We direct them in a very specific way.

I urge my colleagues to oppose this amendment and leave in place our commitment to the process for raising fuel efficiency standards that have already been established in this bill through the Levin-Bond amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CARPER. Madam President, I yield to the Senator from Connecticut 3 minutes.

Mr. LIEBERMAN. Madam President, I rise to support the Carper-Specter amendment.

We come today to offer America a clear path away from foreign oil dependency and toward a newly energized economic future, and that is a new goal for fuel efficiency of cars and trucks.

America can start engineering itself out of its oil dependency if we make it a priority. This amendment would do just that by setting a bold but realistic goal of reducing our projected dependence on oil by one million barrels a day by 2015, thereby reducing our reliance on imported oil.

There's no debate that we must change the status quo. According to the Energy Information Administration, in 2001, the U.S. consumed 18 million barrels of oil per day. Automobiles and light trucks used 68 percent of the total, or 12.25 million barrels per day. The EIA estimates total U.S. consumption of between 25 and 28 million barrels per day by 2020.

The majority of that oil comes from other nations. In 2001, the U.S. imported 9.1 million barrels of oil per day. Approximately 1.65 million barrels per day came from Saudi Arabia and 0.82 million barrels per day came from Iraq.

The question before us today is, Do we keep our blinders on and barrel along doing business as usual, knowing full well that we're headed in the wrong direction, or do we have the foresight to change course?

President Bush and my colleagues on the other side of the aisle know we have no choice but to change course. On February 25 of this year, the President said, ''It's important for Americans to remember . . . that America imports more than 50 percent of its oil—more than 10 million barrels a day. And the figure is rising . . . This dependence is a challenge to our economic security, because dependence can lead to price shocks and fuel shortages. And this dependence on foreign oil is a matter of national security. To put it bluntly, sometimes we rely upon energy sources from countries that don't particularly like us.''

We consume a quarter of the world's oil and have about three percent of its reserves—so even if we allowed drilling in the Arctic Refuge, the Rockies, and right here beneath the Capitol dome, the nations from which we import oil would still have us over a barrel. Please indulge my oil-dependent puns; in the spirit of this amendment, I am trying to get as much mileage out of them as possible.

In contrast, Mr. President, the fuel efficiency gains we're proposing today cannot be exhausted, they cannot run dry, and they will begin to shift our economy away from its usage of oil. These steps are the best way to substantially reduce our reliance on foreign oil.

To quote again from the President, ''It's also important to realize that the transportation sector consumes more than two-thirds of all the petroleum used in the United States, so that any effort to reduce consumption must include ways to safely make cars and trucks more fuel efficient.''

I couldn't agree more. Compared to proposals to open precious places to oil exploration, this measure would achieve more at a monumentally smaller price to America. In fact, the entrepreneurship, creativity and ingenuity that would be unleashed when companies strive to hit this target would create jobs. They would spur economic growth. And, of course, they would help repair the environment in the process—rather than continue to contribute to air pollution, global warming, and the degradation that often goes along with drilling for oil in natural places.

These proposals, Mr. President, are also more than feasible. Earlier this year, the National Academies of Science concluded that current technology was available to achieve efficiency gains that far exceed those required in this amendment, and that was even excluding consideration of the hybrid technology that is on the market right now. We must put our faith in the innovative genius of American industry to meet the challenge that this amendment poses.

Mr. President, this amendment also provides the lead-time and flexibility our industry needs to achieve these goals. It does not micromanage where or how these savings should occur, but rather would provide maximum flexibility to the appropriate agencies in achieving the objective of using, and therefore importing, less oil. It leaves intact all of the provisions that are now included in the underlying bill.

In short, this proposal has been carefully crafted to address the concerns raised by Senators in both parties regarding the previous CAFE amendment. I hope that the Senate finds this to be a much-improved amendment that can be broadly embraced.

Mr. President, the importance of reducing our reliance on foreign oil has been echoed throughout this chamber again and again over the last few weeks. I could quote from scores of my colleagues on both sides of the aisle who have decried the problem and put the highest priority on finding a solution.

But when it comes down to it, we have failed to prove that we're willing to lead America to a better way. This must end. We must re-energize our commitment to reach bi-partisan consensus on weaning our economy off of fossil fuels. The process will by definition be a gradual one—so we must start now.

Mr. President, there are 99 barrels of oil on the wall, 99 barrels of oil. Most of them, no matter how much we explore, come from overseas. If just one of those barrels should happen to fall, we'll still need all 99 barrels of oil on the wall, and they'll still mostly come from overseas. But if we as a nation can change our craving for that oil—get on the efficiency wagon, so to speak—so that we only need 90 or 80 or 70 and shrinking barrels of oil, we can alter that repetitive refrain.

The question is: Do we have the drive to get there? Do we have the will? If we have the will, American ingenuity can and will find the way. No one should have any doubt about that. But it takes leadership from Washington, and that is what I hope we in the Congress are willing to provide, beginning with this amendment.

Madam President, again, I think we all agree on the problem. The problem is that America is dangerously dependent on foreign oil. No matter how great our military might is, how strong our economy is, that dependence upon foreign oil makes us vulnerable.

The only way to break our dependence on foreign oil is to diminish our dependence on oil. We just don't have enough of it in reserve. One of the most tried and true American ways to deal with problems of this kind is through thrift, efficiency, conservation, and a better use of resources.

I grew up with a slogan, as I bet a lot of Members did, which is ''waste not, want not.'' We are using fuel in a wasteful way.

This amendment is, in my opinion, not in contradiction to the Levin-Bond amendment. Nothing in the Levin-Bond amendment would be undermined or distorted by the rulemaking considerations that are effected by this Carper-Specter amendment. The language is respectful of Levin-Bond and simply adds the oil-saving target of reducing America's use of oil by 1 million barrels a day by 2015. You remember the movie ''Field of Dreams,'' where it was

said, ''if you build it, they will come.'' We are saying affirmatively, if we set a standard America will meet that standard, and probably go beyond it.

If we do not, we will continue to make ourselves vulnerable by being dependent on a source of fuel that we do not control. We consume a quarter of the world's oil. We have about 3 percent of its reserves. So even if we allowed drilling in the Arctic Refuge, the Rockies, and perhaps right here beneath the Capitol dome, the nations from which we import oil would still have us—if you will allow an oil-dependent pun—over a barrel.

In contrast, the fuel efficiency gains proposed in this amendment cannot be exhausted, cannot run dry, and will begin to shift our economy away from its dependency on oil. We have the technological capacity to do it if law drives that technology.

Earlier this year, the National Academy of Sciences concluded that current technology was available to achieve the efficiency gains that far exceed those required in this amendment. That even excluded consideration of the hybrid technology on the market right now, which the automakers cannot produce fast enough for the consumers who want to buy them.

We have to put our faith in the innovative genius of American industry to meet the challenge that this amendment poses, and I am sure they will not only meet it, they will surpass it.

I yield the floor.

The PRESIDING OFFICER. Five minutes remain on each side.

Who yields time? If neither side yields time, time will be charged equally.

Mr. CARPER. Madam President, I yield 2 minutes to the Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, I voted for the Levin-Bond amendment on that 68-to-32 vote. But the Carper-Specter amendment is not inconsistent with that at all. We simply establish a consistent standard. We are not establishing a CAFE standard. We are just asking that there be a national policy to limit U.S. dependence on foreign oil.

Today, this week, this month is not the first time that I have expressed my concern about our undue dependence on foreign oil. I ask unanimous consent that my letter to President Clinton, dated April 11, 2000, and my letter to President Bush, dated April 25, 2001, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 11, 2000.

President WILLIAM JEFFERSON CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the very serious problems caused by the recent increase in oil prices, we know you will share our view that we should explore every possible alternative to stop OPEC and other oil-producing states from entering into agreements to restrict oil production in order to drive up the price of oil.

This conduct is nothing more than an old-fashioned conspiracy in restraint of trade which has long been condemned under U.S. law, and which should be condemned under international law.

After some considerable research, we suggest that serious consideration be given to two potential lawsuits against OPEC and the nations conspiring with it:

(1) A suit in Federal district court under U.S. antitrust law.

(2) A suit in the International Court of Justice at the Hague based, perhaps, upon an advisory opinion under ''the general principles of law recognized by civilized nations,'' which includes prohibiting oil cartels from conspiring to limit production and raise prices.

(1) A suit in Federal district court under U.S. antitrust law. A case can be made that your Administration can sue OPEC in Federal district court under U.S. antitrust law. OPEC is clearly engaging in a ''conspiracy in restraint of trade'' in violation of the Sherman Act (15 U.S.C. Sec. 1). The Administration has the power to sue under 15 U.S.C. Sec. 4 for injunctive relief to prevent such collusion.

In addition, the Administration should consider suing OPEC for treble damages under the Clayton Act (15 U.S.C. Sec. 15a), since OPEC's behavior has caused an ''injury'' to U.S. ''property.'' After all, the U.S. government is a major consumer of petroleum products and must now pay higher prices for these products. In *Reiter v. Sonotone Corp.*, 442 U.S. 330 (1979), the Supreme Court held that he consumers who were direct purchasers of certain hearing aides who alleged that collusion among manufacturers had led to an increase in prices had standing to sue those manufacturers under the Clayton Act since ''a consumer deprived of money by reason of allegedly anticompetitive conduct is injured in 'property' within the meaning of [the Clayton Act].'' Indirect purchasers would appear to be precluded from suit, even in a class action, under *Illinois Brick v. Illinois*, 431 U.S. 720 (1977), but this would not bar the United Sates Government, as a direct purchaser, from having the requisite standing.

One potential obstacle to such a suit is whether the Foreign Sovereign Immunities Act (''FSIA'') provides OPEC, a group of sovereign foreign nations, with immunity from suit in U.S. courts. To date, there has been a ruling on this issue in only one case. In *International Association of Machinists v. OPEC*, 477 F. Supp. 553 (1979), the District Court for the Central District of California held that the nations which comprise OPEC were immune from suit in the United States under the FSIA. We believe that this opinion was wrongly decided and that other district courts, including the D.C. District, can and should revisit the issue.

This decision in *Int. Assoc. of Machinists* turned on the technical issue of whether or not the nations which comprise OPEC are engaging in ''commercial activity'' or ''governmental activity'' when they cooperate to sell their oil. If they are engaging in ''governmental activity,'' then the FSIA shields them from suit in U.S. courts. If, however, these nations are engaging in ''commercial activity,'' then they are subject to suit in the U.S. The California District Court held that OPEC activity is ''governmental activity.'' We disagree. It is certainly a governmental activity for a nation to regulate the extraction of petroleum from its territory by ensuring compliance with zoning, environmental and other regulatory regimes. It is clearly a commercial activity, however, for these nations to sit together and collude to limit their oil production for the sole purpose of increasing prices.

The 9th Circuit affirmed the District Court's ruling in *Int. Assoc. of Machinists* in 1981 (649 F.2d 1354), but on the basis of an entirely different legal principle. The 9th Circuit held that the Court could not hear this case because of the ''act of state'' doctrine, which holds that a U.S. court will not adjudicate a politically sensitive dispute which would require the court to judge the legality of the sovereign act of a foreign state.

The 9th Circuit itself acknowledged in its *Int. Assoc. of Machinists* opinion that ''The [act of state] doctrine does not suggest a rigid rule of application,'' but rather application of the rule will depend on the circumstances for each case. The Court also noted that, ''A further consideration is the availability of internationally-accepted legal principles which would render the issues appropriate for judicial disposition.'' The Court then quotes from the Supreme Court's opinion in *Banco Nacional de Cuba v. Sabbatino*, 376 U.S. 398 (1964).

''It should be apparent that the greater of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decisions regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive task of establishing a principle not inconsistent with the national interest or with international justice.''

Since the 9th Circuit issued its opinion in 1981, there have been major developments in international law that impact directly on the subject matter at issue. As we discuss in greater detail below, the 1990's have witnessed a significant increase in efforts to seek compliance with basic international norms of behavior through international courts and tribunals. In addition, there is strong evidence of an emerging consensus in international law that price fixing by cartels violates such international norms. Accordingly, a court choosing to apply the act of state doctrine to a dispute with OPEC today may very well reach a different conclusion than the 9th Circuit reached almost twenty years ago.

You should also examine whether the anticompetitive conduct of the international oil cartel is being effectuated by private companies who are subject to the enforcement of U.S. antitrust laws (for example, former state oil companies that have now been privatized) rather than sovereign foreign states. If such private oil companies are determined to in fact be participating in the anticompetitive conduct of the oil cartel, then we would urge that these companies be named as defendants in an antitrust lawsuit in addition to the OPEC members.

(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations,'' which includes prohibiting oil cartels from conspiring to limit production and raise prices. In addition to such domestic antitrust actions, we believe you should give serious consideration to bringing a case against OPEC before the International Court of Justice (the ''ICJ'') at the Hague. You should consider both a direct suit against the conspiring nations as well as a request for an advisory opinion from the Court through the auspices of the U.N. Security Council. The actions of OPEC in restraint of trade violate ''the general principles of law recognized by civilized nations.'' Under Article 38 of the Statute of the ICJ, the Court is required to apply these ''general principles'' when deciding cases before it.

This would clearly be a cutting-edge lawsuit, making new law at the international

level. But there have been exciting developments in recent years which suggest that the ICJ would be willing to move in this direction. In a number of contexts, we have seen a greater respect for and adherence to fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Court in 1998, the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of these bodies has been active, handing down numerous indictments and convictions against individuals who have violated fundamental principles of human rights. For example, as of December 1, 1999 the Yugoslavia tribunal alone had handed down 91 public indictments.

Today, adherence to international principles has spread from the tribunals in the Hague to individual nations around the world. Recently, the exiled former dictator of Chad, Hissene Habre, was indicted in Senegal on charges or torture and barbarity stemming from his reign, where he allegedly killed and tortured thousands. This case is similar to the case brought against former Chilean dictator Augusto Pinochet by Spain on the basis of his alleged atrocities in Chile. At the request of the Spanish government, Pinochet was detained in London for months until an English court determined that he was too ill to stand trial.

The emerging scope of international law was demonstrated in an advisory opinion sought by the U.N. General Assembly in 1996 to declare illegal the use or threat to use nuclear weapons. Such an issue would ordinarily be thought beyond the scope of a judicial determination given the doctrines of national sovereignty and the importance of nuclear weapons to the defense of many nations. The ICJ ultimately ruled eight to seven, however, that the use or threat to use nuclear weapons ''would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law.'' The fact that this issue was subject to a decision by the ICJ, shows the rapidly expanding horizons of international law.

While these emerging norms of international behavior have tended to focus more on human rights than on economic principles, there is one economic issue on which an international consensus has emerged in recent years—the illegitimacy of price fixing by cartels. For example, on April 27, 1998, the Organization for Economic Cooperation and Development issued an official ''Recommendation'' that all twenty-nine members nations ''ensure that their competition laws effectively halt and deter hard core cartels.'' The recommendation defines ''hard core cartels'' as those which, among other things, fix prices or establish output restriction quotas. The Recommendation further instructs member countries ''to cooperate with each other in enforcing their laws against such cartels.''

On October 9, 1998, eleven Western Hemisphere countries held the first ''Antitrust Summit of the Americas'' in Panama City, Panama. At the close of the summit, all eleven participants issued a joint communique in which they expressed their intention ''to affirm their commitment to effective enforcement of sound competition laws, particularly in combating illegal price-fixing, bid-rigging, and market allocations.'' The communique further expresses the intention of these countries to ''cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country's competition laws.'' One of the countries participating in this communique, Venezuela, is a member of OPEC.

The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way. Consideration of such legal action could provide an inducement to OPEC and other oil-producing countries to raise production to head off such litigation.

We hope that you will seriously consider judicial action to put an end to such behavior.

ARLEN SPECTER,
HERB KOHL
CHARLES SCHUMER,
MIKE DEWINE,
STROM THURMOND,
JOE BIDEN

U.S. SENATE,
Washington, DC, April 25, 2001.

President GEORGE WALKER BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In light of the energy crisis and the high prices of OPEC oil, we know you will share our view that we must explore every possible alternative to stop OPEC and other oil-producing states from entering into agreements to restrict oil production in order to drive up the price of oil.

This conduct is nothing more than an old-fashioned conspiracy in restraint of trade which has long been condemned under U.S. law, and which should be condemned under international law.

After some research, we suggest that serious consideration be given to two potential lawsuits against OPEC and the nations conspiring with it:

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(2) A suit in the International Court of Justice at the Hague based upon ''the general principles of law recognized by civilized nations.''

(1) A suit in Federal district court under U.S. antitrust law. A strong case can be made that your Administration can sue OPEC in Federal district court under U.S. antitrust law. OPEC is clearly engaging in a ''conspiracy in restraint of trade'' in violation of the Sherman Act (15 U.S.C. Sec. 1). The Administration has the power to sue under 15 U.S.C. Sec. 4 for injunctive relief to prevent such collusion.

In addition, the Administration has the power to sue OPEC for treble damages under the Clayton Act (15 U.S.C. Sec. 15a), since OPEC's behavior has caused an ''injury'' to U.S. ''property.'' After all, the U.S. government is a consumer of petroleum products and must now pay higher prices for these products. In *Reiter* v. *Sonotone Corp*, 442 U.S. 330 (1979), the Supreme Court held that the consumers of certain hearing aids who alleged that collusion among manufacturers had led to an increase in prices had standing to sue those manufacturers under the Clayton Act since ''a consumer deprived of money by reason of allegedly anticompetitive conduct is injured in 'property' within the meaning of [the Clayton Act].''

One issue that would be raised by such a suit is whether the foreign Sovereign Immunities Act (''FSIA'') provides OPEC, a group of sovereign foreign nations, with immunity from suit in U.S. courts. To date, only one Federal court, the District Court for the Central District of California, has reviewed this issue. In *International Association of Machinists* v. *OPEC*, 477 F. Supp. 553 (1979), the Court held that the nations which comprise OPEC were immune from suit in the United Stats under the FSIA. We believe that this opinion was wrongly decided and that other District courts, including the D.C. District, can and should revisit the issue.

This decision in *Int. Assoc. of Machinists* turned on the technical issue of whether or not the nations which comprise OPEC are engaging in ''commercial activity'' or ''governmental activity'' when they cooperate to sell their oil. If they are engaging in ''governmental activity,'' then the FSIA shields them from suit in U.S. courts. If, however, these nations are engaging in ''commercial activity,'' then they are subject to suit in the U.S. The California District court held that OPEC activity is ''governmental activity.'' We disagree. It is certainly a governmental activity for a nation to regulate the extraction of petroleum from its territory by ensuring compliance with zoning, environmental and other regulatory regimes. It is clearly a commercial activity, however, for these nations to sit together and collude to limit their oil production for the sole purpose of increasing prices.

The 9th Circuit affirmed the District Court's ruling in *Int. Assoc. of Machinists* in 1981 (649 F.2d 1354), but on the basis of an entirely different legal principle. The 9th Circuit held that the Court could not hear this case because of the ''act of state'' doctrine, which holds that a U.S. court will not adjudicate a politically sensitive dispute which would require the court to judge the legality of the sovereign act of a foreign state.

The 9th Circuit itself acknowledged in its *Int. Assoc. of Machinists* opinion that ''The [act of state] doctrine does not suggest a rigid rule of application,'' but rather application of the rule will depend on the circumstances of each case. The Court also noted that, ''A further consideration is the availability of internationally-accepted legal principles which would render the issues appropriate for judicial disposition.'' The court then quotes from the Supreme Court's opinion in *Banco Nacional de Cuba* v. *Sabbatino*, 376 U.S. 398 (1964):

''It should be apparent that the greater the degree of codification or consensus concerning a particular area of international law, the more appropriate it is for the judiciary to render decision regarding it, since the courts can then focus on the application of an agreed principle to circumstances of fact rather than on the sensitive take of establishing a principle not inconsistent with the national interest or with international justice.''

Since the 9th circuit issued its opinion in 1981, there have been major developments in international law that impact directly on the subject matter at issue. As we discuss in greater detail below, the 1990's have witnessed a significant increase in efforts to seek compliance with basic international norms of behavior through international courts and tribunals. In addition, there is strong evidence of an emerging consensus in international law that price fixing by cartels violates such international norms. Accordingly, a court choosing to apply the act of state doctrine to a dispute with OPEC today may very well reach a different conclusion than the 9th Circuit reached almost twenty years ago.

(2) A suit in the International Court of Justice at The Hague based upon ''the general principles of law recognized by civilized nations.'' In addition to such domestic antitrust actions, we believe you should give serious consideration to bringing a case against OPEC before the International Court of Justice (the ''ICJ'') at The Hague. You should consider both a direct suit against the conspiring nations as well as a request for an advisory opinion from the Court through the auspices of the U.N. Security Council. The actions of OPEC in restraint of trade violate ''the general principles of law recognized by civilized nations.'' Under Article 38 of the Statute of the ICJ, the Court is

required to apply these ''general principles'' when deciding cases before it.

This would clearly be a cutting-edge lawsuit, making new law at the international level. But there have been exciting developments in recent years which suggest that the ICJ would be willing to move in this direction. In a number of contexts, we have seen a greater respect for and adherence to fundamental international principles and norms by the world community. For example, we have seen the establishment of the International Criminal Court in 1998, the International Criminal Tribunal for Rwanda in 1994, and the International Criminal Tribunal for the former Yugoslavia in 1993. Each of these bodies has been active, handing down numerous indictments and convictions against individuals who have violated fundamental principles of human rights.

Today, adherence to international principles has spread from the tribunals in The Hague to individual nations around the world. The exiled former dictator of Chad, Hissene Habre, was indicted in Senegal on charges of torture and barbarity stemming from his reign, where he allegedly killed and tortured thousands. This case is similar to the case brought against former Chilean dictator Augusto Pinochet by Spain on the basis of his alleged atrocities in Chili. At the request of the Spanish government, Pinochet was detained in London for months until an English court determined that he was too ill to stand trial.

While these emerging norms of international behavior have tended to focus more on human rights than on economic principles, there is one economic issue on which an international consensus has emerged in recent years—the illegitimacy of price fixing by cartels. For example, on April 27, 1998, the Organization for Economic Cooperation and Development issued an official ''Recommendation'' that all twenty-nine member nations ''ensure that their competition laws effectively halt and deter hard core cartels.'' The Recommendation defines ''hard core cartels'' as those which, among other things, fix prices or establish output restriction quotas. The Recommendation further instructs member countries ''to cooperate with each other in enforcing their laws against such cartels.''

On October 9, 1998, eleven Western Hemisphere countries held the first ''Antitrust Summit of the Americas'' in Panama City, Panama. At the close of the summit, all eleven participants issued a joint communique in which they express their intention ''to affirm their commitment to effective enforcement of sound competition laws, particularly in combating illegal price-fixing, bid-rigging, and market allocation.'' The communique further expresses the intention of these countries to ''cooperate with one another . . . to maximize the efficacy and efficiency of the enforcement of each country's competition laws.''

The behavior of OPEC and other oil-producing nations in restraint of trade violates U.S. antitrust law and basic international norms, and it is injuring the United States and its citizens in a very real way.

We hope that you will seriously consider judicial action to put an end to such behavior.

ARLEN SPECTER,
CHARLES SCHUMER,
HERB KOHL,
STROM THURMOND,
MIKE DEWINE

Mr. SPECTER. The Federal lawsuit, Prewitt v. OPEC, establishes an antitrust violation by OPEC, and my letters to Presidents Clinton and Bush set forth legal mechanisms for dealing with OPEC where they engage in a conspiracy in restraint of trade and conspiracy to limit production and raise prices.

I ask unanimous consent that an article from the Harrisburg Patriot be printed in the RECORD. It sets out in some detail a way that the sludge can be turned into fuel to reduce our dependence on foreign oil.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Patriot-News, Jan. 4, 2002]

COAL-TO-DIESEL IDEA PROMISING

Whatever else it has meant for America, the Sept. 11 terrorism underscored the folly of U.S. dependence on Middle Eastern oil.

And while some people believe it mandates drilling for petroleum in the Arctic National Wildlife Refuge and other environmentally sensitive areas, others see the logic in developing legitimate alternative fuels, utilizing the kind of ingenuity and entrepreneurial skills on which America was built.

Unfortunately, expanded oil drilling and alternative fuel development are tied together in the energy package that remains bottled up in the U.S. Senate, where drilling in ANWR is a key item of debate. Majority Leader Tom Daschle, D–S.D., who sets the agenda, opposes ANWR drilling, which is supported by the president and included in the energy bill approved by the House last summer.

What that means for Pennsylvania in particular is that construction of a $450 million plant in Schuylkill County to convert coal waste into diesel fuel is on hold.

John W. Rich, Jr., scion of a family that made its fortune in mining coal, wants to apply proven South African technology to produce 5,000 barrels a day of sulfur-free diesel fuel and eliminate 1 million tons a year of environmentally damaging coal waste from Pennsylvania's coal regions.

Rich's proposal has won political support and tax credits from the state and a $7.8 million startup grant from the federal government. He hopes that the energy bill, if it ever passes, will provide up to $100 million more, completing a financial package that includes investments from Chevron-Texaco and a Bechtel affiliate.

America's oil resources are so limited and difficult to tap that some foreign oil will always be required here. On the other hand, coal-waste conversion to diesel, a proven technology, would make use of a ready supply of coal and coal waste in Pennsylvania that, in oil equivalent, exceeds the known petroleum reserves of Iraq.

Not only would this technology cut into the need for foreign oil, but its cost, in comparison to the expense of drilling in ANWR and piping the crude oil south to the Lower 48, quite likely would underscore the folly of that proposal.

The Senate needs to settle on a compromise and pass an energy bill to make practical alternatives to Middle Eastern oil a reality.

Mr. SPECTER. Madam President, I think if every one of our colleagues read the story on the front page of the New York Times today, there would be no doubt about the insistence of this body to reduce our dependence on OPEC oil. To have Crown Prince Abdullah of Saudi Arabia release through a spokesman what he intends to say to the President of the United States—that Saudi Arabia will use oil as an oil weapon, as Saddam Hussein has done is outrageous. The spokesman is quoted as saying that Saudi Arabia is prepared to go to the right of bin Laden, and that Saudi Arabia is prepared to fly to Baghdad and embrace Saddam Hussein like a brother.

I ask unanimous consent that the New York Times article ''Saudi To Warn Bush of Rupture Over Israel Policy'' be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

[From The New York Times, Apr. 25, 2002]

SAUDI TO WARN BUSH OF RUPTURE OVER ISRAEL POLICY

(By Patrick E. Tyler)

HOUSTON, APR. 24.—Crown Prince Abdullah of Saudi Arabia is expected to tell President Bush in stark terms at their meeting on Thursday that the strategic relationship between their two countries will be threatened if Mr. Bush does not moderate his support for Israel's military policies, a person familiar with the Saudi's thinking said today.

In a bleak assessment, he said there was talk within the Saudi royal family and in Arab capitals of using the ''oil weapon'' against the United States, and demanding that the United States leave strategic military bases in the region.

Such measures, he said, would be a ''strategic debacle for the United States.''

He also warned of a general drift by Arab leaders toward the radical politics that have been building in the Arab street.

The Saudi message contained undeniable brinkmanship intended to put pressure on Mr. Bush to take a much larger political gamble by imposing a peace settlement on Israeli and Palestinians.

But the Saudi delegation also brought a strong sense of the alarm and crisis that have been heard in Arab capitals.

''It is a mistake to think that our people will not do what is necessary to survive,'' the person close to the crown prince said, ''and if that means we move to the right of bin Laden, so be it; to the left of Qaddafi, so be it; or fly to Baghdad and embrace Saddam like a brother, so be it. It's damned lonely in our part of the world, and we can no longer defend our relationship to our people.''

Whatever the possibility of bluster, it is also clear that Abdullah represents not just Saudi Arabia but also the broader voice of the Arab world, symbolized by the peace plan he submitted and that was endorsed at an Arab summit meeting in March.

Those familiar with the prince's ''talking points'' said he would deliver a blunt message that Mr. Bush is perceived to have endorsed—despite his protests to the contrary—Prime Minister Ariel Sharon's military incursion into the West Bank.

Abdullah believes Mr. Bush has lost credibility by failing to follow through on his demand two weeks ago that Mr. Sharon withdraw Israeli troops from the West Bank and end the sieges of Yasir's compound in Ramallah and of the Church of the Nativity in Bethlehem.

If those events occur and Mr. Bush makes a commitment ''to go for peace'' by convening an international conference, as his father did after the Persian Gulf war, to press for a final settlement and a Palestinian state, the Saudi view would change dramatically.

But those close to the Saudi delegation said there was no expectation that Mr. Bush is prepared to apply the pressure necessary to force such an outcome.

''The perception in the Middle East, from the far left to the far right, is that America

is totally sponsoring Sharon—not Israel's policies but Sharon's policies—and anyone who tells you less is insulting your intelligence,'' the person familiar with Abdullah's thinking said.

Western analysts see the prince as a blunt Bedouin leader whose initiative is regarded by many Arabs as a gesture worthy of the late Egyptian leader Anwar el-Sadat, who flew to Jerusalem in 1973 to sue for peace with Menachem Begin. Abdullah's offer, now the Arab world's offer, calls for recognition of Israel and ''normal relations'' in return for a Palestinian state on lands Israel occupied in 1967.

The Saudi assessment was apparently being conveyed through several private channels.

On Tuesday President Bush's father had lunch with the Saudi foreign minister, Saud al-Faisal, and the kingdom's longtime ambassador to Washington, Prince Bandar bin Sultan. Their specific message could not be learned, but in the familial setting, where Barbara Bush was also the hostess for Princess Haifa, Prince Bandar's wife, the strong strategic and personal ties of the Persian Gulf war that characterized Saudi-American relations a decade ago was a message in itself.

Abdullah, in a luncheon today with Vice President Dick Cheney, was to convey the seriousness with which he regards the Thursday meeting with President Bush as a ''last chance'' for constructive relations with the Arab world.

Secretary of Defense Donald H. Rumsfeld and Gen. Richard B. Myers, chairman of the joint chiefs of staff, also flew to Houston to join in last-minute discussions before the summit meeting. A senior official in Washington said Mr. Rumsfeld and General Myers were dispatched to brief the prince personally on the American accomplishments in Afghanistan and in the broader war on terrorism.

''The idea was, if he thought we were strong in Desert Storm, we're 10 times as strong today,'' one official said. ''This was to give him some idea what Afghanistan demonstrated about our capabilities.''

United States military commanders in the Persian Gulf region have been building up command centers and equipment depots in Qatar and Kuwait in recent months in anticipation of a possible breach with Riyadh.

Saudi officials assert that American presidents since Richard M. Nixon have been willing to speak more forcefully to Israeli leaders than the current president when American interests were at stake.

''If Bush freed Arafat and cleared Bethlehem, it would be a big victory, show a stiffening of spine,'' the person close to Abdullah said. ''But incremental steps are no longer valid in these circumstances,'' meaning that Mr. Bush would have to follow up with a major push to fulfill the longstanding expectation of the Palestinians for statehood.

The mood in the Saudi camp was that of gloom and anxiety in private even as Saudi and American officials went ahead with preparations for a warm public encounter with the Bush family.

On Friday, after his meeting with President Bush at his home in Crawford, Abdullah is to take a long train ride to College Station, the central Texas town where the former President Bush will be host at his presidential library. On Saturday, Saudi's Arabia's state oil company is gathering the luminaries of the international energy industry to dine with Abdullah and his party.

But the person close to the prince said that if the summit talks went badly, Abdullah might not complete his stay in Texas. Instead, he might return directly to Riyadh and call for a summit meeting of the Organization of the Islamic Conference, to report to its 44 leaders, who represent 1.2 billion Muslims.

''He wants to say, 'I looked the president of the U.S. in the eye and have to report that I failed,'' this person said. His message to the Arabs will be, ''Take the responsibility in your own hands, my conscience is clear, before history, God, religion, country and friends.''

The person close to Abdullah pointed out that Saudi Arabia's recent assurances that it would use its surplus oil-producing capacity to blunt the effects of Saddam Hussein's 30-day suspension of Iraqi oil exports could quickly change.

That Saudi pledge ''was based on a certain set of assumptions, but if you change the assumptions, all bets are off,'' he said. ''We would no longer say what Saddam said was an empty threat, because there come desperate times when you give the unthinkable a chance.''

Abdullah is reported to be bitter over the White House's assertion that the president is taking a balanced approach to the Israeli-Palestinian conflict, and he wants to evaluate in person whether Mr. Bush understands how his actions are being perceived in the Arab world.

''This is not a mistake or a policy gaffe,'' the person close to Abdullah said, referring to Mr. Bush's approach. ''He made a strategic, conscious decision to go with Sharon, so your national interest is no longer our national interest; now we don't have joint national interests. What it means is that you go your way and we will go ours, economically, militarily and politically—and the antiterror coalition would collapse in the process.''

Mr. SPECTER. We are heading for a cataclysm. We are headed for a cataclysmic, destructive process. When the oil industry in Iran was nationalized in the early 1950s and the Anglo-Iranian Oil Company was evicted by an act of the Iranian parliament, Great Britain decided against the use of force and submitted the dispute to the International Court, which decided it had no jurisdiction. But if we are starved from oil, we should attempt to figure out some way to denationalize what the OPEC countries have done, in taking the property of the seven sisters, the oil companies—BP and others—without compensation, or without adequate compensation.

But the demands and the blackmail and the extortion that is contained on the front page of the New York Times today concerning what OPEC has in mind for us should drive the U.S. toward independence from OPEC oil, not only as a matter of self-respect, but as a matter of national defense and continuing economic development in this country.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. How much time remains, Madam President?

The PRESIDING OFFICER. Four minutes 54 seconds.

Mr. LEVIN. I yield 4 minutes to Senator BOND.

Mr. BOND. Madam President, I rise in opposition to the amendment by my colleague from Delaware, Mr. CARPER. This amendment to the energy bill would substantially raise Corporate Average Fuel Economy, CAFE, standards with negative impacts on jobs, safety and the health of our domestic economy.

On March 13, the Senate overwhelmingly passed a bipartisan amendment I wrote with my colleague from Michigan, Senator LEVIN. The Levin-Bond amendment mandates that the National Highway Traffic Safety Administration, NHTSA, increase CAFE standards for cars and light trucks to the maximum feasible levels. The Bond-Levin amendment replaced a provision in the original energy bill which called for significant increases in CAFE based only on a political number, not science. The Senate wisely rejected that underlying provision as being bad for American jobs, bad for highway safety and bad for consumer choice.

Unfortunately, the Carper-Specter amendment on oil consumption would result in CAFE increases similar to the Kerry provision. It must be defeated. While Senator CARPER's goal may be to reduce American dependence on foreign oil, the effect of his amendment would be lost factory jobs, more highway fatalities and reduced vehicle choice. Don't be fooled by arguments that Senator CARPER's proposal is not a CAFE increase. The only way to meet the target under the amendment is for NHTSA to increase fuel economy standards beyond the maximum feasible level. And why would NHTSA only look at the CAFE program? Because it is the only regulatory authority currently available to pursue the mandated oil reductions under the Carper amendment!

The debate on the Levin-Bond amendment was only a few short weeks ago but let me refresh your memories as to the details of this proposal which passed on a 62–38 vote. Specifically, the Levin-Bond amendment directs the Department of Transportation to increase fuel economy standards for cars and light trucks based on consideration of a number of factors including the desirability of reducing U.S. dependence on foreign oil. I agree with the sponsor of the amendment that a goal of our national energy policy should be a reduction in the amount of imported oil. That is why I included language in my amendment last month requiring NHTSA to include it in the regulatory process to set new CAFE standards.

Other factors that NHTSA must consider include: technological feasibility; economic practicability; the effect of other government motor vehicle standards on fuel economy; the need to conserve energy; the effect on motor vehicle safety; the effects of increased fuel economy on air quality; the adverse effects of increased fuel economy standards on the relative competitiveness of manufacturers; the effect on U.S. employment; the cost and lead-time required for introduction of new technologies; the potential for advanced

technology vehicles—such as hybrid and fuel cell vehicles—to contribute to significant fuel usage savings; and the effect of near-term expenditures required to meet increased fuel economy standards on the resources available to develop advanced technology.

The Department of Transportation shall complete the rulemaking for light trucks within 15 months of enactment and shall give automobile manufacturers sufficient lead-time to comply with the new standards. The rulemaking for passenger cars shall be initiated within 6 months of enactment and shall be completed within 24 months. Each rulemaking shall be multiyear for a period not to exceed 15 model years. If DOT fails to act within the required time frame, it will be in order for Congress to consider, under expedited procedures, legislation mandating an increase in fuel economy standards, consistent with the considerations set forth above.

These are the details of what the Senate adopted last month on a bipartisan vote. It is a carefully balanced proposal with firm deadlines and clear criteria. Unfortunately, the Carper amendment before us today would undermine and distort the rulemaking considerations by NHTSA. The Carper amendment returns to the notion of setting an arbitrary target—in this case, to reduce the amount of oil that can be consumed in our passenger car and light trucks in 2015. Not only would this lead to CAFE increases similar to those proposed in the original bill, but it would also force the Department of Transportation to disregard the careful balancing of criteria in its rulemakings. Indeed, DOT would have to impose a overriding element (saving a specific amount of oil) on top of the considerations that the rulemaking would otherwise try to balance.

If you get nothing else out of my statement today, please simply remember that this proposed amendment will absolutely hurt consumers who choose to drive minivans and SUVs. Because the Senate adopted a measure excluding pick-up trucks from the CAFE increases, the burden on the rest of that light truck category is increased dramatically. This effect would be magnified with the adoption of the Carper-Specter amendment today.

Oh, and has anyone besides me taken the time to ask NHTSA or the Department of Transportation if this amendment is even feasible? I talked to Secretary Mineta yesterday, and 2 days ago I spoke with Dr. Runge, the NHTSA Administrator. Both indicated to me that it is not feasible to guarantee specific fuel savings through CAFE standards. There are simply too many variables and assumptions preventing any guarantee of this sort.

Many of the Senators who supported the Bond-Levin amendment agreed that the CAFE program is complex with many tradeoffs. That's why the experts at NTHSA are best qualified to determine future CAFE levels based on sound science and dependable data. Rather that CAFE increases based on nothing more than a political number which would have negative consequences for American jobs, highway safety and economic growth, NHTSA can determine the appropriate standard after extensive review and study.

Given the complexities of the issues, there are great advantages to allowing a rulemaking process to resolve these issues rather than pre-selecting an arbitrary outcome as the Carper oil consumption amendment would do.

One of the most useful reports in the entire fuel economy debate is the National Academy of Sciences study on the Effectiveness of CAFE. As I did last month, let me share with you a key finding about the safety and higher standards:

> In summary, the majority of the committee finds that the downsizing and weight reduction that occurred in the late 1980s most likely produced between 1,300 and 2,600 crash fatalities and 13,000 and 26,000 serious injuries in 1993.
>
> If an increase in fuel economy is effected by a system that encourages either downweighting or the production and sale of more small cars, some additional traffic fatalities would be expected.

I believe that NAS report offers all of us in the Senate clear guidance and expert, scientific analysis as we debate fuel economy levels. I also point out that the NAS panel was extremely careful to caution its readers that its fuel economy targets were not recommended CAFE goals, because they did not weigh other considerations such as employment, affordability, and safety.

I urge you to join me, along with numerous business and labor groups, in opposing the Carper amendment which only complicates NHTSA's effort to set appropriate CAFE standards under the mandates of the Bond-Levin amendment.

If you want appropriate CAFE standards for cars and light trucks that won't harm jobs, highway safety and vehicle choice, vote ''no'' on the Carper amendment.

Madam President, we have been here before. We have had this debate. We have done the bill. We got the T-shirt. Unfortunately, we are back on the floor with this again.

Let me be clear: This amendment totally negates the careful direction that we put in law in the Levin-Bond amendment that the National Highway Transportation Safety Administration must use the best science and technology available to increase standards to get more fuel-efficient cars, vans, and trucks on the road.

Setting an arbitrary standard which comes out of somebody's hip pocket does nothing for sound science. I have talked to NHTSA. They say there is no way we can guarantee it. There would have to be a wild estimate that would come out somewhere around where the original proposal in the underlying bill was.

Do my colleagues know what we found out when we took a look at that? We have the National Academy of Sciences saying the mandated fuel efficiency previously done has resulted when we could not meet those goals through technology in cars that weighed roughly 1,000 pounds less. What happens? Thousands and thousands of people have been killed in unsafe cars.

Despite what some of my friends on the other side of this issue say, you cannot mandate by law that technology will come out of thin air. We have asked the experts at NHTSA to use the National Academy of Sciences and find out what technology is available. If we can make diesel out of sludge in Pennsylvania, great, we will do it. That will be available to the National Academy of Sciences.

We are changing in Missouri and Arkansas. We are using poultry waste and turning it into power. Good. Let's use all those things we can, but let us not go back on the carefully agreed upon construct that was developed in the Levin-Bond amendment and overwhelmingly supported which says: Yes, we need more fuel-efficient minivans and cars, and it is going to be based on how much science can move forward, not how much an arbitrary limitation—in terms of saving gallons which cannot be controlled solely by fuel efficiency standards—would do.

There is technology. There will be increases, but it should not be arbitrary. We do not want to deprive people of the opportunity to buy the cars and minivans they need. We have talked in the past about forcing people into purple-people eaters and golf carts. Frankly, that is where you go when you have an unrealistically high CAFE standard.

We need to give people the choices of vehicles that fit their needs that incorporate the new technology which is designed to save as much fuel as possible. We need to keep the jobs in the United States. We need to keep our economy going. We need not compromise safety, as would be done by this amendment.

This amendment is not merely a refinement. This amendment is simply a bad shot at setting a standard that is not based on science but is based on an arbitrary figure that is infeasible, unworkable, destroys consumer choice, costs us jobs in the United States, and risks more lives on highways. I urge my colleagues not to support the Carper-Specter amendment.

I reserve the remainder of my time and yield the floor.

Mr. CARPER. Madam President, how much time remains on either side?

The PRESIDING OFFICER. The sponsors have 1 minute 41 seconds remaining.

Mr. CARPER. And the other side?

The PRESIDING OFFICER. The opposition has 48 seconds.

Mr. CARPER. I would like to have the opportunity to close, if I can. Will the Senator be willing to accommodate me?

Mr. LEVIN. Madam President, I will be happy to accommodate my friend from Delaware.

Madam President, let us be real clear. The Levin-Bond amendment had positive incentives. We need tax incentives, joint research and development money, Government purchasing, to a much larger extent than the administration proposed. They are in the Levin-Bond amendment.

Also in the Levin-Bond amendment, which this would totally, in effect, abrogate, is a regulatory process: 15 months for the Department of Transportation to look at 12 different criteria in upping the CAFE standard. This does not wait. This prejudges the outcome of that process and says 1 million barrels a day. That is the mandate. This is not some objective, this is a mandatory amount specifically in this amendment, and it is not the way we should be legislating.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, in listening to the comments against the Carper-Specter amendment, I am not sure they have fully read the Levin-Bond amendment. I know they have not read the amendment we offer today. Senator SPECTER and I both voted for the Levin-Bond amendment. It is a good amendment. It has a number of positive features that make common sense for our country.

In a moment or two, a budget point of order will be brought against our amendment. None was brought against the Levin-Bond amendment. The reason is because in the Carper-Specter amendment, we are looking for a real reduction in oil consumption. We do not vitiate the Levin-Bond amendment. The whole language stays in the bill.

The Levin-Bond amendment directs the Secretary of Transportation to promulgate regulations, essentially CAFE regulations, in order to meet high fuel efficiencies. We do not change that, but we do say in order to reduce the consumption of oil for our cars, trucks, and vans by 2015, not only should the Secretary of Transportation have the opportunity to consider changes in CAFE, but they should also consider how it can reduce oil consumption through alternative fuels.

Alternative fuels could be biodiesel or soy diesel. It could include ethanol, diesel created from coal waste in Pennsylvania, West Virginia, Ohio, or other States.

Four things are different than when we voted a month ago on the Levin-Bond amendment. The Middle East today is in turmoil. Venezuela is in turmoil. We voted last week not to drill in ANWR, and we voted last week to cut off oil imports entirely from Iraq. That is 1 million barrels a day. Those things are different.

We need to put into this legislation meaningful objectives, measurable objectives. This amendment would do that.

The PRESIDING OFFICER. All time has expired on this amendment. The Senator from Michigan.

Mr. LEVIN. Madam President, is it in order at this time to move to table the Carper amendment?

The PRESIDING OFFICER. The motion is in order, but the vote will occur later.

Mr. LEVIN. I move to table the Carper amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 3326

Mrs. MURRAY. Madam President, I call up amendment No. 3326.

The PRESIDING OFFICER. The amendment is pending pursuant to the order.

Mrs. MURRAY. Madam President, the amendment that is now before us is a minor tax amendment that has been cosponsored by my colleague from Washington, Senator CANTWELL. I know debate on this bill is limited, so I will be very brief.

The tax provisions in this bill provide important tax credits to encourage the use of energy-efficient fuel cells that are 1 kilowatt or greater. I note that the tax credit applies only to fuel cells of 1 kilowatt or greater because there are a number of important fuel cell applications that are less than 1 kilowatt. It is important that we support the development of fuel cells that are less than 1 kilowatt.

This amendment would expand the tax credit to include fuel cells that are greater than a half a kilowatt, but would keep the per kilowatt amount of the tax credit the same. Fuel cells that are between a half and 1 kilowatt are used as emission-free power supplies for a number of noteworthy applications, including cellular phone tower repeaters, home dialysis machines, railroad signaling and switching equipment, and recreational vehicle and camping powering equipment.

Fuel cells are an emerging technology that hold the promise of helping to dramatically reduce world pollution. This promising technology could eventually shift our dependence from fuels like gasoline and diesel fuel to hydrogen. This important tax credit is intended to provide an incentive for research, develop, design, and use fuel cell technologies.

We need to encourage the use of all types of fuel cells because as we gain more experience in the design and construction of fuel cells, it will allow the technology to advance to the point where it is competitive with other power sources.

Some may say this amendment is too costly, but the current market for fuel cells is very small. We have estimated the cost of this amendment, over the period of the tax credit, is less than $3 million. That is a small price to pay for encouraging the development of this promising new technology.

I urge my colleagues to support the development of a broader scope of fuel cell technology by supporting this amendment.

I know Senator CANTWELL from my State wanted to be present as well, but she is unavailable at this time. I understand this amendment has been accepted on both sides and would be willing to move quickly to a vote.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Madam President, I ask that the Senator from Washington yield.

Mrs. MURRAY. I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. The Finance Committee has examined this amendment, and we approve it. I think it is a good idea to encourage greater research into fuel cell development. It is clearly a technology of the future. The sooner we begin, the better. This is a very modest amendment, but it is an important amendment, and I urge the Senate to adopt it.

I yield the floor.

Ms. CANTWELL. Madam President, I rise today as a cosponsor of this amendment, and ask my colleagues to vote in its favor. I also want to thank my friend, Senator MURRAY, for her work on this amendment.

I think there is broad bipartisan support for further development of the fuel cell as one of the solutions to our Nation's 21st century energy needs. The number of potential applications for the fuel cell is almost limitless. In this regard, I was pleased to join with Senator DORGAN in sponsoring an amendment to this energy bill that will require the Secretary of Energy to develop a program to ensure 100,000 hydrogen fuel-cell vehicles will be available for sale by 2010, and 2.5 million vehicles will be available by 2020. Fuel cell vehicles are three times more efficient than internal combustion engines, and they produce none of the harmful emissions associated with fossil fuels.

The fuel cell vehicle is a concept that has recently been embraced by the President, and I believe the broad bipartisan support for this technology is already reflected in the tax credit included in this bill for other, stationary fuel cell applications. Currently, this credit is available for fuel cells of one kilowatt or more. What this amendment would do is simply lower the floor to half a kilowatt, or 500 watts.

I believe this is an important change, because we should also extend this credit to fuel cells that can be used in numerous business applications. Fuel cells smaller than one kilowatt are already providing power for remote cell phone towers, backup power for certain medical technologies, and even used to light some types of railroad and traffic

signals. Expanding the tax credit already in this bill will help further demonstrate the commercial applicability of this technology.

This is an important component of any 21st century energy policy, and I ask my colleagues to support this amendment.

The PRESIDING OFFICER. All time is yielded?

Mrs. MURRAY. All time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3326.

The amendment (No. 3326) was agreed to.

Mr. REID. Madam President, I move to reconsider the vote.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, we have been able to save a little bit of time. I ask unanimous consent that we move down the amendment list and, prior to the votathon starting, we allow Senator GRAHAM of Florida to bring up amendment No. 3370. He has agreed there would be 15 minutes equally divided on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. This would be under the same rules as the prior unanimous consent agreement: No seconds, and the vote would take place at the end of the votes on other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

Mr. KYL. As I understand it, it is now in order for me to bring up amendment No. 3333. Is that correct?

The PRESIDING OFFICER. The Senator may consider amendments Nos. 3333 and 3332 concurrently.

AMENDMENT NO. 3333

Mr. KYL. Madam President, I will first discuss amendment No. 3333.

As a member of the Senate Finance and Energy Committees, I have had the opportunity to witness first-hand the contradictions in Federal energy and tax policy, specifically policy for the electricity industry. One glaring example is the Energy Policy Act of 1992 and the private use rules of the Internal Revenue Code, which pre-date the Energy Policy Act and are applicable, as you know, to public power utilities.

While our Federal energy policy since 1992 has been to open electric markets to wholesale and even retail competition, our Tax Code contains restrictions dating back to the Tax Reform Act of 1986 that make it difficult, and in some cases impossible, for publicly-owned utilities to comply with that deregulation policy.

In an attempt to remove the tax-code impediments to participation in the newly restructured electric industry, the publicly-owned and investor-owned utilities labored for several years to develop a package of tax-law changes that would provide the necessary flexibility to comply with the new energy policies being implemented by the Federal and State governments while, at the same time, not fundamentally changing the competitive balance between the private and public sectors of the energy industry.

The fruit of those efforts was S. 972, introduced last year by Senators MURKOWSKI, THOMPSON, BREAUX, and JEFFORDS. I joined as a cosponsor of this bipartisan bill. In the House, H.R. 1459 was introduced by Congressman J.D. HAYWORTH and was cosponsored by 16 other members of the Ways and Means Committee. These bills were successful in accommodating widely divergent views of public-power and investor-owned utilities on a whole score of Federal tax issues. They represent years of negotiations between the private and public sectors of the industry, and as such, reflect a delicate, equitable balancing of interests.

There are four provisions in these companion bills that are designed to help modernize our Tax Code for investor-owned utilities. I want to address these provisions in light of the subsequent House-passed bill, H.R. 4, and the bill marked out of the Senate Finance Committee that we are now considering. Both of these latest incarnations represent a significant departure from the original texts of H.R. 1459 and S. 972.

The first provision addresses the transmission tax problem that has occurred as the result of FERC Order 2000. This order strongly encourages, some would say ''directs,'' all transmission-owning electric companies, subject to FERC jurisdiction, to join a regional transmission organization, RTO. However, many proposals to form RTOs would force these utilities to sell or spin off their transmission assets to form independent transmission companies, Transcos, resulting in a substantial Federal income-tax liability.

The solution to this problem, as stated in S. 972 and H.R. 1459, is to amend section 1033 of the Tax Code to permit sales of transmission assets on a tax-deferred basis if these sales occur in conformity with Order 2000, and the proceeds of the sale are reinvested in certain utility assets. Section 355(e) would also be amended to permit a non-taxable spin-off of transmission assets even if they are combined with neighboring transmission assets in conformity with Order 2000. Amending the Federal Tax Code to allow formation of Transcos will further diminish tax barriers to wholesale and retail competition by creating truly independent transmission organizations.

H.R. 4 includes this provision, but unfortunately, the bill reported out of the Senate Finance Committee does not. Before this bill is signed by the President, I hope that the transmission-relief provision will be included in the legislation.

The second provision concerns the equitable tax treatment of nuclear decommissioning funds, and it is the only provision of the four that is addressed in all of the aforementioned bills. Under current law, owners of nuclear power plants must make mandatory contributions to external trust funds to ensure that monies are available to decommission plants when they are retired. Congress added section 468A to the tax code in 1984 to permit owners of nuclear plants to deduct a portion of the contributions made to these external funds. Section 468A, when enacted, was designed to operate within the existing structure of regulated rates. The ability to deduct the contributions as permitted in section 468A is currently dependent on the local public service commission's formal approval of the decommissioning expenses that an electric utility can charge its customers. Both the House and the Finance Committee have adopted changes to section 468A to adapt to the structure of competitive markets while preserving the Section's original intent. These changes will facilitate the transfer of nuclear facilities to new owners in compliance with State and Federal directives.

A third provision, included in S. 972, H.R., 1459, and H.R. 4, but not in the Finance Committee bill, has to do with the reimbursement of utilities for construction costs. Under current law, the costs of building new transmission and distribution lines for new generating plants, homes, commercial properties, and industrial sites, indeed, any kind of property where construction costs are paid by a developer or interconnecting party to a utility, are treated as contributions in aid of construction—CIACs—and are considered as taxable income to the utility. The result is that developers or interconnecting third parties must reimburse a utility for construction costs plus a Federal tax of over 30 percent. The proposed solution is to treat the reimbursement of these costs as nontaxable, therefore facilitating new generation, transmission, and distribution facilities by making it less costly to provide these services. This would certainly help increase the supply of power and improve electric reliability, and I am hopeful that Congress will resolve this issue in conference.

The fourth provision concerns the public power utilities only. This provision effectively relaxes the private use restrictions on existing bonds if the issuing municipal or State utility elected to terminate permanently its ability to issue tax-exempt debt to build new generation facilities. Publicly-owned utilities, as entities of State and local governments, have used tax-exempt debt to finance their utility infrastructure in much the same way as cities finance schools, roads, and bridges. Without this provision, public power systems cannot issue stock to raise capital and have no alternative source of financing for these large capital projects other than municipal bonds.

In exchange for the use of tax-exempt debt, public power systems are required to adhere to a strict set of Federal tax rules and regulations designed to limit the amount of power they can sell to private entities. These rules limit a public power entity's ability to negotiate contracts with exiting customers, to resell excess power resulting from competition, ''lost load'', and to discourage the opening of transmission lines that were financed with tax-exempt debt.

The truth is, the current private use laws and regulations are no longer suitable for today's energy market. S. 972 and H.R. 1459 successfully incorporated what both the investor-owned and the publicly-owned utilities agree would constitute an effective modernization of the current Tax Code. The Finance Committee bill did not meet that test, and H.R. 4, although it attempted to do so, failed that test as well.

What happened was that H.R. 1459 sustained damage during the process of House passage. The bill, as approved by the Committee on Ways and Means—H.R. 2511, ''The Energy Policy Act of 2001''—and as subsequently passed by the House—H.R. 4, ''Securing America's Future Energy Act of 2001''—contains substantial, material modifications to the original legislation that make it impossible to vote for. In fact, certain modifications are even more restrictive than existing law and IRS regulations. As a result, H.R. 4, overall, works absolutely counter to national energy policy and the efficient operation of our country's electric infrastructure. The various conditions set forth in the bill will unfortunately discourage utilities from taking the necessary steps to advance open access. Examples of the most problematic provisions:

Provisions that eliminate public power's ability to elect to forego issuance of future tax-exempt bonds for generation from refunding outstanding tax-exempt generation bonds, even though this can result in savings to the utilities' customers and the U.S. Treasury. The bill also prohibits these electing utilities from utilizing tax-exempt financing to fund limited repairs and environmental improvements, including those which may be government-mandated.

In the context of sales of energy, there are provisions that restrict or eliminate public power's ability to use long-standing statutory and regulatory exceptions to the private use rules, and provisions that constrain new rules designed to enable public power to participate in a deregulated environment. As an example, language in the bill effectively precludes sales to rural electric cooperatives that were one of the exceptions to the private use rules. The bill seems to provide that the expansion of an existing generation facility can result in loss of eligibility of the entire facility for permitted exception treatment for long-term take or pay requirement contracts, even if the cost of the expansion was financed with taxable debt or equity. Furthermore, a public power company that owns no transmission will qualify for the bill's clarifications to the private use rules only if all transmission providers who provide transmission to that municipal utility's customers provide open access to all of their transmission facilities. These types of restrictions reduce or eliminate many of the benefits intended in the bill.

There are new restrictions on tax exempt bonds for transmission facilities that will prevent municipal utilities from using tax-exempt bonds to finance new transmission facilities to connect new power plants to their service areas. In addition, new restrictions in the bill require that, to qualify for private use relief, public power transmission facilities must be owned, directly connected to customers, and necessary to serve those customers. Thus, the bill ignores the need for investment in new transmission for maintenance of grid reliability, the multiple legal forms of ownership and use of transmission (including the different forms of RTOs and related organizations, leasehold and operational arrangements), and the fundamental physics involved in transmission network operation.

The new exception to the private use rules for sales of certain lost load is revised so as to require proof that the load loss was ''attributable to open access'' in order to take advantage of this exception, which was designed to ensure that our nation's energy capacity is fully utilized.

I had hoped that these problems could have been resolved in the Finance Committee by my colleagues and myself, but the revenue constraints imposed on us have prevented us from rectifying these problems. So the Finance Committee, rather than correcting the errors as reported in the final version of H.R. 4, chose not to provide any private use relief at all. Instead, we directed the Treasury to conduct a study to examine the problem and propose a solution.

That said, I think more immediate assistance can and should be provided by the Treasury Department.

During the Finance Committee's mark-up of the tax title of the pending energy bill, I asked the Treasury Department to look into an allocation proposal related to the private use restrictions of the Internal Revenue Code. The proposal would provide a limited safe harbor under which issuers of tax-exempt bonds could allocate private use first and foremost to the portion of an output facility that is not financed with outstanding tax-exempt bonds. For certain bonds, the proposal would permit issuers to use reasonable methods to allocate various funding sources among their assets.

The Treasury Department has examined this proposal and believes that many of the issues raised therein could be addressed under current law. Treasury officials say we could, under a different time frame than the pending energy bill, issue regulations to that effect. In the meantime, however, I would strongly support a provision in the tax title of the bill incorporating this proposal.

In addition, various members of the Finance Committee, including the chairman of the Energy and Natural Resources Committee, have asked that the Treasury Department finalize various temporary output regulations that relate to the use of tax-exempt financing by public power as quickly as possible. I expect that the Treasury Department will make finalizing these regulations a top priority and will endeavor to be responsive to the many public comments that it has received. I look forward to their findings.

I ask unanimous consent to have printed in the RECORD letters dated March 8, 2002 and March 20, 2002.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 8, 2002.

Hon. MARK A. WEINBERGER,
Assistant Secretary, Tax Policy, Department of the Treasury, Washington, DC.

DEAR MR. SECRETARY: I am following up with you directly on certain items that were raised during the Senate Finance Committee's consideration of the tax title to the pending Senate energy bill. Although I continue to believe that a broader, more expansive solution is necessary to more fully address the tax issues presented by the restructuring of the electric utility industry, I raised question at the mark-up with respect to two narrower items.

The first item concerns our discussion during the mark-up about an allocation proposal related to the private use restrictions of the Internal Revenue Code. You will recall that I asked if you would examine this proposal. The proposal generally would provide a limited safe harbor under which issuers of tax-exempt bonds could allocate private business use first to the portion of an output facility that is not financed with outstanding tax-exempt bonds. For certain bonds, the proposal would permit issuers to use reasonable methods to allocate various funding sources among their assets.

The second item is the temporary output regulations. As you know, the Finance Committee, as part of its report, asked that the Treasury Department finalize the temporary and proposed output regulation as quickly as possible, providing flexibility in those regulations, to foster participation of public power in a rapidly changing electric industry, without adversely affecting public power investors and customers.

I look forward to a letter from the Treasury Department on both of these issues. I am hopeful that you will find that many of the issues raised by the allocation proposal could be addressed under present law, and that, under a different timeframe than the pending energy bill, you would issue administrative guidance to that effect. It would be helpful, in the meantime, however, if you would also indicate your support for a provision in the tax title of the Senate bill incorporating this proposal.

With respect to the temporary and proposed regulations, I hope that you will be able to state in that letter that you will make the finalization of these regulations a

top priority and will endeavor to use your regulatory authority to the greatest extent possible to be responsive to the numerous public comments you have received and to further public power's participation in the restructuring of the industry.

Naturally, I do not expect you to take any action that would be inappropriate or contravene normal agency rules and regulations. Thank you for your attention to this matter.

Sincerely,

JON KYL,
U.S. Senator.

DEPARTMENT OF THE TREASURY,
Washington, DC, March 20, 2002.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: Thank you for your letter dated March 8, 2002 concerning certain items that were raised during the Senate Finance Committee's consideration of the tax title to the pending Senate energy bill. In particular, your letter refers to two matters relating to electric facilities financed with tax-exempt bonds: (1) temporary and proposed Treasury regulations that define private use of output facilities, including generation, transmission and distribution facilities (temporary regulations; and (2) a proposal that, in general, would allow issuers to allocate private use first to the portion of an output facility that is not financed with tax-exempt bonds.

Your letter requests that the Treasury Department finalize the temporary regulations expeditiously, in a manner that fosters participation by public power systems in electric industry restructuring. We understand that providing certainty in this area is necessary for the industry to evolve. Thus, we are making the finalization of these regulations a top priority. We intend to craft regulations that take into account the current dynamic environment in the electricity industry and the policy objective of facilitating public power's participation in the restructuring of the industry. In finalizing the regulations, we will, of course, carefully consider all of the public comments we have received.

Treasury is examining your proposal regarding the proper allocation of private use of an output facility. We believe that the issues raised by your proposal can be addressed under present law. The proposal raises policy and administrative questions that require careful consideration. As we work to finalize the temporary regulations, we intend to address the issues raised by your proposal. In doing so, we must craft an administrable set of rules that are consistent with the policy objective of a competitive electricity market.

We hope this information is helpful to you. Please contact me if you have any additional questions.

Sincerely,

MARK A. WEINBERGER,
Assistant Secretary
(Tax Policy).

Mr. KYL. Madam President, this first amendment is a very simple amendment that would save a little over a billion dollars, according to the calculations of the committee, but probably would save closer to $3 billion by striking that section of the Finance Committee portion of the bill that is called the clear act provisions; more specifically, those provisions that provide tax credits for Americans who purchase four specific kinds of motor vehicles; specifically, a new qualified alternative fuel motor vehicle, a new qualified fuel cell motor vehicle, a new hybrid motor vehicle, and then it extends the present law which provides a credit for electric vehicles.

I know this provision was inserted in the Finance Committee with the best of intentions, but for the reason I will point out, I think this has not been as carefully thought out and prepared as it should be. Based on the experience of my home State of Arizona trying to do the same thing, it would be premature for us to move forward with this particular program at this time. I will illustrate specifically what is involved and then get to the Arizona experience.

Under the bill pending before us, there would be provided a maximum income tax credit of $40,000 per taxpayer for the purchase of these kinds of motor vehicles, the fuel cells, the alternative fuel, and the electric vehicles. The fact is that is for a very large vehicle; the average for the usual passenger car type of vehicle would be in the neighborhood of from $3,500 to $6,000.

The part I am particularly interested in is the alternative fuel vehicle. According to the committee staff, the average tax credit in this case would be about $5,000. It is determined by a very complicated formula based upon the weight of the vehicle and some other factors, but it is about a $5,000 subsidy per taxpayer buying this particular kind of vehicle.

I am concerned about this because Arizona decided to try to do this same thing, provide a taxpayer subsidy for the purchase of these alternative fuel vehicles as a way of trying to clean up our environment and to reduce reliance upon pure oil or gasoline. It provided a subsidy, calculated a little bit differently, for the purchase of these vehicles; in fact, for the retrofitting of the alternative fuel system for a vehicle that had already been manufactured.

I will read some headlines, or excerpts, from some of the Arizona newspapers after this program was put into effect. I might begin by saying this has been a fiasco in Arizona. The program has since been terminated. Politicians' careers have been destroyed because of it. They did not think it through carefully enough before they implemented it. It was about to bankrupt the State, so the State decided to terminate the program prematurely before it ended up costing them as much as it was going to cost.

These are a few quotations:

The rebate program was originally projected to cost the State about $3 million but has since spiraled to a dizzying $483 million.

That is from the Arizona Daily Star.

Bad legislation, bad policy and no benefit to air quality.

That is a quotation from the Arizona Republic. That is October 30, 2000.

From that same editorial:

There has been no environmental study of the alternative-fuel program by any State agency, just as no one ever completed an incisive cost analysis of the legislation.

Another quotation from the Arizona Republic:

The law allowed thousands of people to buy expensive sport-utility vehicles with the State picking up nearly half the costs of the trucks and their bifuel conversions to either propane or compressed natural gas.

One final quotation from the Arizona Daily Star says:

The Arizona Republic shows that 13 percent of the applications for cleaner-running vehicles came from rural areas without a pollution problem.

I ask unanimous consent that the remainder of these statements be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARIZONA'S EXPERIENCE WITH ALTERNATIVE FUELS AND TAX CREDITS.

''The law in question . . . provided tax incentives and rebates for up to 50 percent of the cost of a car equipped to burn alternative fuels. One of the startling loopholes in this poorly written law was a failure to require any accountability from consumers. Vehicles equipped to run on an alternative fuel are also equipped with regular gas tanks. A person could buy a new vehicle, have half of it paid for by the state, and never use an ounce of the cleaner burning fuel system.'' (AZ Daily Star, Editorial, Oct. 31, 2000)

''The rebate program was originally projects to cost the state of about $3 million but has since spiraled to a dizzying $483 million. (AZ Daily Star, Editorial, Oct. 30, 2000)

''Bad legislation, bad policy and no benefit to air quality.'' (AZ Republic, Oct. 30, 2000)

''There has been no environmental study of the alternative-fuel program by an state agency, just as no one ever completed an incisive cost analysis of the legislation'' (AZ Repub, Oct. 30)

''House Speaker Jeff Groscost boasted in Washington three weeks after a new tax credit law took effect here that Arizona auto dealers had at least 1,800 orders for alternative fuel vehicles. . . . The state budget had been built on the assumption that only about 300 people would buy these cars and trucks and apply for the generous tax credits.'' (AZ Daily Star, Oct. 30, 2000)

''The law allowed thousands of people to buy expensive sport-utility vehicles with the state picking up nearly half of the costs of the trucks and their bifuel conversions to either propane or compressed natural gas.''(AZ Republic, Oct. 30

''Just 12 days after it was implemented, the state's alternative-fuels rebate program has already blown its worst cost estimate by 13 percent.''(AZ Repub, Nov. 2, 2000)

''The Arizona Republic shows that 13 percent of the applications for cleaner-running vehicles came from rural areas without a pollution problems.''(AZ Daily Star, Oct. 30, 2000)

''The Republic's analysis of the state's rebate program to convert gasoline-powered cars and trucks to alternative fuel, mainly propane and natural gas, is based on preliminary data obtained from the Commerce Department, the administrator of the program.

''The analysis included only the 5,512 applications in which a rebate amount was contained in the computer database obtained this week from the Commerce Department. The database contained more than 12,000 applications for rebates and is anticipated to grow to 22,000 when all the applications are processed. Few rebates have been paid to the buyers of new vehicles being converted to an alternative fuel.

''The alternative-fuel vehicle rebate legislation passed on April 18 didn't contain funding limits. The estimated cost of $3 million to $10 million for the program was unofficial.

Under the alternative-fuels program, the entire cost of converting a vehicle to propane or compressed natural gas would be paid by the state, along with 30 percent of the purchase price of a new vehicle. For example, if a sport-utility vehicle originally cost $25,000 plus $7,000 to convert it to also run on compressed natural gas, its owner would be reimbursed the entire conversion cost plus $9,600—30 percent of the total vehicle cost of $32,000.'' (AZ Repub, Nov 2, 2000).

''It sounded irresistible: buy a car that burns something other than gasoline and the state pays up to 50 percent of the cost; convert an existing gas-burner to alternative fuels and the state pays 100 percent of the cost of the conversion. No alternative fuel depot at home? Not to worry. The state will cover that $7,000 as well, or up to $400,000 for a commercial alternative-fuels depot. It is all courtesy of a measure proposed and adopted in Arizona at the last minute of a legislative session in April. Sound too good to be true? More than 22,000 Arizonans did not think so, and since July they have filed applications for an average of $21,966 each, which would cost the state nearly $500 million from a program that was supposed to cost less than $5 million a year. State officials now say the eventual costs could reach $800 million once applications being processed are counted.

''The premise of the program was simple. According to a state-issued summary, the law allows the users of alternative-fuel vehicles bought or converted after Jan. 1, 2000, to qualify for cash rebates or tax credits worth 30 percent of the vehicle's cost. Eligible vehicles can use an alternative fuel solely or, as with 'bifuel' vehicles, run on either gasoline or some other fuel, such as natural gas. If a $25,000 vehicle cost $7,000 to convert to propane, for example, a program participant would be reimbursed the conversion cost plus $9,600, 30 percent of the total $32,000 cost.

''Some found the legislation laughable from the beginning. 'The legislation had so many loopholes you could drive a Ford Excursion through it,' said Sandy Bahr, outreach director for the Phoenix-based Grand Canyon chapter of the Sierra Club. Ms. Bahr said that, because the bill does not require owners to actually use alternative fuels, many are using the bifuel-vehicle incentives to take advantage of the program. 'You've got people putting little four-gallon propane tanks in sports utility vehicles and getting 50 percent back on a $40,000 car.'' Ms. Bahr said. 'Four gallons of propane goes less far than four gallons of gasoline, so all they do is use their regular engines because propane is hard to find. That actually creates more emissions because they're driving a bigger car than they would ordinarily buy.'

''Moreover, there are only six refueling stations for alternative fuels in the Phoenix area, and none in the rest of the state.'' (NY Times, Nov. 2, 2000)

Mr. KYL. What we can see is, like the system that is being proposed by the Senate, there was no cost-benefit analysis. There was not a very clear idea of what the ultimate costs were going to be, and the experience with the program not only showed fraud or potential fraud but runaway expenses.

Under the program that has come out of the committee, one of the concerns is that nonprofits will be able to utilize credits by selling them, which, of course, opens up the possibility that there could be a secondary market or abuses could occur in selling these large tax credits.

There has been very little evaluation of whether or not the vehicles could be altered after their purchase, after the tax credit has been received, so that they could run in fact on gasoline or diesel. There is no data whatsoever to show that we would have a better environment as a result. In fact, there has been no cost-benefit analysis.

Pursuant to an amendment I offered in the committee, there will be a study after the fact that will tell us how successful the program has been, but there has been no study in advance of that. In fact, the committee report language does not cite a single study or report justifying the credits under the reason for change.

The report says, and I am quoting:

> The committee believes further investments in alternative fuel and advanced technology vehicles are necessary to transform automotive transportation in the United States to be cleaner, more efficient and less reliant on petroleum fuels.

The committee language also prognosticates, and I am quoting again:

> That it expects hybrid motor vehicles and dedicated alternative fuel vehicles are the near-term technological advancement that will replace gasoline- and diesel-burning engines with alternative powered engines.

The revenue estimates are $1.1 billion, but since many of the credits expire after 2006, I think it vastly understates the true cost. I suspect this will be extended before they expire, so that the cost is more likely going to be maybe $3 billion or so over a 10-year period. Obviously, the automobile industry is the primary beneficiary of these credits since they can simply increase the cost of the vehicles, and then the credits obviously go to the taxpayer to offset that increase in cost.

I make this point—and I don't expect members of the committee are going to agree with this proposition—I wish we could go a little slower. I advised the committee of the experience in Arizona. To the credit of the committee and the chairman of the committee, his staff was very careful to talk to people in Arizona and do their best to remove the kinds of problems we experienced in Arizona. I commend the chairman of the Finance Committee for that effort. It was a useful effort.

I am concerned we are going to find a lot of problems in this program after it begins. It will be too late then. We will find it will cost a whole lot more than we predicted and the benefits will not pan out in terms of cost-benefit analysis.

I reserve the remainder of my time on this amendment. If anyone wishes to respond, I will briefly discuss the other amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, on the face of it, everyone would agree, this is to give a stimulus, a boost, to alternative fuels, alternative fuel vehicles, and alternative fuel vehicle infrastructure. About two-thirds of the petroleum we consume today in America is consumed in the transportation sector—cars, trucks, railroads, and so forth.

Clearly, we are trying as Americans to wean ourselves a bit from our over-reliance on OPEC. That is the whole point of this energy bill. We will not make ourselves completely self-reliant. No one claims that. At least on the margin, we are making a step or two difference to become more energy self-sufficient. Clearly, helping alternative fuel development and alternative fuel vehicle development, alternative fuel vehicle infrastructure development—pumps and so forth—will help.

It is also important we not act precipitously, that we act measurably, thoughtfully. Through the very able assistance of my good friend from Arizona, we have worked closely with the Arizona Department of Transportation. Unfortunately, in the State of Arizona, which attempted something similar a year or two ago, there were people who took advantage of the situation to such a degree that it became a bit of an outrage. We don't want to repeat those mistakes. I don't think anyone in this body wants to repeat those mistakes.

As the Senator said, our staff spent quite a bit of time talking with the Arizona Department over what problems and recommendations they have so the problems do not recur in the provisions enacted here. As a consequence of those discussions, we have dramatically tightened up this bill regarding credits. They cannot be used in the aftermarket by people who alter vehicles. They cannot be used for vehicles that use conventional fuels. This credit is only available to vehicles dedicated to alternative fuels. We made that clear.

I add the primary sponsors of this amendment are Senators who worked hard: Senators HATCH, ROCKEFELLER, KERRY, and SNOWE. They are the primary sponsors of this provision. It has the support of both the auto manufacturing industry and the conservation community, the Environmental Defense Fund, the Union of Concerned Scientists support this amendment, NRDC, Ford Motor Company, Lance Auto Manufacturing, and others too numerous to name.

The main point is, we are trying to wean ourselves from OPEC. This provision is a step, a start. It helps. We have tailored the amendment based upon the experience in Arizona to help assure this works. It will probably not work as well as many think, and it may work better than some Members think, but we are undertaking a good effort to make this right. I appreciate the concerns of my friend from Arizona. They are legitimate concerns and concerns we all have. We have attempted to address these concerns. I thank the good State of Arizona for helping address these matters.

I urge not adopting the amendment that strikes, but to work together to

see what works and what doesn't work and change or modify or delete as the case in Arizona. I thank my good friend for helping draw out what is going on in this debate.

Mr. HATCH. Madam President, I rise today in opposition to the amendment of the Senator from Arizona. As I understand it, this amendment would strike the portions of the energy tax provisions that would provide tax incentives for the purchase of alternative fuels and advanced technology vehicles such as hybrid electric and fuel cell automobiles.

The provisions that this amendment would strike are almost identical to the provisions in the bipartisan CLEAR ACT, which stands for Clean Efficient Automobiles Resulting from Advanced Car Technology, which I introduced last year along with Senators JEFFORDS, ROCKEFELLER, CHAFEE, KERRY, COLLINS, GORDON SMITH, CRAPO, and LIEBERMAN.

The CLEAR ACT is the product of a carefully crafted, delicately balanced, and politically unusual alliance between auto manufacturers, truck engine manufacturers, environmental groups, fuel suppliers, and other stakeholders. I might add that these provisions, which provide strong incentives for energy conservation, are an integral part of the President's energy plan. The CLEAR ACT provisions create a fair and balanced playing field for all the advanced technologies and alternative fuel vehicles that offer the promise of both clean air and less dependency on foreign fuel.

Transportation accounts for about two-thirds of the oil consumption in the United States, and we are 97 percent dependent on oil for our transportation needs. When we consider the role transportation plays in our economy and our way of life, it is hard to believe that we rely on foreign sources for more than one-half of our oil supply. If our nation is going to have a strategy for energy security, that strategy must begin with transportation fuels. The Kyl amendment would take away our best opportunity to provide a balanced approach to achieve this strategy.

Advances in alternative fuels and new vehicle technologies have been significant in recent years. However, three basic obstacles stand in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative fuels, and the lack of an infrastructure of alternative fueling stations.

The CLEAR ACT provisions that this amendment would strike would lower the barriers that stand in the way of widespread consumer acceptance of these advanced technology and alternative fuel vehicles by providing tax credits to consumers who purchase hybrid electric, fuel cell, battery electric, and dedicated alternative fuel vehicles. They would also provide incentives for the purchase of alternative fuels and the development of an alternative fuel infrastructure.

Without imposing any new mandates, the CLEAR ACT provisions in this energy bill focus on the very best emerging technologies to help our citizens to enjoy the health benefits of cleaner air sooner, to help our communities to enjoy the economic benefits of attaining clean air standards sooner, and to help us reduce our consumption of foreign oil sooner than would otherwise be possible.

With the clear benefits of these provisions to less dependency on foreign oil and to cleaner air, which I might add come at a very reasonable cost in terms of revenue loss to the Treasury, it is hard to see why anyone in this body would want to strike them. Moreover, the tax credits the CLEAR ACT offers are performance based, which is to say that they are based on the principle that every dollar of tax expenditure should produce substantive air quality and energy security benefits. The greater the benefits a particular vehicle achieves, the larger the tax incentive for purchasing it.

While I do not want to assume I know the motivations of the Senator from Arizona for offering this amendment, part of it might be based on an unfortunate experience in his home state. Not long ago, a well-intentioned program to promote alternative fuel vehicles by the Arizona legislature experienced extreme cost overruns and failed to provide the promised energy and environmental benefits. I want to assure the members of this body that we have studied the Arizona experience, we have identified the inherent weaknesses of that model, and we have been careful to avoid each one of them in this legislation.

With the CLEAR ACT provisions, until a new advanced vehicle is purchased, until new infrastructure has been installed, or until alternative fuel is placed in the tank of a dedicated alternative fuel vehicle, there will be no cost to the Treasury. And when a cost is incurred, it will be a small cost relative to the resulting environmental benefits and energy savings.

To me it is inconceivable that this Senate would pass an energy policy bill without addressing the issue of how to increase the public's adoption of alternative fuel and advanced technology vehicles. Although gasoline vehicles are 90 percent cleaner today than thirty years ago, the significant increase in the total number of vehicles on the road and the miles traveled per year by each vehicle means that little progress has been made in reducing the contribution of motor vehicle emissions to air pollution.

Similarly, despite improvements in fuel economy compared to thirty years ago, more petroleum than ever is used in motor vehicles and U.S. dependence on imported oil is at a record high and increasing. Alternative fuel vehicles and advanced technology vehicles, such as hybrids and fuel cells, significantly reduce the use of gasoline and diesel and have dramatically reduced emissions. Each dedicated natural gas vehicle displaces 100 percent of the gasoline or diesel that otherwise would be used in that vehicle.

Conventional gasoline and diesel motor vehicle technology has come about as far as it can in terms of fuel economy and emissions. The further gains that are needed to allow the U.S. to achieve energy security and clean air require nonpetroleum vehicles and hybrid and fuel cell vehicles. The nation simply cannot achieve its goals in these areas with these conventional vehicles. Striking these provisions would be a big mistake, and I urge my colleagues to vote against the Kyl amendment.

Mr. GRASSLEY. Madam President, I oppose Senator KYL's amendment to strike the wind energy tax credit extension provisions in this bill. It is unwise from an energy policy standpoint and would be harmful to American agriculture. Therefore, I oppose it vigorously.

Mr. FEINGOLD. Madam President, I supported the amendment offered by the junior Senator from Arizona, Mr. KYL. I did so even though I support the underlying policy that amendment sought to strike from the bill, namely the alternative fuels vehicle tax credit. I regret, though, that this provision, along with many other tax provisions in the bill, were included without adequate offsetting savings. The result is a measure that will make our budget deficits even larger.

We must return to the fiscally responsible budgeting that was so beneficial to the economy, and which brought our budget, however briefly, to balance, and even a slight surplus. If Congress does not pay for additional tax cuts, we will only make matters worse.

Mr. KYL. How much time remains for me?

The PRESIDING OFFICER. The Senator has 2 minutes.

AMENDMENT NO. 3332

Mr. KYL. It is my intention to use the remainder of the time on the second amendment, numbered 3332, after which I presume a Member on the other side will move to table amendment No. 3333, to get the yeas and nays, and I would be happy to accept a voice vote on 3332, which I will describe at this point.

This is an amendment that eliminates the credits for wind energy. According to the industry itself, they are now competitive and they no longer need the subsidy we provide to them. As a matter of fact, quoting from their own material from the American Wind Energy Association: The state-of-the-art wind power plants are generating electricity at costs as low as 4 cents per kilowatt hour, a price competitive with many conventional energy technologies. This is without the production tax credit that would be extended under this legislation.

The AWEA further projects by the year 2005 the costs will be in the area

of 2.5 to 3.5 cents per kilowatt hour, just about exactly the range of the cost of production by coal or nuclear or other generation, or natural gas. This is a tax credit that is simply no longer needed.

Since the Department of Energy Information Administration has analyzed that the RPS mandate in this legislation will only be fulfilled through additional wind energy capacity, we are just basically giving a huge gift to the producers of wind energy that would have essentially a monopoly on this new renewable power we are mandating.

I will not name the particular companies, but the companies that are going to benefit from this are some of the largest production companies in the country, all good companies, but certainly companies that are multibillion-dollar companies and hardly need this particular kind of a credit.

I ask unanimous consent to have printed in the RECORD brochures from the industry itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHAT ARE THE FACTORS IN THE COST OF ELECTRICITY FROM WIND TURBINES?

The cost of electricity from utility-scale wind systems has dropped by more than 80% over the last 20 years.

In the early 1980's, when the first utility-scale wind turbines were installed, wind-generated electricity cost as much as 30 cents per kilowatt-hour. Now, state-of-the-art wind power plants are generating electricity at costs as low as 4 cents/kWh, a price that is competitive with many conventional energy technologies. Costs are continuing to decline as more and larger plants are built and advanced technology is introduced.

Aside from actual cost, wind energy offers other economic benefits which make it even more competitive in the long term:

Greater fuel diversity and less dependence on fossil fuels, which are often subject to rapid price fluctuations and supply problems. This is a significant issue around the world today, with many countries rushing to install gas-fired electric generating capacity because of its low capital cost. As world gas demand increases, the prospect of supply interruptions and fluctuations will grow, making further reliance on it unwise and increasing the value of diversity.

Greatly reduced environmental impacts per unit of energy produced, compared with conventional power plants. Environmental costs are becoming an increasingly important factor in utility resource planning decisions.

More jobs per unit of energy produced than other forms of energy.

NEW CORPORATE PLAYERS COULD POWER STRONGER GROWTH IN WIND ENERGY

As the U.S. Senate continues consideration of national energy legislation, the American wind energy industry is poised to continue building on 2001—its most successful year in history—and is the focus of growing interest by major players in the energy field, according to the American Wind Energy Association (AWEA).

The industry is receiving a boost not only from the recent two-year extension of the federal wind energy production tax credit (PTC), which was signed into law March 9, but from a series of announcements by utilities, oil companies, and other firms that they see wind energy in their future. Wind energy supporters are hopeful that with a further three-year extension of the PTC included in the Senate energy bill, the industry will at last have a stable financial environment and the serious corporate participation needed to put it on the road to steady long-term growth.

Among recent industry developments, AWEA said, are the following:

American Electric Power (AEP), one of the nation's largest utilities, spent $175 million in late December to buy the 160-megawatt (MW) Indian Mesa wind plant in West Texas. Previously, AEP had invested $160 million to build its own 150-MW wind farm at Trent Mesa, also in West Texas. Dwayne L. Hart, senior vice president of business development for AEP subsidiary AEP Energy Services, commented, ''The addition of Indian Mesa furthers our goal of enhancing the renewable portion of our overall generation portfolio.'' Ward Marshall of AEP Energy Services is President-Elect of AWEA.

BP and ChevronTexaco announced in mid-January that they will build and operate a 22.5–MW wind plant at their jointly-owned Nerefco oil refinery near Rotterdam in The Netherlands. Bob Dudley, BP's group vice president, Gas and Power and Renewables, said, ''This project is an excellent opportunity in line with BP's strategy to add value to our business, lower emissions, and demonstrate our commitment to clean energy,'' while James Houck, ChrevronTexaco President Power and Gasification, said, ''Wind power is an increasingly viable source of power generation and this project fits with our objectives to manage carbon emissions and invest in new technologies that minimize environmental impact.''

Entergy, a major utility based in New Orleans, La., purchased a majority interest in the 80–MW Top of Iowa wind farm from Houston, Tex.-based Zilkha Renewable Energy and its partner, Midwest Renewable Energy Corp. Geoff Roberts, president and CEO of Entergy's independent power development business unit, commented on the transaction, ''This project provides Entergy with an attractive entry vehicle into the wind energy business.''

FPL Energy, a subsidiary of FPL Corp., which also owns the large utility Florida Power & Light, announced January 7 that it had added 844 MW of wind power to its power generation portfolio during 2001. The company, America's largest wind plant operator, now operates 1,830 MW of wind, of which it owns 1,439 MW. Dean Gosselin, FPL Energy vice president of wind development, said, ''We know there are many more opportunities for wind energy throughout the country and great support in many regions for new wind power facilities.''

GE Power Systems said in late February that it has signed an agreement to purchase the manufacturing capability of Enron Wind Corp., the largest U.S.-based utility-scale wind turbine manufacturer. ''The acquisition of Enron Wind represents GE Power Systems'' initial investment into renewable wind power, one of the fastest growing energy sectors,'' said John Rice, president and CEO of GE Power Systems. GE Power Systems said it expects the wind industry to grow at an annual rate of about 20%, with principal markets in Europe, the U.S., and Latin America.

Pacificorp Power Marketing (PPM), affiliated with Pacificorp, a large utility based in Portland, Ore., is playing a major role in building the market for wind in the Northwest. The company is purchasing and marketing power from three wind plants in the West, including the 261-MW Stateline Project, and has said it plans to add substantial wind capacity to its portfolio over the next few years. ''This is wind power on a grand scale,'' said PPM president Terry Hudgens of Stateline, adding, ''Stateline is a watershed event for our company and for the region. With Stateline, wind is no longer just a small niche in our supply, but has taken a position as a very real and significant part of the new electric resources the region badly needs.''

Shell Subsidiary Shell WindEnergy, Inc., announced in late January that it had purchased an 80-MW wind plant near Amarillo, Tex. ''We are delighted to have moved so quickly in making a second major investment in the U.S. wind power market,'' said David Jones, Director of Shell WindEnergy, Inc. ''Wind energy is not only the fastest-growing area of power generation worldwide but it is also one of the cleanest sources of energy.'' Shell WindEnergy also owns a 50-MW wind project in Wyoming, and Shell is developing or operating more than 1,000 MW of wind in the U.S. and Europe.

TXU, a large utility based in Dallas, Tex., announced in early January that it plans to purchase a 40% equity stake in two wind farms under construction in central Spain. TXU is already one of the largest U.S. purchasers of wind-generated electricity, buying the output of several Texas wind plants.

Utilicorp United, based in Kansas City, Mo., commissioned a 110-MW wind plant near Montezuma, Kans., in December. Commented Keith Stamm, president and chief operating officer of UtiliCorp's Global Networks Group, ''This wind farm demonstrates UtiliCorp's commitment to providing its customers with renewable and reliable energy supplies . . . While this is the first major wind power project in Kansas, the state has the potential to be a U.S. leader in wind energy.''

''This string of announcements by major energy corporations is rapidly changing the face of the wind energy business,'' said Randall Swisher, AWEA executive director. ''Coming on the heels of the industry's most successful year, in the U.S. and worldwide, it signals that wind energy is moving into the big leagues. AWEA estimates that with continued government encouragement and broad utility support, wind energy will provide at least six percent of the nation's electricity by 2020.

FPL ENERGY PLACES ORDER FOR 175 VESTAS WIND TURBINES, WITH OPTION FOR 650 ADDITIONAL UNITS

FPL Energy, LLC, the independent power production subsidiary of FPL Group Inc. (NYSE: FPL), today announced an agreement with Vestas Wind Systems A/S of Denmark for delivery of approximately 175 wind turbines and an option for an additional 650 turbines.

Delivery of the 660-kilowatt turbines will begin in 2002 and will support the planned expansion of wind-driven electricity generation projects underway at FPL Energy.

''Wind projects will be a major element of our expansion activity in 2002 and 2003,'' said Ron Green, president of FPL Energy. ''We expect to add 1,000 to 2,000 megawatts of wind power to our portfolio by the end of next year.''

FPL Energy is the largest generator of electricity form wind turbines in the United States. It currently owns and operates wind farms in eight states with more than 1,400 megawatts of capacity.

''As the leading U.S. developer of wind power, it is important for FPL Energy to secure a reliable source of wind turbines for use in projects we are developing today and into the future,'' said Mr. Green.

Approximately 80 percent of FPL Energy's electric generation is fueled by renewable

sources or clean-burning natural gas. Wind power represents nearly 28 percent of the company's 5,063-megawatt portfolio.

Last month, Congress extended the production tax credit for operating wind projects. Projects that become operational by the end of 2003 will receive a 1.7-cent per kilowatt-hour tax credit, adjusted for inflation, for a ten-year period.

''We continued our wind project development activities during the first part of this year, and the extension of the production tax credit in March gave us the green light to quickly advance these important projects to construction.

''Wind power is an important component of our nation's move toward energy independence as we harness our natural resources for production of electricity. It is a clean, renewable source of energy that can be sited, built and in operation much more rapidly than conventional fossil fuel facilities,'' Mr. Green said.

''Typically, wind farms can be constructed in six to nine months, and they are profitable from the first day of operation,'' said Mr. Green. Last year, FPL Energy built nearly 850 megawatts of wind-powered generating facilities, approximately half of what was built in the United States.

''A large percentage of our current wind facilities are equipped with Vestas turbines,'' said Mr. Green. ''We are pleased to move forward with such a reliable supplier for our future expansion.''

FPL Energy is the nation's leader in wind energy generation, with 24 wind farms in Iowa, Kansas, Texas, Minnesota, Wisconsin, Washington, Oregon and California. The company is a leading independent producer of clean energy from natural gas, wind, solar and hydroelectric. Its portfolio includes 73 facilities in operation, under construction, or in advanced stages of development in 17 states.

FPL Group, with annual revenues of more than $8 billion, is nationally known as a high quality, efficient, and customer-driven organization focused on energy-related products and services. With a growing presence in more than 17 states, it is widely recognized as one of the country's premier power companies. Its principal subsidiary, Florida Power & Light Company, serves approximately 4 million customer accounts in Florida. FPL Energy, LLC, an FPL Group energy-generating subsidiary, is a leader in producing electricity from clean and renewable fuels. FPL FiberNet, LLC is a leading provider of fiber-optic networks in Florida. Additional information is available on the Internet at www.fplgroup.com, www.fpl.com, www.fplenergy.com and www.fplfibernet.com.

Mr. KYL. I close by advising my colleagues I would be pleased to have a vote by voice.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I think we are ready to vote on amendment No. 3332.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 3332) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. I move to table the other Kyl amendment, numbered 3333, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3370

Mr. REID. Madam President, it is my understanding the next amendment in order by virtue of the unanimous consent agreement is Graham amendment No. 3370.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I ask unanimous consent the 15 minutes granted on this amendment start running.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum with the time counting against the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. The Senator from Florida is on the floor. I ask unanimous consent the amendment now pending be temporarily laid aside for purposes of calling up this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3346

Mr. REID. I call up amendment No. 3346.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. KOHL, proposes an amendment numbered 3346.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the credit for the production of electricity to include municipal biosolids and recycled sludge)

In Division H, on page 17, between lines 8 and 9, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

''(I) municipal biosolids, and

''(J) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(I) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

''(9) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

''(10) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(d) EXEMPTION FROM CREDIT REDUCTION.—The last sentence of section 45(b)(3), as added by this Act, is amended by inserting '', (c)(3)(H), or (c)(3)(I)'' after ''(c)(3)(B)(i)(II)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3370

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Madam President, what is the parliamentary situation at this time?

The PRESIDING OFFICER. Amendment No. 3370 is the business before the Senate. The Senator's amendment is before the Senate.

Mr. GRAHAM. Madam President, I would like to take up first amendment No. 3372.

Mr. REID. Madam President, if I could reserve my right to object, the Senator has two amendments. We do not care which one he brings up, but he cannot bring up both.

Mr. GRAHAM. I would like to bring up No. 3372.

Mr. REID. I ask the unanimous consent agreement that is now standing be modified.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Madam President, parliamentary inquiry: Is that amendment germane postcloture?

The PRESIDING OFFICER. No, it is not.

Mr. NICKLES. Is the amendment out of order?

The PRESIDING OFFICER. A point of order would lie at the appropriate time.

Mr. NICKLES. Madam President, for the information of my colleague, I am happy for him to discuss it, but I will make a point of order at the appropriate time.

Mr. GRAHAM. Madam President, I will object to the unanimous consent request by the Senator from Nevada, and we will proceed on the amendment that was the original subject of the unanimous consent.

The PRESIDING OFFICER. Objection has been heard.

The Senator from Florida.

Mr. GRAHAM. Madam President, in February the Finance Committee reported out legislation which has become the tax provisions for the energy bill. This set of provisions includes a number of incentives provided to traditional energy production, conservation, and the use of alternative fuels.

In reporting this set of proposals, the Finance Committee made the decision to defer the inclusion of an appropriate offset for the cost of these tax incentives until the bill was considered on the floor. We of course are now at that point.

The committee did not make the decision that such an offset was unnecessary. In fact, the budget which was adopted by the Congress last year for the 1st session of the 107th Congress, as well as the one which is currently under consideration by the Senate Budget Committee, requires that this legislation be budget neutral.

The amendment I had hoped to offer, and to which our friend and colleague from Oklahoma has just indicated his intent to offer a point of order that it was not germane, and therefore was not available, would have met that obligation. It would have said, simply, that before these tax provisions went into effect either through spending or through revenue from other sources, it would be our obligation to make this a budget-neutral program.

I am personally very disappointed that we are proceeding with these tax provisions, which as of now have a 10-year cost estimate of approximately $13 billion, without any effort to offset.

I strike the word ''any.'' We did, in fact, adopt a package of proposals earlier today which were stated to be a partial offset. But when you look at the cumulative number of those provisions, the total amount of additional revenue over 10 years would be $37 million, as against $13 billion of revenue loss in this program.

The President of the United States outlined very clearly in his State of the Union Message that there were three priorities for this Nation, all of which have strong bipartisan support. These three priorities were what he said could be considered without the fiscal discipline requiring that there be a method of paying for these. Those three were: Winning the war on terrorism, defending our homeland, and reviving our economy.

Congress has in fact followed the President's direction. In March we passed the Job Creation Worker Assistance Act, which included several tax incentives designed to stimulate the economy. That legislation was enacted without an offset. In a few weeks, Congress is likely to consider a supplemental appropriation to provide $37 billion for the war in Afghanistan, and that will be without an offset.

But wherever we go outside these three areas of the war, homeland security, or stimulating the economy, the effect of not providing an offset is to ask our children and grandchildren, by the reduction in the Social Security trust fund, upon which their security in retirement depends, that trust fund now becomes the means by which we pay for our current appetite.

Therefore, the amendment that is before us is an amendment which will strike one of the provisions in the tax measure. It is division H, relating to energy tax incentives, striking section 2308.

Frankly, that is an arbitrary selection and a strike. In a world in which we were prepared to pay for these various energy tax measures, I might well be prepared to support them. But in a world in which we are saying it is not important enough for us to pay for these measures, we are going to ask the next generations to pay by reducing the security upon which their retirement depends. I think that is an immoral act. I believe it is another step on the slippery slope down the mountain from fiscal discipline which this Congress worked so hard over the last decade to achieve.

We already have converted an almost $6 trillion projected 10-year surplus into a series of deficits. We have acted at a level of fiscal irresponsibility almost unknown in the history of this country. I wish we had been able to adopt the amendment that I wanted to offer, which would have said let's put aside all of these tax measures until we have developed—as a Finance Committee indicated it was the intention—a means of paying for them before they go into effect. That is not available.

Therefore, I am taking a second option to propose that we strike this and other of the provisions that have gone into the bill so we will not be in the position of having to find an offset because we have made the decision that we are going to be fiscally responsible.

I urge my colleagues to take this opportunity to say enough is enough. We are already committed to paying without offsets for the war, for homeland security, and for economic stimulation. But beyond those priorities, I think on a broad, bipartisan consensus we should ask is this issue important enough for us to do and important enough for our generation of Americans to pay for it.

Mr. BINGAMAN. Mr. President, let me first say that the general sentiment that the Senator from Florida has expressed is one I agree with—which is that I am disappointed that we have not come up with a proposal to offset the cost of the various tax provisions in this bill. I hoped we could do that in the Finance Committee.

I think that clearly would be the better course to follow, and perhaps, if we could get the support from the administration, we could move in that direction. But that has not been possible.

I am constrained to oppose the amendment of the Senator from Florida.

This amendment would simply pick out the tax provisions in the bill, and the particular provision that he finds objectionable, which is intended to maintain domestic production when world oil prices are lower. We have several provisions in the bill which are so-called countercyclical provisions, which basically say that when the oil price goes down below certain levels, there is a tax incentive for companies to stay in the business and not to shut down production in this country.

This is one of several provisions intended to maintain reasonable cashflows to keep the service sector in the oil economy working. The provision would stimulate the economy and producing areas in our country.

For that reason, I urge my colleagues to oppose the Graham amendment that has been presented to the Senate at this time.

I yield the floor.

Mr. NICKLES. Mr. President, I want to inform my friend from Florida that I will make a couple of comments and then move to table. But if he wishes to speak before the tabling motion, I would be happy to let him do so.

Mr. GRAHAM. Mr. President, I was going to close on the amendment before we take up the tabling motion.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it had not been my intention to dwell on specifics of a particular tax measure because, as I indicated, if we had provided the offset for this, I would have voted for it.

The issue for our colleagues and for the American people is that this provision would further deplete the Social Security trust fund. That is where it is coming from. This is not revenue eligible.

As desirable as this may be, I do not believe it meets that test. It does not meet the President's test. It does not justify going into the Social Security trust fund.

I share his position and urge that our colleagues use this as a line in the sand for fiscal discipline.

Mr. NICKLES. Mr. President, my colleague and good friend is on the Finance Committee, as am I. We had an opportunity to offset it if we wanted to in committee. We didn't do it.

I don't know why this particular amendment is picked out. But I think it is a mistake to try to strike this language. This language says you can't expense over 2 years' payments that are made to keep a lease ongoing. Sometimes a person or a company may have a lease to drill or to explore. For whatever reason, they can't initiate exploration. It may be because of political problems. Maybe they can't get a particular permit. Maybe the price has

dropped so low that it is not feasible. But they want to keep the lease open. So they make payments.

Under the provision in the bill, we say those payments are expensed over 2 years. Frankly, they should be expensed in the year made.

I might note we passed countless amendments that said let us give a tax credit for this. We will reduce taxes substantially; in other words, have the taxpayers subsidize it. In this case, we are not looking for subsidies. If somebody writes a check, we are asking that they be able to expense that check.

Frankly, the provision in the Senate bill is over 2 years. It should be 1 year. When you write the check ''for lease payment,'' you could have an example where somebody has a lease to drill someplace, and a political obstruction has arisen—maybe State, maybe Federal, maybe whatever—and they are not able to commence exploration. But if they don't make payments, they would lose the lease. They should be able to expense those payments in the year made.

The bill before us says they should be able to expense it in 2 years. That is more than defensible.

I urge my colleagues to vote in favor of the motion to table the Graham amendment.

I move to table the Graham amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that immediately following the disposition of H.R. 4, the Senate proceed to executive session to consider the following judicial nominations: Calendar Nos. 777 and 780; that the Senate vote immediately on the nominations, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements thereon be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent it be in order to ask for the yeas and nays on both nominations with one show of seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, I should advise all Members that we are now at the end of the debate time on this piece of legislation. We are now going to start a series of votes. We could have as many as 12 votes. We will try to complete within the time set. Everyone should try to stay as close to the Chamber as possible for this very long and arduous task of completing the bill today.

This will be the end of 6 weeks that the two managers have worked on this bill.

I ask unanimous consent that when the vote sequence commences there be 2 minutes between each vote with the time equally divided and controlled in the usual form; that no other amendments be in order; that no points of order be considered waived by this agreement; and that all votes after the first vote on the Harkin amendment be 10 minutes each.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

AMENDMENT NO. 3364 TO AMENDMENT NO. 2917

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside and that it be in order for the Senate to consider amendment No. 3364, that it be set aside, and that it be the last amendment in order on the bill now before the Senate.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to exempt receipts of tax-exempt rural electric cooperatives for the construction of line extensions to encourage development of section 29 qualified fuel sources)

In Division H, on page 215, between lines 10 and 11, insert the following:

SEC. . TREATMENT OF CERTAIN DEVELOPMENT INCOME OR COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

AMENDMENT NO. 3195

Mr. REID. Mr. President, I ask that the Senate now begin voting on the Harkin amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3195.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER (Mr. DURBIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—52

Allard	Enzi	Murkowski
Allen	Frist	Nickles
Bayh	Gramm	Roberts
Bennett	Grassley	Rockefeller
Bond	Hagel	Santorum
Breaux	Harkin	Schumer
Brownback	Hollings	Sessions
Bunning	Hutchinson	Shelby
Burns	Hutchison	Smith (OR)
Campbell	Inhofe	Specter
Cleland	Kyl	Stevens
Clinton	Landrieu	Thomas
Cochran	Lincoln	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

NAYS—47

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Cantwell	Graham	Reed
Carnahan	Gregg	Reid
Carper	Hatch	Sarbanes
Chafee	Inouye	Smith (NH)
Collins	Jeffords	Snowe
Conrad	Johnson	Stabenow
Corzine	Kennedy	Torricelli
Daschle	Kerry	Wellstone
Dayton	Kohl	Wyden
Dodd	Leahy	

NOT VOTING—1

Helms

The amendment (No. 3195) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3198

The PRESIDING OFFICER. There will now be 2 minutes equally divided prior to the vote on the motion to table the amendment by the Senator from Delaware. Who yields time?

Mr. CARPER. I yield 30 seconds to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my 30 seconds, I emphasize the point that this amendment is a significant step toward freeing the United States from dependence on OPEC oil. The front page of today's New York Times contains a statement by the Crown Prince of Saudi Arabia that, if necessary, to blackmail the United States to change our policy toward Israel, Saudi Arabia is prepared to move to the right of bin Laden. Saudi Arabia gave us bin Laden, and 15 of the 19 terrorists from 9–11. Vote for this amendment.

The PRESIDING OFFICER. Who yields time? Are there any proponents of the motion to table? Who yields time?

Mr. LEVIN. Mr. President, I yield 30 seconds to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 30 seconds.

Mr. BOND. Mr. President, we have dealt with this before. We are going to push for higher standards and fuel efficiency, but only to the extent technologically feasible to require an arbitrary figure pulled out of the air to be substituted for the procedure in the Levin-Bond amendment. It makes no sense.

I urge all our colleagues who voted for the Levin-Bond amendment to support the motion to table for jobs, for safety and for consumer choice.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. CARPER. Mr. President, the Levin-Bond amendment language which is in this bill requires the Secretary of Transportation to promulgate regulations increasing fuel efficiency standards. Our amendment changes nothing in the Levin-Bond amendment.

Our amendment says that in establishing those fuel efficiency standards, we direct the Secretary of Transportation to also consider reducing oil consumption through alternative fuels—ethanol, biodiesel, and energy from coal waste.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan has 34 seconds.

Mr. LEVIN. Mr. President, the amendment before us would fundamentally change the Levin-Bond amendment. What it does is, in effect, prejudge the outcome of the very process that we put in place, a process that we want to use to consider all of the factors that are involved, including safety factors, including the availability of alternative fuels. All of those factors ought to be considered in the regulatory process, not prejudged with an artificial mandate that we have to save 1 million barrels per day.

I hope this will be tabled and that we will then go back to the regulatory process in the Levin-Bond amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 3198. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—57

Allard	Dorgan	Lincoln
Allen	Ensign	Lott
Baucus	Enzi	McConnell
Bayh	Feingold	Mikulski
Bennett	Fitzgerald	Miller
Bond	Frist	Murkowski
Breaux	Gramm	Nelson (NE)
Brownback	Grassley	Nickles
Bunning	Hagel	Roberts
Burns	Hatch	Santorum
Byrd	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Cochran	Johnson	Stabenow
Craig	Kennedy	Stevens
Crapo	Kohl	Thomas
Dayton	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Levin	Warner

NAYS—42

Akaka	Durbin	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feinstein	Reed
Boxer	Graham	Reid
Cantwell	Gregg	Rockefeller
Carper	Harkin	Sarbanes
Chafee	Hollings	Schumer
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Collins	Kerry	Specter
Conrad	Leahy	Thompson
Corzine	Lieberman	Torricelli
Daschle	Lugar	Wellstone
Dodd	McCain	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3333

The PRESIDING OFFICER. There are 2 minutes equally divided on the amendment of the Senator from Arizona, Mr. KYL.

Mr. BINGAMAN. Mr. President, I made a motion to table the amendment, and the Senator from Utah will use the minute to argue for that position.

Mr. KYL. Mr. President, I will take my 1 minute to speak in favor of my amendment first. Then Senator HATCH will speak in favor of the motion to table.

This amendment strikes the alternative fuels tax credit portion of the bill. The savings would be at least $1 billion, probably closer to about $3 billion. That is not my reason for doing it. Arizona had a somewhat similar program in our State government that would have bankrupted the State and ruin political careers. It was a fiasco and it was finally terminated. It was full of loopholes and problems and costs that were never thought through.

My reason for offering the amendment is, frankly, to send a warning to all of my colleagues that we really should have thought it better through in our own Federal version. To their credit, the staff of the Finance Committee did take the advice of a lot of people at the department of transportation in Arizona and fixed a lot of the problems. My concern is they didn't fix enough and we will rue the day we voted for this provision—at least without the care that I think should have gone into it. My motion strikes the provision from the bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to the amendment of the Senator from Arizona, for three reasons. First, the Finance Committee passed these tax incentive provisions through by a wide margin. Second, we have solved the problems that arose during the Arizona experience. Third, this is probably the most important environmental bill that will go through our Congress this year, and maybe in a long time, because it provides for incentives for alternative fuels, alternative vehicles, and alternative fuel stations.

It is about time we start approaching these problems in an intelligent way that will take us away from being so dependent upon foreign oil. The provisions the Senator from Arizona's amendment would strike will do more toward that end than anything I know and in the end will save us money.

The provisions that this amendment would strike are almost identical to the provisions in the bipartisan CLEAR ACT, which stands for Clean Efficient Automobiles Resulting from Advanced Car Technology, which I introduced last year along with Senators JEFFORDS, ROCKEFELLER, CHAFEE, KERRY, COLLINS, GORDON SMITH, CRAPO, and LIEBERMAN.

The CLEAR ACT is the product of a carefully crafted, delicately balanced, and politically unusual alliance between auto manufacturers, truck engine manufacturers, environmental groups, fuel suppliers, and other stakeholders. I might add that these provisions, which provide strong incentives for energy conservation, are an integral part of the President's energy plan. The CLEAR ACT provisions create a fair and balanced playing field for all the advanced technologies and alternative fuel vehicles that offer the promise of both clean air and less dependency on foreign fuel.

Transportation accounts for about two-thirds of the oil consumption in the United States, and we are 97 percent dependent on oil for our transportation needs. When we consider the role transportation plays in our economy and our way of life, it is hard to believe that we rely on foreign sources for more than one-half of our oil supply. If our Nation is going to have a strategy for energy security, that strategy must begin with transportation fuels. The Kyl amendment would take away our best opportunity to provide a balanced approach to achieve this strategy.

Advances in alternative fuels and new vehicle technologies have been significant in recent years. However, three basic obstacles stand in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative

fuels, and the lack of an infrastructure of alternative fueling stations.

The CLEAR ACT provisions that this amendment would strike would lower the barriers that stand in the way of widespread consumer acceptance of these advanced technology and alternative fuel vehicles by providing tax credits to consumers who purchase hybrid electric, fuel cell, battery electric, and dedicated alternative fuel vehicles. They also would provide incentives for the purchase of alternative fuels and the development of an alternative fuel infrastructure.

Without imposing any new mandates, the CLEAR ACT provisions in this energy bill focus on the very best emerging technologies to help our citizens to enjoy the health benefits of cleaner air sooner, to help our communities to enjoy the economic benefits of attaining clean air standards sooner, and to help us reduce our consumption of foreign oil sooner than would otherwise be possible.

With the clear benefits of these provisions to less dependency on foreign oil and to cleaner air, which I might add come at a very reasonable cost in terms of revenue loss to the Treasury, it is hard to see why anyone in this body would want to strike them. Moreover, the tax credits the CLEAR ACT offers are performance based, which is to say that they are based on the principle that every dollar of tax expenditure should produce substantive air quality and energy security benefits. The greater the benefits a particular vehicle achieves, the larger the tax incentive for purchasing it.

While I do not want to assume I know the motivations of the Senator from Arizona for offering this amendment, part of it might be based on an unfortunate experience in his home State. Not long ago, a well-intentioned program to promote alternative fuel vehicles by the Arizona legislature experienced extreme cost overruns and failed to provide the promised energy and environmental benefits. I want to assure the Members of this body that we have studied the Arizona experience, we have identified the inherent weaknesses of that model, and we have been careful to avoid each one of them in this legislation.

With the CLEAR ACT provisions, until a new advanced vehicle is purchased, until new infrastructure has been installed, or until alternative fuel is placed in the tank of a dedicated alternative fuel vehicle, there will be no cost to the Treasury. And when a cost is incurred, it will be a small cost relative to the resulting environmental benefits and energy savings.

To me it is inconceivable that this Senate would pass an energy policy bill without addressing the issue of how to increase the public's adoption of alternative fuel and advanced technology vehicles. Although gasoline vehicles are 90 percent cleaner today than 30 years ago, the significant increase in the total number of vehicles on the road and the miles traveled per year by each vehicle means that little progress has been made in reducing the contribution of motor vehicle emissions to air pollution.

Similarly, despite improvements in fuel economy compared to 30 years ago, more petroleum than ever is used in motor vehicles and U.S. dependence on imported oil is at a record high and increasing. Alternative fuel vehicles and advanced technology vehicles, such as hybrids and fuel cells, significantly reduce the use of gasoline and diesel and have dramatically reduced emissions. Each dedicated natural gas vehicle displaces 100 percent of the gasoline or diesel that otherwise would be used in that vehicle.

Conventional gasoline and diesel motor vehicle technology has come about as far as it can in terms of fuel economy and emissions. The further gains that are needed to allow the United States to achieve energy security and clean air require nonpetroleum vehicles and hybrid and fuel cell vehicles. The nation simply cannot achieve its goals in these areas with these conventional vehicles. Striking these provisions would be a big mistake, and I urge my colleagues to vote against the Kyl amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3333. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—91

Akaka	Domenici	Mikulski
Allard	Dorgan	Miller
Allen	Durbin	Murkowski
Baucus	Edwards	Murray
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Biden	Feinstein	Reed
Bingaman	Frist	Reid
Bond	Graham	Roberts
Boxer	Grassley	Rockefeller
Breaux	Gregg	Santorum
Brownback	Hagel	Sarbanes
Bunning	Harkin	Schumer
Byrd	Hatch	Sessions
Campbell	Hollings	Shelby
Cantwell	Hutchinson	Smith (NH)
Carnahan	Hutchison	Smith (OR)
Carper	Inhofe	Snowe
Chafee	Inouye	Specter
Cleland	Jeffords	Stabenow
Clinton	Johnson	Stevens
Cochran	Kennedy	Thomas
Collins	Kerry	Thompson
Conrad	Kohl	Thurmond
Corzine	Landrieu	Torricelli
Craig	Leahy	Voinovich
Crapo	Levin	Warner
Daschle	Lieberman	Wellstone
Dayton	Lincoln	Wyden
DeWine	Lugar	
Dodd	McConnell	

NAYS—8

Burns	Gramm	McCain
Feingold	Kyl	Nickles
Fitzgerald	Lott	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3370

The PRESIDING OFFICER. There will now be 2 minutes evenly divided before a vote on the motion to table the Graham amendment.

The Senator from Florida.

Mr. GRAHAM. Mr. President, this amendment is not about the underlying provision, but I think it is worthwhile for the Members to understand what the underlying provision would do.

The current tax law, consistent with generally accepted accounting procedures, provides that when royalty payments are made by oil and gas producers to the landowner during a period when there is no oil or gas production, during a suspension period, that those costs must be capitalized, and then they can be recovered when there is actual oil and gas production. That is both the accounting and tax law today.

We are about to split the two and say that for tax purposes they can be expensed within a 2-year period. If that sounds a little bit like some of the things that Enron was doing on its books, the answer is it is a lot like what Enron was doing on its books.

But the fundamental issue is, without examination, we are about to ask the Social Security trust fund to pay for the additional cost of this preferential depreciation treatment. I believe, if this is a worthy provision, it is worthy that somebody come up with an offset so that we decide who pays for it, not our children and grandchildren, by depletion of the Social Security trust fund.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, the provision that the Senator from Florida seeks to take out of the bill is part of a very carefully balanced and level tax package that should remain in this bill. We should table this amendment.

Simply stated, the situation is, if you produce oil, you pay a royalty. You can deduct it. But if the price of oil drops, you have to pay delayed rental payments, and you pay the payments to the Government. You should be able to deduct those payments as you can deduct royalty payments when they are paid. That is what the bill says. That provision should be kept in the bill.

Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, this is the only part of the bill that would encourage small drillers to explore. In fact, this is as any other business is treated. The underlying bill

says, if you pay an expense, you get to deduct it in the year in which you make it.

This amendment would take that away and make you amortize it, even though you already paid it. And you may not even find oil. Please table this amendment. It would be unfair not to do so.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the motion to table amendment No. 3370. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—73

Allard	Dorgan	McConnell
Allen	Durbin	Miller
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feinstein	Nelson (NE)
Biden	Fitzgerald	Nickles
Bingaman	Frist	Reid
Bond	Gramm	Roberts
Breaux	Grassley	Rockefeller
Brownback	Hagel	Santorum
Bunning	Harkin	Sessions
Burns	Hatch	Shelby
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Cantwell	Inhofe	Specter
Carper	Jeffords	Stabenow
Chafee	Johnson	Stevens
Cleland	Kohl	Thomas
Cochran	Kyl	Thompson
Conrad	Landrieu	Thurmond
Craig	Levin	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	Wyden
DeWine	Lugar	
Domenici	McCain	

NAYS—26

Akaka	Feingold	Mikulski
Boxer	Graham	Nelson (FL)
Carnahan	Gregg	Reed
Clinton	Hollings	Sarbanes
Collins	Inouye	Schumer
Corzine	Kennedy	Snowe
Dayton	Kerry	Torricelli
Dodd	Leahy	Wellstone
Edwards	Lieberman	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, this should be the last amendment prior to final passage.

AMENDMENT NO. 3372

The PRESIDING OFFICER. At this time, there are 2 minutes, evenly divided, with respect for amendment No. 3372, offered by Senator GRAHAM of Florida.

The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield my time to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment offered by the senior Senator from Florida. As we all know, our budget position has changed dramatically over the past year, and we are now facing projected deficits for years to come. If we are to climb out of the deficit hole, we absolutely must commit to a path of fiscal responsibility. That means a lot of things. First and foremost, it means paying for the spending and tax cut bills we pass.

As it stands, we have not paid for this legislation. The tax package alone digs our deficit hole another $14 billion deeper. As we approach the retirement of the largest generation in history, the baby boomers, we face enormous fiscal challenges. Obviously, Social Security needs strengthening, Medicare must be modernized, and our long-term care system is in desperate need of reform.

Mr. President, I urge my colleagues to support this amendment and put us back on the path to fiscal responsibility.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, for the information of the sponsors and my colleagues, we could make a point of order that this amendment is not germane because it is not postcloture. I am not going to do that because I was informed they were going to have the same thing offered to the underlying bill. I think it is in the interest of Senators to conclude the bill, and the best way is to table this amendment. This amendment is not germane postcloture.

I happen to be on the Finance Committee. All Democrats and Republicans had chances to offer tax increases, and this amendment says don't let this bill take effect in any of the tax provisions until we have tax increases enacted into law. I think that is ridiculous. It is a good way to kill the provisions that the Senator from Montana and the Senator from Iowa worked to put in the bill.

Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, is there time remaining on the amendment?

The PRESIDING OFFICER (Mr. DAYTON). All time has expired.

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of all amendments—the list is already before the Senate—the substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time; that the Senate then proceed to Calendar No. 145, H.R. 4, the House-passed energy bill; that all after the enacting clause be stricken, and the text of S. 517, as amended, be inserted in lieu thereof; that the bill be advanced to third reading; that the Senate proceed to a vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate; provided further, S. 517 be returned to the calendar; that the conferee ratio be the following: The Energy Committee 6 to 5, and the Finance Committee 3 to 2, with this action occurring with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Reserving the right to object, and I will not object, I do object to the statement just made that this amendment provides that we will either come into balance by reducing spending or increasing revenue.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. We do not have a choice to let Social Security pay for it.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The question is on agreeing to the motion to table amendment No. 3372. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—70

Akaka	Edwards	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Nickles
Baucus	Fitzgerald	Reid
Bayh	Frist	Roberts
Bennett	Grassley	Rockefeller
Bingaman	Hagel	Santorum
Bond	Hatch	Schumer
Breaux	Hutchinson	Sessions
Brownback	Hutchison	Shelby
Bunning	Inhofe	Smith (NH)
Burns	Inouye	Smith (OR)
Byrd	Jeffords	Snowe
Campbell	Johnson	Specter
Carnahan	Kohl	Stevens
Cleland	Kyl	Thomas
Cochran	Landrieu	Thompson
Collins	Leahy	Thurmond
Craig	Lieberman	Torricelli
Crapo	Lincoln	Voinovich
Daschle	Lott	Warner
DeWine	Lugar	Wyden
Domenici	McConnell	
Dorgan	Miller	

NAYS—29

Biden	Durbin	Levin
Boxer	Feingold	McCain
Cantwell	Feinstein	Mikulski
Carper	Graham	Murray
Chafee	Gramm	Nelson (FL)
Clinton	Gregg	Reed
Conrad	Harkin	Sarbanes
Corzine	Hollings	Stabenow
Dayton	Kennedy	Wellstone
Dodd	Kerry	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3239

The PRESIDING OFFICER. The pending business is the Brownback amendment No. 3239.

Mr. BINGAMAN. I suggest the Senator from New Jersey and the Senator from Kansas be allowed to explain that amendment.

The PRESIDING OFFICER. There are 2 minutes equally divided.

Mr. BROWNBACK. Mr. President, this is a compromise approach on a very difficult issue. It involves taking out the underlying language on the CO_2 registry. It will put in place a 5-year voluntary program on registering of CO_2 emissions. After that period of time, if 60 percent are not reported, it does put in place a trigger mechanism, a mandatory reporting, unless there is an affirmative vote by this body which is required in the bill to remove that reporting requirement.

It is a bipartisan approach. It is a compromise approach on a tough topic. It is voluntary. It is market oriented. It provides companies a way to limit their risk and exposure on CO_2 issues of anything that might happen in the future and provides a registry for companies that want to voluntarily step forward and work to reduce those CO_2 emissions. They may want to put in a new powerplant that is coal fired to protect themselves for CO_2 exposures.

This is a tough and complex topic. I think we have struck the right balance with this amendment. I urge my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent the Senator from New Jersey be given a minute to explain his perspective.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. Mr. President, we want to make sure in this compromise amendment that the perfect not be the enemy of the good. This is not everything anyone would want, but we have struck a compromise with voluntary reporting requirements and database buildup and recognition of actions by industry to control CO_2. We will look at it in 5 years.

If the threshold is not met, mandatory requirements will come into play. This is an outstanding compromise where people worked very hard on a complex issue to get to a bipartisan middle ground. I hope we will all support it.

Mr. BINGAMAN. I think it is appropriate to dispose of this amendment by voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3239.

The amendment (No. 3239) was agreed to.

Mr. HAGEL. Mr. President, with the adoption of this amendment, the Senate has affirmed its commitment to dealing with the reporting of greenhouse gases in a voluntary, incentive-based manner.

This amendment provides for a voluntary registry for the reductions in greenhouse gas emissions. Under this type of provision, industries will have an opportunity to record reductions made in their emissions and receive credit for those reductions.

The legislative record should clearly note that the provisions creating the mandatory reporting of greenhouse gases originally contained in the underlying legislation will no longer take effect unless the voluntary registry does not achieve a critical mass of participation. If the voluntary registry system generates sufficient participation, the mandatory reporting of greenhouse gas emissions will never take effect.

This amendment is not without problems, nor do I believe it is the best way to achieve robust participation in a voluntary registry. It contains several impediments that should be addressed in conference.

The memorandum of agreement does not clearly spell out the roles of the various federal agencies in the execution of the duties proscribed. This is particularly troublesome for a voluntary registry. Those entities wishing to participate need the greatest clarity and certainty in order to have the greatest incentive to participate. Lack of certainty creates a disincentive and should be addressed in conference.

There are onerous civil penalties contained is this amendment that should be removed. Greater baseline protection needs to be provided to ensure entities participating gain the rightful recognition for their efforts.

Furthermore, I hope the conference will address the fundamental question of whether any ''trigger'' is necessary. The mandatory reporting of greenhouse gas emissions has no true purpose. We already garner information on the totality of U.S. emissions through annual inventories established within and reported by the Energy Information Administration and the Environmental Protection Agency. The only purpose for the mandatory reporting of greenhouse gas emissions is to create the mechanism for the regulation of carbon dioxide. This option has been dismissed by the current Administration, and I would hope the final legislation does not create a mechanism to help bring this about in the future.

Numerous other options for structuring a voluntary greenhouse gas emissions registry were discussed during the discourse on Title XI of this legislation. Senator VOINOVICH and I offered an amendment on April 18, 2002. It would have established a new and enhanced national greenhouse gas registry to record and recognize voluntary reductions of greenhouse gas emissions.

That registry was supported by a wide cross-section of American industry, the very entities who would be participating in such a registry. I have included a copy of an April 16 letter sent to all Senators and ask unanimous consent that it be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HAGEL. This amendment could provide an alternative structure for a voluntary registry for consideration in the conference committee. It was created in consultation with many other Senators and reflects the expertise of their input.

It is a workable framework for a registry that would be robust and gain the greatest and most meaningful participation from American industry. This, after all, should be our goal in the final outcome.

I appreciate the work of the sponsors of the amendment just adopted in putting the Senate on record in favor of dealing with the reporting of greenhouse gas emissions in a voluntary manner. And I look forward to the conference committee improving upon the work begun in the Senate to provide for the implementation of a voluntary greenhouse gas emissions registry.

EXHIBIT 1

April 16, 2002.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR DASCHLE: We write to encourage your support for a draft amendment to the Energy Bill that proposes substantial improvements to Title XI, including the establishment of a more effective national registry of greenhouse gas emissions and a more practical framework encouraging further voluntary efforts to reduce those emissions without harming our economy, our workers or our communities.

Without the needed changes, Title XI of the Energy Bill would impose an unnecessary federal mandate to track and report greenhouse gas emissions on large and small businesses, as well as farmers, ranchers, some hospitals, universities, school systems and more. And yet, the intent of this costly and burdensome mandate is redundant. The federal government, without any federal mandate, already compiles an annual inventory of greenhouse gas emissions in compliance with our national commitment to the ratified UN Framework Convention on Climate Change.

The draft amendment would establish a new and enhanced system to report and verify actions taken to reduce or avoid greenhouse gas emissions and provide transferable credits to persons who do. By offering appropriate recognition of actions taken, the amendment will provide powerful incentives to participate without harming the economy, all the while strengthening our national climate policy strategy.

The draft amendment provides a constructive, achievable and effective strategy to strengthen and improve the voluntary reporting of greenhouse gas emissions and the reporting of actions taken to reduce or avoid those emissions. We encourage you to support the amendment and work with Senators of both parties to secure its adoption.

Thank you for your consideration of our views. While we have some additional concerns regarding the policy provisions of the bill, especially those provisions that appear to call for a target and a timetable, we are hopeful these issues will be resolved prior to final passage of the bill. In the meantime, we look forward to working with you on developing an effective climate policy strategy as part of our national energy policy.

Sincerely,

Alliance of Automobile Manufacturers, American Architectural Manufacturers Association, American Boiler Manufacturers Assn, American Farm Bureau Federation, American Highway Users Alliance,

American Iron and Steel Institute, American Petroleum Institute, American Portland Cement Alliance, American Public Power Association, American Textile Manufacturers Institute,

Associated General Contractors of St. Louis, Associated Petroleum Industries of Pennsylvania, Association of American Railroads, Automotive Parts Rebuilders Association, Danville [IL] Area Chamber of Commerce,

Edison Electric Institute, Gas Appliance Manufacturers Association, Greater Bristol [CT] Chamber of Commerce, Greater Cincinnati Chamber of Commerce, Greater Merced [CA] Chamber of Commerce,

Greater Victoria [TX] Chamber of Commerce, Idaho Mining Association, Illinois Valley Area Chamber of Commerce & Economic Development, Integrity Research Institute, IPC—The Association Connecting Electronic Industries,

Kansas Petroleum Council, Leavenworth-Lansing [KS] Area Chamber of Commerce, Lorain [OH] County Chamber of Commerce, Louisiana Association of Business and Industry, Metropolitan Evansville [IN] Chamber of Commerce,

Naperville [IL] Area Chamber of Commerce, National Association of Manufacturers, National Mining Association, National Rural Electric Cooperative Association, National Society of Professional Engineers,

Nuclear Energy Institute, O'Fallen [IL] Chamber of Commerce, Salt Institute, South Dakota Farm Bureau Federation, Texas Association of Business and Chambers of Commerce,

The Siouxland [IA] Chamber of Commerce, U.S. Chamber of Commerce, Utah Rural Telecom Association, Wisconsin Grocers Association.

Mr. VOINOVICH. Mr. President, I rise today to speak on the Corzine/Brownback amendment No. 3239. This amendment replaces the existing language in Title 11 which would have created a mandatory registry for the reporting of greenhouse gases and replaces it with a voluntary program. I am pleased that the Senate has rejected the concept of mandating greenhouse gas reports at this time. While the amendment does contain language which would trigger compulsory reporting in five years if sixty percent of the national aggregate anthropogenic greenhouse gases are not represented on the voluntary registry, we do not expect this trigger to ever be activated since presently thirty percent of the gases are already reporting under the Clean Air Act by the utility sector.

I had joined with Senator HAGEL in offering an alternative amendment which would have provided a much more robust voluntary reporting program with a transferable credit program and baseline protection. This would have provided a clear incentive to encourage maximum participation.

The approach that Senator HAGEL and I took in our amendment would have accomplished three key objectives: (1) It will help us get the full picture on climate change with real incentives for voluntary participation in the registry; (2) It will make sure that picture reflects what is really happening by providing for accurate measurement and verification of emission reductions, and (3) It is forward looking because it creates a process for establishing transferable credits that can be used in voluntary transactions for any future potential regulatory program.

Unfortunately, due to cloture limitations, the Senate ran out of time to fully consider our amendment, yet I am pleased that Senators CORZINE and BROWNBACK adopted our idea of a voluntary registry to replace the overly burdensome mandatory program contained in the original bill. At this point in time I do not think it is wise public policy to mandate the reporting of greenhouse gases, and I am pleased that the Senate agrees with this point.

AMENDMENT NO. 3146, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent amendment No. 3146 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3146) was withdrawn.

AMENDMENT NO. 3355, AS MODIFIED

Mr. BINGAMAN. I ask unanimous consent amendment No. 3355 be modified to reflect changes to the fuel cell credit adopted as part of the amendment by Senator MURRAY earlier this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3355), as modified, is as follows:

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property or qualified microturbine property,''.

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED FUEL CELL PROPERTY.—

''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—

''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(II) has an electricity-only generation efficiency greater than 30 percent.

''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 30 percent of the basis of such property, or

''(II) $500 for each 0.5 kilowatt of capacity of such property.

''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.

''(B) QUALIFIED MICROTURBINE PROPERTY.—

''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Mr. BINGAMAN. I also ask unanimous consent that the Senator from New Jersey, Mr. TORRICELLI, be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3343, 3344, 3362, 3363, 3346, AS MODIFIED, 3335, AS MODIFIED, 3364, 3360, AND 3355, AS MODIFIED, EN BLOC

Mr. BINGAMAN. I ask unanimous consent that notwithstanding rule XXII, the following amendments be agreed to en bloc and the motion to reconsider be laid on the table. The amendments are as follows: Nos. 3343, 3344, 3362, 3363, 3346, as Modified, 3335, as Modified, 3364, 3360, and 3355, as modified.

Mr. MCCAIN. Reserving the right to object, would the Senator explain what amendment No. 3346 is?

Mr. BINGAMAN. This is an amendment by Senator KOHL. I can get the description in a minute on the precise provisions. There is credit for electricity produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Electricity manufactured from biosolids?

Mr. BINGAMAN. Produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Municipal biosolids?

Mr. BINGAMAN. I am sure the Senator from Arizona is very familiar with biosolids.

Mr. MCCAIN. Could I ask the manager a question? I understand we have tax credit for chicken litter, biowaste. Excuse me? Bovine, pig, dead animal, and now biosolids; is that correct?

Mr. BINGAMAN. We thought it was only fair.

Mr. MCCAIN. I don't want to hold up the Senate, but what about man's best friend, the dog? What about the pigeon, the noble pigeon?

Mr. BINGAMAN. If the Senator has an amendment.

Mr. MCCAIN. Should there be some consideration of these? Shouldn't they make a deposit to reduce our energy requirements?

Mr. BINGAMAN. We would be glad to consider any germane amendment the Senator would like to call up.

Mr. MCCAIN. I thank the sponsor for that consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3343, 3344, 3362, 3363, 3346, 3335, and 3360) were agreed to, as follows:

AMENDMENT NO. 3343

(Purpose: To modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste)

In Division H, on page 202, between lines 17 and 18, insert the following:

''(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

AMENDMENT NO. 3344

(Purpose: To amend the Internal Revenue Code of 1986 to clarify excise tax exemptions for agricultural aerial applicators)

In Division H, on page 216, after line 21, add the following:

SEC. ___. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

AMENDMENT NO. 3362

(Purpose: To amend the Internal Revenue Code to modify the definition of Rural Airport)

At the appropriate place insert the following:

SEC. ___. MODIFICATION OF RURAL AIRPORT DEFINITION.

(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting '', or'' and by adding at the end the following new subclause:

''(III) is not connected by paved roads to another airport.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.

AMENDMENT NO. 3363

(Purpose: To amend the Internal Revenue Code to exempt small seaplanes from ticket taxes)

At the appropriate place insert the following:

SEC. ___. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.

(a) The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years beginning after 2002.

AMENDMENT NO. 3346

(Purpose: To modify the credit for the production of electricity to include municipal biosolids and recycled sludge)

On page 17, between lines 8 and 9, insert the following:

SEC. ___. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G), and by adding at the end the following new subparagraphs:

''(H) municipal biosolids, and

''(I) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(G) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(H) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

''(8) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids

removed by a municipal wastewater treatment facility.

''(9) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

AMENDMENT NO. 3335

(Purpose: To amend the Internal Revenue Code of 1986 to extend the credit for the production of fuel from nonconventional sources with respect to certain existing facilities)

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

AMENDMENT NO. 3360

(Purpose: To provide incentives for water conservation through the installation of water submeters)

In Division H, on page 137, between lines 7 and 8, insert the following:

SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. ___. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

The amendments (Nos. 3364 and 3355) were agreed to.

ADOPTION OF AMENDMENTS NOS. 3059 AND 3258 VITIATED

Mr. BINGAMAN. I ask unanimous consent the adoption of the amendments numbered 3059 and 3258 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3380

Mr. BINGAMAN. I ask unanimous consent that the amendment numbered 3380 be in order notwithstanding rule XXII; that the amendment numbered 3380 be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3380) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENTS NOS. 3196 AND 3209, AS MODIFIED

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it now be in order to consider the amendments numbered 3196 and 3209; that the amendments be modified by the changes at the desk, the amendments be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3196 and 3209), as modified, were agreed to, as follows:

AMENDMENT NO. 3196

(Purpose: To express the sense of the Senate concerning electric power transmission systems)

In the appropriate place in subtitle A of title II, insert the following:

SEC. 2. ELECTRIC POWER TRANSMISSION SYSTEMS.

The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

AMENDMENT NO. 3209

(Purpose: To carry out pilot programs that aid accurate carbon storage and sequestration accounting)

On page 487, between lines 18 and 19, insert the following:

SEC. 13. CARBON STORAGE AND SEQUESTRATION ACCOUNTING RESEARCH.

(a) IN GENERAL.—The Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage and sequestration accounting models, reference tables, or other tools that can assist landowners and others in cost-effective and reliable quantification of the carbon release, sequestration, and storage expected to result from various resource uses, land uses, practices, activities or forest, agricultural, or cropland management practices over various periods of time.

(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that can assist in developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of

enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.

Mr. WELLSTONE. Mr. President, I rise today to speak to an important amendment on behalf of myself and Senator WYDEN regarding carbon sequestration.

The Energy Policy Reform Act and the debates we have had on it have sought to achieve an integration of energy and environmental policy including new and far reaching provisions to help this nation meet its international obligations to address global climate change. The amendment I propose today with Senator WYDEN provides an important complement to provisions in S. 517, the Farm Bill that already passed the Senate, and the President's recent announced plans to address global climate change. These other provisions would advance research on carbon sequestration from the agriculture and forest sectors, establish credible methods for measuring carbon sequestered for individual projects, and create a national greenhouse gas emissions database and registry at the project level.

The amendment takes a comprehensive view of both carbon sequestration and carbon storage—beyond the project level—to address what is happening over time to release and sink carbon for the full range of land uses, management practices and natural resources. The amendment creates a competitive grant pilot program for state and multi-state areas in a range of regional forest, agriculture and ecosystem settings. The purpose is to help us better understand what is needed for a national carbon sequestration inventory and accounting system that would be credible and cost-effective.

The amendment will enable us to assess the overall effectiveness and potential contributions of new programs and policies to encourage actions which offer a broad range of benefits to the environment. To do this, the amendment seeks to translate scientific information into easily understood means for landowners and others to apply in making decisions on their current practices. This information will distinguish practices which offer additional environmental benefits that may be associated with carbon storage or sequestration, such as flood and erosion prevention, soil conservation, fertility and productivity improvements, improved water quality and management, protection and restoration of ecosystems and habitat, and improved management of agricultural lands and forests including reforestation practices. It also would include information for landowners and others on how to assess the economic and financial costs and benefits of land uses that sequester or store carbon.

If we make this investment now, within the next 5 years we should be prepared to identify real incentives not only for forest and agriculture but also for natural resources and land use management which will show up also in our national accounts. I also anticipate that some policy changes supported by this information may enable our agriculture and forest sectors to realize an economic gain from the practices themselves.

The practices that will be encouraged by this amendment make good common sense and good economic sense. The State of Minnesota, with its rich forest and agricultural base and water resources, has a lot to lose from global warming.

While we have much to lose, we also have much we can contribute to reducing the problem of global climate change and gain in the process. If done properly, carbon storage and sequestration offer a welcome opportunity to draw together the interests and talents of the environmental community, agriculture, forest and timber products industries. Carbon sequestration is not the only or even major answer to our challenges in addressing climate change, but it is an important complement to other steps we must take to increase energy efficiency and conservation, increase use of renewable fuels and put in place an effective program for greenhouse gas emissions control.

This research must involve a wide range of perspectives and interests. The Secretary of the Department of Agriculture is directed to work in collaboration with other federal agencies, on all aspects of carrying out the purposes of the amendment. These agencies should include the Environmental Protection Agency, the National Aeronautics and Space Administration, the Departments of Commerce, Energy, and the Interior, as well as several agencies within the Department of Agriculture, including the Agricultural Research Service, the Cooperative State Research, Education and Extension Service, the Forest Service, and the Natural Resources Conservation Service.

Because forest and agriculture sectors play such a critical role in carbon storage and sequestration, the pilot areas should have a high percentage of land that is forest or cropland. The U.S. Department of Agriculture already tracks this information through its Natural Resources Conservation Service National Resources Inventory, the last being carried out in 1997.

Pilot State or multi-State areas should not only be capable of carrying out the research on a technical level, they should have demonstrated or be interested in pursuing the kind of policies and programs to encourage environmentally beneficial carbon storage and sequestration practices that this amendment seeks to advance. This research takes research and information already available at different levels of government, and in many different groups, and integrates it in a way that we can develop and assess these means of encouraging helpful practices.

The amendment calls for an approach to carbon storage and sequestration accounting based on sound science. It is our intention that the Peer Review process called for in the amendment would include public and private science and policy groups as well as by the user community. This peer review is important particularly in regard to translating science into information in a form that provides easy access to landowners to encourage them to consider environmentally beneficial carbon storage and sequestration practices in their decision making.

Eligible entities for the pilot program grants would include land grant colleges or universities as defined both by the National Agricultural Research, Extension and Teaching Policy Act of 1977 and tribal land grant institutions established through the Equity in Educational Land Grant Status Act of 1994. These research institutions, as well as others with demonstrated experience in the field should be included among the eligible entities as should state or state consortia or non-profits be considered for these grants, especially since we want to see the results used to move forward on the policy and program front to encourage these practices.

The grant-eligible programs should also demonstrate that they would include some means of ensuring the participation of governmental and non governmental interests that would be affected by the pilot program.

Carbon sequestration and storage potentially serve both environmental and economic interests. I have letters of endorsement from the American Farmland Trust, the National Farmer's Union, The Institute for Agriculture and Trade Policy, Environmental Defense and Nature Conservancy, as well as from leading soil and forest scientists in Minnesota, Kansas, Ohio, and Oregon. Many others who are prominent in the environmental, agricultural, forest, and research communities believe this amendment takes us in the right direction.

AMENDMENT NO. 3230

Mr. BINGAMAN. I ask unanimous consent, notwithstanding rule XXII, it be in order to consider amendment No. 3230; that Senator CANTWELL and Senator SMITH of Oregon be added as cosponsors, the amendment be agreed to,

and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3230) was agreed to, as follows:

(Purpose: To provide additional borrowing authority for the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to carry out other duties of the Administrator of the Bonneville Power Administration)

On page 62, between lines 3 and 4, insert the following:

SEC. 2___. BONNEVILLE POWER ADMINISTRATION BONDS.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through ''(a) The Administrator'' and inserting the following:

''SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

''(a) BONDS.—

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any 1 time—

''(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

''(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).''.

AMENDMENT NO. 3366

Mr. REID. Mr. President, on the list, it is my understanding the only remaining amendment is numbered 3366 offered by the Senator from Michigan, Mr. LEVIN. It has been cleared on this side, and it has been cleared by Senator HATCH from the Finance Committee. I ask if the amendment has been cleared by the managers of this bill.

Mr. MURKOWSKI. Those have not been cleared on our side.

Mr. REID. This is No. 3366 offered by Senator LEVIN.

Mr. MURKOWSKI. If the Senator will wait a moment, that was No. 3366?

Mr. REID. No. 3366.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, we cleared the pending amendment on our side. We have no objection. It is No. 3366.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3366) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BROADBAND TAX CREDIT LEGISLATION

Mr. KENNEDY. Mr. President, a number of us have come to the floor today to discuss legislation to provide tax incentives to accelerate ''broadband'' high-speed Internet access across the country. The widespread availability of broadband technology is essential to ensuring the United States' technological leadership in the world. We must make a commitment to a national broadband policy and do it now.

The reach of the information revolution to our Nation's rural and urban underserved areas depends on affordable Internet access. For far too long, these regions have found themselves disconnected from the information age because of their geography and high-cost of service. One of our greatest challenges for the future is to close the growing economic gap in access to computers and the Internet. If we do not act to close it now, this ''digital divide'' will become the opportunity of our time.

Several policy initiatives have been proposed to stimulate broadband deployment including deregulation, community planning grants, and low-interest loans to name a few. The broadband tax credit proposal is an important first step that has gained widespread support in Congress because it provides tax credits to those who take broadband to places where the market is not taking it, both geographically and technologically. So we are here to discuss the importance of that proposal and of ensuring its passage this year.

The Senator from West Virginia is the sponsor of the preeminent broadband tax credit bill, the Broadband Internet Access Act, of which I am pleased to be an original cosponsor, as is my friend from Oregon. Senator ROCKEFELLER had led the fight to bring broadband access to all Americans, and first introduced this bill along with Senators Moynihan, KERRY, and others. He reintroduced the Broadband Internet Access Act, S. 88, last year, and it has 64 cosponsors from both sides of the aisle. A companion bill in the House has 194 cosponsors. A version of Senator ROCKEFELLER's bill was reported out of the Senate Finance Committee as part of the stimulus package that was sent to the floor last December. I commend my friend from West Virginia for his leadership on this and many other technology issues so important to our nation's economy.

Senator SMITH and I have introduced a measure very similar to Senator ROCKEFELLER's bill as an amendment to the energy legislation now before this body. Under this proposal, any company providing the required level of service, whether by telephone, cable modem, terrestrial wireless, satellite, or any other technology, would be eligible to claim the credit. The proposal provides a 10 percent tax credit for investment in ''current-generation'' broadband services and a 20 percent credit for investment in ''next generation'' services. Current generation broadband is typically 5–20 times faster than conventional ''dial-up'' Internet service and capable of transmitting text and photos very quickly. Current generation broadband can also transmit video imagery, but with low quality. Next generation broadband is hundreds of times faster than dial-up and transmits video imagery with great speed and clarity, making it ideal for applications like telemedicine, distance learning, and video conferencing.

In my home State of Massachusetts, I saw firsthand how these types of advanced Internet services transformed the economy of the entire Berkshire County region. Like may rural areas across the Nation, the Berkshires were considered to be too far away from the Internet portals to interest providers. But business and Government leaders began an initiative called ''Berkshire Connect,'' that resulted in a partnership with providers to build a multimillion dollar network of microwave towers and fiber-optic lines linking the county's scenic villages and small cities with fast Internet access.

The project put the Berkshires on an equal footing with the rest of the global marketplace, because the Internet levels the playing field between large and small businesses and rural and urban areas. I am confident that passage of the broadband tax credit measure will bring similar success stories across the Nation like we have seen in the Berkshires for more residents and businesses.

The proposal provides $540 million in tax credits for broadband deployment to wire an estimated 5.4 million additional U.S. homes with current generation broadband and 700,000 more with next generation broadband. Today, 11 million U.S. homes are wired with current generation broadband and 340,000 with next generation broadband. This measure would increase those numbers by 50 percent and 200 percent respectively.

Senator SMITH and I filed this measure as an amendment to the energy legislation because we see a clear connection between Internet use and energy savings. One former Energy Department official has testified before Congress that by reducing shopping trips and retail office space, e-commerce was responsible for energy use staying flat in the last 1990s while the economy was expanding sharply. And a number of studies have found that telecommuting saves 1–2 percent of total annual gasoline consumption and has the potential to save more. Meanwhile, economists now recognize that telecommuters can avoid the ''congestion costs'' which each additional driver imposes on others in terms of lost time and excess fuel from sitting in traffic jams. Princeton Professor Paul Krugman has estimated Atlanta's congestion cost at $3,500 a year for each

additional driver. And associated savings come in the area of the environment. A 1999 study by the International Telework Association and Council found that the average telecommuter saves 28.5 pounds of pollution emissions every day he or she works from home.

The Senator from West Virginia was just discussing with me a number of other important benefits of broadband, apart from energy savings. I wonder if he would take a moment to describe those.

Mr. ROCKEFELLER. I would be happy to do so, and I thank the Senator from Massachusetts. For years now, it has been a goal of mine to make sure that West Virginians, and indeed all Americans, can have access to technology. The primary reason I introduced the broadband tax credit is to help address some of the most intractable problems associated with our country's transition to the digital economy—unequal availability of broadband access technologies. This tax credit will encourage deployment of broadband facilities in areas where such technologies have not, and, without Congressional action, perhaps will not, be made available. With the help of the tax credit, people and businesses in these areas will be able to more fully benefit from the networked economy, and from activities such as telemedicine, telecommuting, and distance learning. This has positive consequences for everyone—not just those in rural areas—that go beyond the marketplace.

I also think it important to understand that this technology will also be an important driver of productivity and economic growth. According to the Federal Reserve, information technology accounted for over 60 percent of the productivity growth occurring from 1995 to 1999. Listen to the change that occurred at that time. During the first half of the 1990s, productivity increased on average only 1.5 percent per year. Then, when we began to link our computers over the Internet, productivity jumped to 2.8 percent in the second half of the decade. It is this increase which Fed economists attribute primarily to information technology, and I think it is very fair to expect that wide-spread broadband networks are going to make us that much more efficient because they move us beyond using the Internet for e-mail to much more substantive and sophisticated applications. And the economic value of that to us as a nation could be very significant. One economist, Robert Crandall of the Brookings Institute, estimates that accelerated deployment of broadband will generate up to $500 billion in economic growth annually.

But the other side of this is that if we do not deploy broadband quickly, and other nations do, then we will lose the productivity edge that is so important. And unfortunately, that appears to be happening. A recent study by the Organization for Economic Cooperation and Development (OECD) found that the United States is now fourth in the world in broadband deployment, behind Korea, Canada, and Sweden. And others may pass us soon. While only 10 percent of U.S. households have broadband access, some 20 percent of homes in Canada have it, as do an astonishing 50 percent of homes in South Korea. Japan and a number of European countries have adopted very aggressive plans for broadband deployment involving laying optical fiber to every home. We should be very aware that if other countries do that—deploy fiber to all homes and businesses within their borders—and we continue to move very slowly even in the deployment of slower, current-generation broadband, those other nations will gain a huge economic advantage over us.

I thus see the broadband tax credit as presenting us with a double opportunity. It would help provide much-needed economic growth. And it will also help ensure that rural and underserved Americans can fully participate in an increasingly digital world.

Mr. SMITH. I wonder if I might interrupt my friend from West Virginia to make an observation. I think his point about competitive advantage is a very good one, and it is important for the Congress to remember that it applies not only internationally but also domestically. And it is an issue that is important to both sides of the aisle. For example, the Senate Republican High Tech Task Force—HTTF—has made the Broadband Tax Credit legislation a priority and a part of its policy agenda. This agenda states ''The Task Force understands that high speed Internet access has the power to transform how we use the Internet. Encouraging tax and regulatory policies that foster rapid, efficient, and competitive deployment of broadband and other important technologies to urban and rural areas will be crucial to ensure our economic growth and technological competitiveness.'' The fact is, those communities that do not have broadband will invariably be at the disadvantage to those that do. And unfortunately, the communities that often have little or no broadband service are rural and low-income areas. I know this matter is as important to my colleagues from Massachusetts and West Virginia as it is to me. The Senator from West Virginia and I both come from states with large rural areas, so our constituents likely face a similar situation. In the rural areas of Oregon, we have seen concrete evidence of the difference broadband makes in a community's economic vitality. For example, in La Grande, Oregon, in the eastern part of the State, gaining connection to a nearby fiber optic route in 1999 made it possible for the town to persuade ODS Health Plans to establish a call center/claims center there. By contrast, other communities, such as Madras and Crook County, report that they have both lost potential businesses because of lack of broadband infrastructure.

The other thing I think we should mention is that in addition to economic benefits from this technology, there are other important societal benefits. For example, telemedicine. I'm happy to say that Oregon has been at the forefront of developing new and innovative telemedicine programs. In LaGrande, which, again, is fortunate to have a solid broadband infrastructure, it has been possible to develop a very good program for the provision of rural mental health services. The program is called RODEO NET and it's been making a difference in the lives of rural Oregonians for some time. And the telemedicine program of the Central Oregon Hospital Network makes it possible for doctors to consult with patients remotely and to receive the patients' radiologial images, sounds, records, and pharmacy information. But to do this well, you need broadband. In fact, the average data speed used by RODEO NET is 768 kilobits per second, more than twenty times the typical dial-up service in rural areas of the country. The problem is that few rural communities have a broadband connection. And that is something we must overcome. This technology can greatly improve the quality of life for rural residents, and we should not allow some of them to be deprived because they live in a more remote area.

Mr. ROCKEFELLER. My friend is correct. I agree with him wholeheartedly. That is exactly the kind of application that will make a big difference to my constituents and his, and I want to do everything I can to make it widely available across the United States.

Mr. KENNEDY. I wonder if my friend is a aware of the trans-Atlantic surgery that occurred last year, where a surgeon in New York operated on a patient in France?

Mr. ROCKEFELLER. Yes, indeed As I recall, the New York doctor remotely controlled some kind of robotic arms there at the patient's location, and it came off without a hitch, I believe.

Mr. KENNEDY. I think that is one of the most fascinating things I've ever seen, and as one who has worked for years on healthcare issues, it makes me even more committed to moving this broadband technology out across the country as quickly as possible, because one needs a very high bandwidth connection for those kinds of applications. You cannot do remote surgery over a narrow band connection.

Mr. ROCKEFELLER. Exactly right, and I think that this shows the potential that exists if broadband becomes ubiquitously deployed in this country. When we can transmit massive amounts of data instantaneously, the applications are limited only by our imaginations.

Mr. KERRY. I wonder if my friend from West Virginia would yield for a comment at this point?

Mr. ROCKEFELLER. I would be happy to.

Mr. KERRY. I thank the Senator, and my colleagues from Massachusetts and Oregon. As you know, I feel very strongly about this legislation. My staff and I spent a lot of time working with our former colleague Senator Moynihan, and with Senator ROCKEFELLER and others back in 2000 when we were putting this bill together. We put a lot of brainpower into this bill. We met with innumerable telecom companies and analysts and experts, working to craft a bill that provided real incentives, and doing so in a technology neutral manner. I do not care what the technology is, as long as it can provide broadband, it should receive the incentive. And I think this bill does that. It specifically anticipates copper wire, coaxial cable, terrestrial wireless and satellite technologies. If they can deliver true broadband services, at a measurable speed requirement, then they qualify for the credit. That is as it should be. It is the service we are after, not a specific kind of delivery system. So this bill sets the standards and lets all compete equally. All they have to do is meet the speeds, and they get the credit.

For the current generation technologies, it targets rural and low-income areas. Those are the areas where the Federal Communications Commission has told us there is a problem with current generation deployment. For the next generation technologies, it targets the entire country, with the exception of urban businesses. That is because, while next generation broadband exists and is being deployed aggressively in some Asian and European nations, it has scarcely been deployed at all in the United States.

I have a number of reasons for caring about broadband deployment. One is that I think we cannot allow the ''digital divide'' to continue, and there is a digital divide with broadband deployment just as there is with computer access and dial-up Internet access. In fact, the digital divide with broadband deployment is almost certainly greater than with computers or dial-up. So as a matter of basic equity, I think we must take quick action to deploy broadband across the nation.

I also care about this issue because it is crucial for our international competitiveness. As Senator ROCKEFELLER mentioned earlier, the United States is falling behind in broadband deployment. There is little disputing that fact. While some seem unconcerned about that matter, I am very concerned about it. I think there is little doubt that a nation with ubiquitous broadband will be more efficient and productive than a nation without it. And, the fact is, other nations are starting to outspend us on broadband infrastructure. Sweden has set aside some $800 million on broadband deployment in rural areas of the country—a much smaller area than the United States, obviously. And they have already spent an undisclosed amount to build a fiber-to-the-home system serving much of Stockholm, which is becoming a model for the rest of Europe. Now France is following suit. It recently announced that it will invest $1.5 billion on broadband infrastructure over the next five years, and much of it will probably be optical fiber, as in Sweden. In Japan, who knows how much the government is investing, but it is substantial. The investment is made through Nippon Telegraph and Telephone, which is supposedly an independent telephone company, but the majority ownership belongs to the Japanese government. In any case, NTT is in the middle of a huge fiber-to-the-home project all over the country, so the investment is clearly very large. And listen to this figure from South Korea. In Korea, the government is laying out some $15 billion to provide an optical fiber connection to 84 percent of homes by 2005. This legislation would invest only $540 million over 10 years. That is not a lot for a nation as large as the United States. But it is an important start, and we should pass it now and get the ball rolling.

Finally, I feel strongly about this legislation because I think it is crucial for small business. As Chairman of the Senate Small Business Committee I have an obligation to look out for that sector, and it is something I am passionate about. I am a former small businessperson myself, and I know how difficult it can be for a small company to compete with larger enterprises. Broadband can make that easier by increasing the productivity of the small business and opening up new markets. The telecom analyst Scott Cleland—many of you know him from his testimony here on the Hill on various occasions—wrote a short piece last year on the importance of broadband to small businesses. Paraphrasing Mr. Cleland, he said this. First, that small businesses have less access to broadband because they tend to locate outside the high-rent urban business centers. It's those urban business centers, he says where broadband is most plentiful. The second point he makes, and this is very important, is that we as a nation are losing as a result of this situation because small businesses tend to be a very innovative, economy-driving force. If broadband were more widely available to small businesses, Cleland says, the U.S. would benefit economically.

Those are a few of the reasons why I feel very strongly about this legislation, and I think it is imperative that we pass it this year and send it to the president for signature. I am delighted that we are having this discussion today, and I look forward to working with all of you to pass this bill at the earliest opportunity.

Mr. ROCKEFELLER. I notice that we are joined on the floor by the distinguished Chairman and Ranking Member of the Finance Committee, two gentlemen who have a lot to say about which tax legislation passes this body. I am pleased that both are cosponsors of S. 88 and strong supporters of technology measures. I wonder if I could ask them their thoughts on the likelihood of passing the broadband credit this year.

Mr. BAUCUS. I thank my friend from West Virginia, and I congratulate him on his leadership on this legislation. I agree that broadband technology is extremely important for this country. It will help ensure that our productivity remains high and that our citizens receive the best services modern telecommunications have to offer. I think some of these services that you have already discussed there today—telemedicine, distance learning, and videoconferencing, for example—will be absolutely life altering for many Americans. In rural areas, we will find even more ways to use broadband—televeterinary services, remote monitoring of crops, remote livestock auctions, etc. The fact is that when the underlying broadband infrastructure is there, you can do amazing things with relatively simple equipment—a digital video camera and a computer. And, taking a moment to indulge a point of home-state pride, I want to ask my colleagues if they know where this idea originated? I see my colleague from Montana, and he is smiling. He knows where it came from.

Mr. BURNS. Of course. From the Montana legislature, that's where. We're very creative in Montana.

Mr. BAUCUS. Exactly. The State of Montana enacted the first broadband credit in the nation in 1999. It was the brainchild of one of our public utility commissioners, Bob Rowe, and of state senator Mignon Waterman and others in the legislature. It was in effect for only two years, I believe, before being temporarily suspended, along with a number of other tax breaks, due to the State's budget shortfall. But in the short time it was in effect, it had very positive results. I want to quote from an article by Bob Rowe in one of our State newspapers, The Missoulian, in June 2001, in which Bob was describing the effect of the Montana broadband credit:

> The results are impressive. Dozens of projects were awarded tax credits, most of them in rural Montana—places like Circle, Crow Agency, Superior and Big Timber. Projects included DSL, cable modems, and wireless. They also included projects to provide 'redundant' access that is critical to many technology businesses in case service goes out.

Now as you might surmise, Circle, Montana is not a very big place. It had 644 people in the last census. None of those communities mentioned in that article has more than 1,600 people. If a broadband credit can help bring broadband to rural communities like those, then it is a worthy piece of legislation. But the problem is, even when the Montana broadband credit is reinstated, it will not be enough to ensure broadband deployment to all communities in a State like Montana, so we will need Federal incentives, too. And

that is where measures like the federal broadband credit we are discussing now come in. It is important that we adopt this kind of incentive on a national basis, so that all communities may benefit from it. And along with the incentives that various States may enact, and along with other measures like low-interest loans and grants and so forth, we can really accelerate broadband deployment to all communities in the country.

So I applaud the efforts of my friends who have worked so diligently on this bill. I stand with you and am committed to moving this bill this year. The support is clearly there, with 64 cosponsors in the Senate and 193 in the House. There aren't many bills with that much support. So I think the time has come. We need broadband, and we need it now, and I think this bill will help a great deal. We will work together to get it done this year.

I want to turn to the Senator from Iowa, my Ranking Member on the Finance Committee. I used to be his Ranking Member when he was Chairman, and now the roles are reversed. But regardless of which of us is sitting in the Chairman's seat, we always confer with one another and work closely together, and I know he cares as much about getting broadband technology out to rural areas as I do. Senator Grassley, do you have any thoughts on this issue?

Mr. GRASSLEY. I thank my Chairman, and I appreciate the opportunity to speak on this topic. I am pleased to be a cosponsor of Senator Rockefeller's bill, and I think it is important legislation. As you probably know, I have spent a fair number of hours on a farm in my life, and I can tell you that telecommunications are absolutely a crucial lifeline to rural areas, and we must ensure that rural areas of the country are not left behind as the state of the art evolves. I think that is what is happening now—the state of the art is evolving, and rural areas are being left behind. In urban areas, we have wonderful broadband systems where you can type at your computer and have a little TV screen going up in one corner. A lot of people here watch the Senate floor right from their computers as they work, which makes our work easier and more productive. In rural areas that kind of capability generally doesn't exist. And we just can't allow two different telecom standards for urban and rural areas. That would be like urban areas having telephones and rural areas not having telephones. What kind of country would we be if that were the case? So I think this legislation is very important.

I want to point out one provision in this bill which will be extremely important to rural areas, and that is one involving telephone cooperatives. Anybody from a rural State knows the importance that coops play in making sure no one goes unserved. There are some places that are so scarcely populated that the big publicly-owned companies can't justify the investment to their shareholders. So who gets the job done in those places? By and large, it's the telephone coops. And they do a great job, and we need to make sure we support them in their effort. But, of course, telephone coops are tax exempt organizations. So the question arises, if they don't pay taxes, how will they benefit from a tax credit? But this bill has found a way to let them take advantage of the benefit. How so? Through the so-called, ''85–15'' rule. The tax code requires that at least 85 percent of a telephone coops' income be used to pay losses and expenses. So this bill exempts from income the amount of broadband credit a coop would get if it were a taxable company. That encourages coops to make broadband investments because, if they do, then they will get help meeting the 85 percent rule. I think that makes a lot of sense and is good tax policy. It both encourages a crucial infrastructure investment, and simplifies the tax law for coops, which is an importannt thing to do anytime we can.

So with that, just let me say again that I support this legislation, and I will work with Chairman BAUCUS and Senator ROCKEFELLER and the other members here today to pass it.

Mr. BURNS. I wonder if I might very briefly add a couple of points at this juncture. I wanted to join my colleagues here on the floor today because I feel strongly about this measure. As Senator BAUCUS said earlier, this whole idea started in Montana, and we've seen the kind of effect it can have there, so I feel confident that a federal broadband credit can have a similar effect in other areas of the country. The other point I wanted to make goes back to Senator GRASSLEY's discussion of farming applications. I've spent a fair amount of time in agricultural pursuits myself, and if there is any doubt how agricultural organizations feel about broadband, you should take a look at the farm groups that have endorsed this bill. The American Farm Bureau, American Agri-Women, National Cattlemens' Beef Association, National Corn Growers Association, National Council of Farmer Cooperatives, National Pork Producers Council, National Sorghum Producers Association, National Wheat Growers Association, North American Export Grain Association, Rice Millers' Association, California Cotton Growers Association, California Cotton Ginners Association, Western Growers Association, U.S. Rice Producers' Group. The list goes on and on. Anyone who thinks farmers don't care about technology should spend some time on a modern farm, and what you will learn in that American agriculture is one of the most innovative industries in the world. Let me give you an example. Deere and Company, the farm equipment maker, is also a supporter of this legislation. And you may think at first, ''Why do they care? They just make tractors.'' But when you talk to them, you learn that the tractor of tomorrow—indeed of today—has a lot of high-tech equipment on board that, as it drives through the fields, gathers information on plant conditions and soil conditions and moisture content and so forth. And that is incredibly valuable information to a farming operation. But to really use that information, you need a broadband connection to send it from the tractor to, say, a plant specialist a hundred miles away. Without that broadband connection, it will take a very long time to transmit the data, which makes it a lot less useful. So we need to take action now to get broadband networks built out all over the country, including those little places like Circle and Superior and Big Timber and Crow Agency and thousands of communities like them around the United States. And this bill is going to help do that, so I a feel very strongly that we need to pass it at the earliest opportunity.

Mr. JOHNSON. I would like to add a brief comment on this topic, which is of critical importance to my State of South Dakota. My colleagues have all spoken eloquently about the role of broadband deployment to our Nation, and the special importance of ensuring that our rural areas have equal access. I think we all agree that the widespread availability of broadband infrastructure is absolutely crucial to the future of America. Throughout history, we have found ourselves at critical junctures, when the Federal Government has needed to step in and help build an intrastructure system that is national in scope. The transcontinental railroad. Rural electrification. The Interstate highway system. None of those would have occurred without help from the Federal Government. That, in my opinion, is one of the most important aspects of our job—to know when it is time for the Government to step in and facilitate the building of something big, something that will benefit the nation as a whole and make us a stronger nation. The transport of large amounts of information is no less important today than the transport of large amounts of goods was a few decades ago. The physical transport of goods is still necessary, and probably always will be. But the transport of information? Why should we have to transport people just to transport information? If a supplier can meet with his customer without driving across town or getting on an airplane, then that is better. If a rural American can meet with the urban medical specialist without driving or flying to the city, then that is better. If a rancher can show his cattle for sale to a distant buyer without the expense of transporting them to a sale barn, then that is better. All of those things are theoretically possible today, but they are possible in fact only to a few of our citizens. The disturbing thing is, that other nations are moving ahead of us in deploying broadband technology, as my colleagues have already pointed

out. I believe that if the United States is to continue to lead the world economically, it must invest in broadband infrastructure.

That's why I will continue to fight hard to pass this legislation. I have written the President about it, I have written the majority leader about it, I have spoken to my colleagues on the Finance Committee about it, and now I want to address all of my Senate colleagues about this bill. The fact is, we need this legislation to push broadband out to remote areas of the country. There are areas where the market will not take broadband for many years, if ever. But that is where this legislation is targeted—those very areas the market is leaving behind. We need this legislation to ensure, first of all, that rural areas are not left behind, and secondly that we do not fall behind as a nation. We must not continue to fall behind Korea, Canada, Sweden, Japan, Singapore and others, because if we do, then they will be able to work faster and more productively than we can work, and it is productivity which has been our hallmark, our saving grace, our competitive edge for years. The Internet was an American invention, as are the broadband technologies that accelerate its use. We must not let others surpass us in our own technology, simply through inaction. I urge my colleagues to take up and pass this very crucial legislation this year—at the earliest opportunity. It is very important that we do so, and I pledge my support for it here today.

Mr. ROCKEFELLER. I thank the Senator and welcome his support. I believe the Senator from New York wanted to join in the discussion, as well.

Mrs. CLINTON. I thank my friend from West Virginia. As an original cosponsor on Senator ROCKEFELLER'S broadband tax credit bill and a supporter of the amendment offered on the energy bill, and having introduced my own bills to enhance broadband deployment in Upstate New York and around the country, I join my colleagues from both sides of the aisle today to express strong support for legislation stimulating broadband infrastructure deployment and demand for broadband services.

As we all know, our Nation's economy has suffered a slowdown of staggering proportions in the last year. Investment has slowed, jobs have been lost, and for many companies revenues continue to decline. Few sectors of our economy have been as dramatically affected as the telecommunications and high-tech industry, with job loss estimates in the industry exceeding more than a quarter-million in the past year alone. Of particular concern to me, Upstate New York, like rural areas across America, has continued to face obstacles to full engagement in the new knowledge-based economy. Prior to the recent downturn, the economic growth of the last decade left behind many of our Nation's rural areas—like Upstate New York with its highly educated population—that remain disconnected from major markets. Studies have shown that New York lags behind many states when it comes to Internet connections and usage that are essential to commerce and communications in this new economy.

To be sure, communications technologies are important not only for economic reasons. My State of New York suffered more than any other from the devastating attacks of September 11th. On that day, emergency calls, communications between loved ones, and demand for reliable information demonstrated so clearly our dependence on—and the need for—telecommunications technologies. I am extremely proud of the efforts that were made by our rescue personnel, utilities, and others to restore the communications infrastructure that was so damaged by the terrorist activities. Those tragic events underscored the importance of redundant telecommunications systems to enable us to stay connected in times of national emergency.

The message here is that broadband deployment and its uses are key for the continuing economic development and growth of our Nation. I recently offered a sense-of-the-Senate, which was adopted on the FY 2003 Budget Resolution passed out of the Budget Committee, that highlights the needs for investments in broadband technology to spur development and job creation in rural and underserved areas. Mr. President, I ask that it be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENSE OF THE SENATE REGARDING BROADBAND CAPABILITIES IN UNDERSERVED AREAS

(a) FINDINGS.—The Senate finds in the following:

(1) In many parts of the United States, segments of large cities, smaller cities, and rural areas are experiencing population loss and low job growth that hurts the surrounding communities.

(2) The availability and use of broadband telecommunications services and infrastructure in rural and other parts of America is critical to economic development, job creation, and new services such as distance learning, telework capabilities and telemedicine.

(3) Existing broadband technology cannot be deployed or is underutilized in many rural and other areas, due in part to technical limitations or the cost of deployment relative to the available market.

(4) Today's small and medium-sized businesses need an extension program that provides access to cutting edge technology.

(5) There is a need to create partnerships to reduce the time it takes for new developments in university and other laboratories to reach the manufacturing floor and to help small and medium-sized businesses transform their innovations into jobs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should:

(1) facilitate the deployment of and demand for broadband telecommunications networks and capabilities (including wireless and satellite networks and capabilities) in rural and underserved areas,

(2) encourage the adoption of advanced technologies by small and medium-sized businesses to improve productivity, and to promote regional partnerships between educational institutions and businesses to develop such technologies in the surrounding areas, and

(3) invest in research to identify and address barriers to increased availability and use of broadband telecommunications services in rural and underserved areas.

Mrs. CLINTON. The broadband tax credit is a critical component of this economic development plan, in order to get broadband to ''the last mile''—to the households, schools, businesses, local governments and many others that stand most to gain from its deployment and, of course, the jobs and services that are sure to follow.

Ms. SNOWE. I am delighted to have this opportunity to join my colleagues in discussing the importance of the broadband tax credit legislation. We have worked on this bill since mid-2000, and we need to get it passed this year.

I am particularly pleased to have worked with Senator ROCKEFELLER on this issue. He and I go way back on technology matters. We worked side by side to ensure that all our classrooms and public libraries are connected to the Internet and modern technology through the E-rate, and this successful program is beginning its fifth year of funding.

Just as the E-rate continues to ensure that our Nation's schools and libraries are not divided between technological haves and have nots, we must ensure that all of our Nation's homes and businesses—in both rural and urban areas—have access to broadband services. Because although dial-up services are good for sending e-mail, sharing short documents, and browsing the web slowly, you need broadband services if you need to receive information quickly or send an item that is data-intensive, such as photographs, graphics, or lengthy documents.

While broadband is already being deployed in rural States, such as mine, I believe it is imperative that we seek to accelerate the rate of this deployment. Because where are the homes and small businesses without broadband service? That's easy—in rural and low-income areas. And that is what this bill is designed to cover: the rural and low-income areas where broadband generally is not already available. Furthermore, it is designed to help us move to the next generation of broadband that some countries are already rolling out.

The bottom line is that there are times when it makes sense to help the market deploy technology more quickly and this is one of those times. Why? Because the Government can play an important role in ensuring that all our citizens have access to basic infrastructure, just as it ensured universal access to telephone service in the 1930s.

I will not repeat what my other colleagues have said about the United States falling behind in broadband infrastructure, but it is a fact and it is something we cannot allow. We must engage on this issue and we must do it now. As the lead Republican cosponsor

of the legislation, I urge the passage of the broadband tax credit legislation as one way to address this matter, and believe it should be done this year. While there are a number of other ideas on the table concerning broadband deployment, this is one that is ready to go, and we should not wait any longer. Accordingly, I urge my colleagues to support moving this incentive as part of the next available tax package moving through the Congress.

Mr. SMITH. I would like to return to the issue of exactly how we move this year. I think it is the most substantial broadband initiative with a real chance of passing in the near future, and I think we should be very specific about how we are going to accomplish it. It is now mid-April, the number of legislative days remaining in this Congress are dwindling, and the available tax vehicles would seem to be limited for the rest of the year.

Mr. KENNEDY. I couldn't agree more. As I said earlier, I think this would be a very good addition to the energy bill because it has clear energy savings implications. If that proves not to be possible, I think it should be included in any other tax bill that comes through this year. Passing the broadband tax credit this year should be a priority for the Senate and we must ensure its passage at our earliest opportunity.

Mr. ROCKEFELLER. Absolutely. I am with you 100 percent. We have to get this done, and we have to get it done this year. I note that the majority leader has joined us on the floor and I wonder if we might impose on him to give us his views on the prospects for the broadband tax credit.

Mr. DASCHLE. I thank the Senator for his leadership on the broadband tax credit, and I thank all of our colleagues who have expressed their support for this measure today. As you know, I am a cosponsor of Senator ROCKEFELLER's bill, S. 88, and share the strong support for this bill expressed by our colleagues today.

We have made this a centerpiece of the Democratic high technology agenda. We believe broadband deployment is key to the continued economic growth of the entire Nation, and is particularly critical in rural areas that studies have shown too often lag behind their urban counterparts. This bill addresses that issue head-on by giving special incentives to rural deployment. This measure is one of a number of solutions that have been proposed that will prove effective in achieving universal availability of the most advanced telecommunications technology.

I look forward to working with the Senator from West Virginia, the distinguished Chairman and Ranking Member of the Finance Committee, and all of our colleagues who have spoken out so forcefully today. I hear you and share your support for this proposal. Given the large number of cosponsors, it is clear that the broadband credit can win approval in this Chamber. So I would say to my colleagues that I want to move the bill at the earliest opportunity.

Mr. ROCKEFELLER. We appreciate the Leader's interest and support. With that support, and that of all our colleagues who have joined us today, I feel confident that we will succeed in getting this bill enacted into law this year. And I am excited at that prospect, because I think it will make a big difference in moving broadband both to remote and underserved areas of the Nation, and also in moving it to the next generation. That will be an outstanding result, and a great benefit for the Nation.

ENERGY POLICY ACT OF 2002

Mr. NICKLES. I would like to engage in a brief discussion with my colleague from Alaska concerning an important provision that is missing from the electricity title of this bill. Would the ranking member of the Energy and Natural Resources Committee, Senator MURKOWSKI, agree that it is important to provide a level playing field for competitors in the interstate wholesale electricity market?

Mr. MURKOWSKI. Yes, I agree with my colleague.

Mr. NICKLES. Is today's interstate wholesale electricity market a level playing field, in which all competitors are subject to the same rules?

Mr. MURKOWSKI. No. Publicly-owned utilities are not subject to the same oversight of their rates and other activities related to sales of bulk electricity in interstate commerce as investor-owned companies.

Mr. NICKLES. I see nothing in the current language of the electricity title of this bill to rectify this disparate treatment. This seems unfair, and contrary to our policy of promoting competitive markets in interstate electricity sales. Would the Senator from Alaska agree?

Mr. MURKOWSKI. Yes, I think that all utilities who substantially participate in the interstate wholesale electric power market should be under the same regulatory regime, and subject to the same oversight by the same regulator. But I also want to make clear that municipally-owned and cooperatively-owned utilities that are too small or not selling in interstate commerce, such as those in Alaska, should not be subject to FERC regulation. I would oppose any attempt to extend such Federal regulation to these entities or their activities.

Mr. NICKLES. I thank the Senator for that viewpoint. Do not misinterpret what we are saying. This is not about ''spreading the pain'' around to everybody. Rather, what we are saying is that if a municipally-owned or cooperatively-owned utility makes a strategic business decision to go into the competitive interstate bulk power market to earn profits, then it ought to play by the same rules as everybody else. And once they enter that market, it is important that the market competition takes place on a level playing field, or else competition will be diminished and consumers will suffer. So I would like to go forward, in conference, and work with my friend, Senator MURKOWSKI, and others of like mind, to correct this situation and ensure equal treatment for all who chose to compete in the interstate wholesale electricity market.

Mr. MURKOWSKI. I look forward to working with the Senator from Oklahoma on this issue as this bill moves to conference.

ENERGY EFFICIENT COMMERCIAL BUILDINGS

Mr. GRAHAM. Mr. President, Section 2105 of this legislation, the section providing a tax deduction for construction of energy efficient commercial buildings, does not list the specific building components that will qualify the building. This is different from Section 2103, pertaining to energy efficient residential property, in which items contributing to building efficiency are listed in some detail. My concern is that certain energy efficiency improvements, if not specifically included, may not qualify for the deduction under Section 2105. I was wondering if the Senator from Montana could clarify for me the reasons behind the differences between these two sections.

Mr. BAUCUS. The Senator from Florida asks a reasonable question, but he need not be concerned about the differences between these two sections. The commercial building deduction is constructed as a performance-based incentive for energy efficiency. The bill does not specify which materials should be used because different buildings may require different components to meet efficiency standards. Construction need not adhere to a specific list of energy efficient components.

Mr. GRAHAM. Let me ask then about a specific building component so that I can be certain I understand what the Senator has explained. Building insulation is not referenced in Section 2105, however it is referenced in Section 2103. Nevertheless, expenditures for insulation in a commercial building will qualify for the deduction so long as it meets the energy efficiency requirements laid out in this measure. Is that accurate?

Mr. BAUCUS. The Senator is correct. In fact, the efficiency requirements laid out in this legislation essentially require that building construction include a combination of highly energy efficient property. Energy efficient insulation would almost certainly be included among these components.

Mr. GRAHAM. The origin of my concerns regarding the enumeration of specific components stems from the language used to define energy efficient commercial building property expenditures at the beginning of Section 2105. It indicates that in order to qualify, energy efficient property must be eligible for treatment as depreciable property under section 167 of the tax code. There are many building components, like insulation, not specifically

referenced in section 167. Can the Senator from Montana confirm that the intention of this measure is not to exclude these components from eligibility for the energy efficient commercial buildings deduction?

Mr. BAUCUS. I can confirm for the Senator from Florida that the intention of this provision is to include all those components that would produce levels of energy efficiency sufficient to meet the standard laid out by this amendment.

Mr. GRAHAM. I thank the Senator for his clarification and his time.

IMPACT OF REFORMULATED FUELS PROVISIONS AND NEED FOR APPROPRIATE DISCRETION FOR ADJUSTMENTS TO REQUIRED BASELINES FOR ANTI-BACKSLIDING REQUIREMENTS

Mr. CORZINE. Mr. President, I rise today to bring to the attention of my colleagues an important issue that relates to provisions in the Energy bill dealing with reformulated gasoline. After a few brief introductory remarks, I would like to engage in a colloquy with my colleague and friend, the Chairman of the Committee on Environment and Public Works, in order to inform and clarify the legislative record on the matters I am about to discuss.

The provisions contained in Subtitle C of Title VIII of the Energy bill deal with motor fuels. As has been discussed on this floor on preceding days, these provisions deal with a number of issues, including a ban on the use of MTBE and requirements for use of ethanol in reformulated gasoline. I would like to speak today on another issue in this subtitle that has received less attention during our debate on these issues, but which could have a profound and detrimental effect on the supply of gasoline in New Jersey and elsewhere in the Northeast, by affecting an important supplier to this market.

Section 834 of Subtitle C eliminates the oxygen content requirements for reformulated gasoline. It is necessary to do this since the subtitle, in Section 833, Subsection (c), otherwise bans the use of MTBE, the oxygenate most commonly used to meet the oxygen content requirements of the Clean Air Act. And while we have all become aware of the groundwater contamination problems caused by leaks of gasoline containing MTBE, it is important to understand for the situation I am about to discuss that MTBE does provide significant benefits in regard to emissions of toxic air pollutants under current EPA models. Indeed, overall toxic air emissions reductions achieved through the use of reformulated gasoline substantially exceeded the minimum requirements set by the Clean Air Act Amendments of 1990. I think we all agree with the Blue Ribbon Panel's recommendation, that with or without MTBE, it remains an important goal to maintain the real world emissions benefits derived from the use of reformulated gasoline.

So when the authors of Subtitle C eliminated the oxygen requirement for reformulated fuel and banned the use of MTBE, they also wanted to be sure that the toxic air pollutant reductions achieved from the use of reformulated gasoline were maintained. Thus, they included the so-called 'anti-backsliding' provisions found in subsection (b) of Section 834. Among other things, subsection (b) will require the EPA Administrator to . . . establish, for each refinery or importer . . . standards for toxic air pollutants from use of the reformulated gasoline produced and distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

This provision thus requires EPA to establish, for each refinery, the amount of toxic air emissions from the gasoline based on 1999 and 2000 data, and then establish that as a ''baseline,'' or maximum level of toxic air emissions from the gasoline produced by that refinery.

What this provision doesn't do, is tell the refiner how to maintain the baseline once MTBE is eliminated, it just has to do it. In most cases, refineries can meet the gap in toxic air emissions performance—caused by the ban on MTBE—simply by doing little more than complying with an already-existing separate regulation that requires them to reduce the levels of sulfur in the gasoline. Removing sulfur improves the toxic air emissions performance of the gasoline as calculated by EPA. Or the refinery could invest in improved extraction technology to remove directly some of the toxics—for example, benzene. Or a larger, multi facility refiner could trade between its refineries the credits for emissions of toxic air pollutants authorized by the Subsection.

So, once the EPA Administrator establishes the baseline for a refinery, most refiners have options that are available to ensure that their refineries do not 'backslide' on the emissions of toxic air pollutants from gasoline. For example, refiners that had high sulfur levels during the base period will have a relatively easy time complying with this requirement for their reformulated gasoline, primarily because they must desulfurize gasoline by 2004–2005 under already existing rules, and this step will substantially reduce toxic air emissions, thus offsetting the increases in calculated emissions from eliminating MTBE.

But what happens under the Energy bill to the refiner who had voluntarily taken steps, not required by any regulation, to incorporate state-of-the-art benzene extraction technology and also removed a very large amount of the sulfur from its gasoline before the base period that the EPA will use to establish its baseline? That refiner will be given a baseline that is far tougher than virtually any other refiner. It is so tough, Mr. President, that when MTBE is banned, as required by the bill, it likely will not be able to make up the lost benefit MTBE provides—substantially lowering modeled emissions of air toxic pollutants—by lowering sulfur to required levels or taking any other actions that will allow it to maintain that baseline performance level.

This is exactly the situation facing the Amerada Hess Corporation, a corporate constituent in New Jersey that is an important supplier of reformulated gasoline. At its Port Reading, New Jersey refining facility, Hess produces 35–50 thousand barrels per day of reformulated gasoline that is supplied to New Jersey, New York, and Connecticut. Hess also supplies another 40–60 thousand barrels per day of reformulated gasoline into the northeast market from HOVENSA, a refinery it partly owns on St. Croix in the US Virgin Islands. Both facilities, the only two under the Hess umbrella, have long produced very clean gasoline—taken together, the gasoline produced by these refineries has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average.

Once the EPA establishes baselines for these two refineries, and MTBE comes out of the gasoline, they will have no realistic options to maintain the baseline—exactly because the gasoline was already so clean. They can put in ethanol, but that does not have the same level of positive effect on toxic air emissions, compared to MTBE. They will lower sulfur further to 30 ppm, but in contrast to most other refineries, this will not be enough to maintain the baseline, since the gasoline was already low in sulfur before and during the relevant base period. Benzene is already at very low levels, and further reductions are not reasonably achievable.

I will include in the record tables of data provided to me by Amerada Hess that illustrates this result. They could buy credits, if they were available, but this would allow refiners who did not take early action to clean up gasoline to obtain a competitive advantage.

The only reasonable way to address this situation, Mr. President—and avoid penalizing a refiner by virtue of the fact that it took early action to clean its gasoline before it was required to do so—is to ensure that the EPA Administrator has the ability and discretion to review situations like this, and when necessary and appropriate, make adjustments to the refinery-specific baselines.

This notion of providing limited, necessary baseline adjustments is not unprecedented. Indeed, EPA provided this form of relief just last year on nearly identical facts. In that case, it was implementing the Mobile Source Air Toxics, or MSAT, rule. That rule sets maximum levels of toxic air emissions from gasoline from baselines established using data from the base years, 1998, 1999, and 2000. It is thus nearly identical to the anti-backsliding provisions of Subtitle C—it only differed in

that it covered all fuel, conventional and reformulated, and looked to data from one more base year, 1998.

In that case, Mr. President, Hess faced the same situation in which it finds itself in this instance for its gasoline supplies form Port Reading and HOVENSA, except that the reason MTBE was going to be unavailable on a going forward basis was state-enacted bans on its use in New York and Connecticut. In this case, it is federal law that will ban the use of MTBE. So the result in the MSAT rule situation should be the same when the provisions of this bill go into effect. In the case of the MSAT rule, EPA agreed that once the state MTBE bans went into effect, EPA would make an appropriate adjustment to the baselines for the Port Reading and St. Croix refineries to reflect their unique situation.

The adjustment was based on EPA's finding that the reformulated gasoline which these refineries produce significantly outperforms the industry average for toxic air emissions, and that MTBE bans would affect the modeled toxics performance. The purpose of this relief, quite simply, was to level the playing field, so that a refiner that took steps to clean up its gasoline early could continue to supply gasoline when MTBE is eliminated. I will enter into the RECORD a copy of the letters from EPA laying out the details of EPA's resolution of this problem.

My purpose today is therefore twofold. I first wanted to bring this matter to the attention of the Senate. It would be a travesty if we were to enact legislation that penalized parties for taking early action to improve the environmental performance of their product. And I should hasten to add here, Mr. President, that based on every conversation I or my staff have had on this matter, we have been assured that this was an unintended consequence. So my second purpose, Mr. President, is to ensure that the record on this legislation provides sufficient guidance to EPA in order that it can address this matter effectively.

For these reasons, I would like to engage the Chairman of the Environment and Public Works Committee, the Senator from Vermont, in a colloquy on this issue.

As discussed in my remarks, EPA had the requisite authority and discretion under the MSAT rule to make limited, appropriate adjustments to refinery-specific baselines for toxic air emissions based on unique circumstances such as those facing Amerada Hess. Would you agree that EPA would enjoy a similar level of discretion under the anti-backsliding provisions of Subtitle C of Title VIII if and when the Energy bill, or any other bill that carries similar provisions, becomes law?

Mr. JEFFORDS. I appreciate the Senator from New Jersey bringing this matter forward at this time. As he noted, the last thing we want to do in this statute is to penalize—advertently or inadvertently—those parties that take early action voluntarily to improve the environmental performance and public health benefits of the products they produce, in this case, reformulated gasoline.

Based on the facts that the Senator has presented and as they have been presented to me and my staff, it appears that Amerada Hess and HOVENSA could be disadvantaged if the anti-backsliding provisions of the bill were implemented without consideration of the factors that you have outlined. And, this situation could lead to a less competitive market in the Northeast, potentially driving up prices.

It seems reasonable that refineries such as you have described, which have worked out an understanding of an appropriate adjustment with EPA in the context of the implementation of rule on mobile sources of air toxics, should be able to proceed in a similar fashion when the provisions relative to reformulated fuels—particularly, the anti-backsliding provisions in Section 834—are implemented. EPA has informed my staff that they would interpret the provisions in question as providing them with adequate authority to do so. It would seem logical that such authority would be used as it was in the case of the rule, regardless of whether the situation is a state ban or a Federal ban on MTBE.

Mr. CORZINE. I very much appreciate the Chairman's answer, and believe that EPA should be able to retain and incorporate existing baseline adjustments granted under the MSAT rule into the baselines that will be established under Section 834(b).

I wonder whether the Chairman could answer another question in this regard. If the MTBE ban proposed in S. 517 takes effect before or supersedes the implementation of existing state MTBE bans, is S. 517 intended to negate baseline adjustments that refer to or are based upon those state laws?

Mr. JEFFORDS. As the Senator knows, there is no Federal preemption of State law contained in the Subtitle C. In fact, Section 833 of the bill, in Subsection (d), states specifically that enactment of the federal MTBE ban contained in the preceding subsection will ''have no effect on the law in effect on the day before the date of enactment if this Act regarding the authority of States to limit the use of [MTBE] in motor vehicle fuel.'' And Section 834, in which the anti-backsliding provisions are contained, includes a savings clause (Subsection (d)) that states ''[n]othing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.''

Taken together, these provisions are a clear indication that it is the intent of the Senate not to preempt the state laws that were the cause for the baseline adjustment granted under the MSAT rule or to affect any legal claims or actions related to the MSAT regulations, including the sections in that rule providing for baseline adjustments. Furthermore, as I observed in my prior response, fairness would dictate that the result should be the same whether MTBE is banned as a result of this bill or as a result of state law.

Mr. CORZINE. I again thank the distinguished chairman of the Environment and Public Works Committee for his comments and perspective on this issue, as this is a very important issue for my State and region.

Mr. President, New Jersey is the largest user of reformulated gasoline in the Northeast. Hess—through the Port Reading and Virgin Islands refineries—supplies about 13 percent of the reformulated gasoline used in the New York/New Jersey/Connecticut region. Production from Hess's Port Reading refining facility alone translates to 14–20 percent of New Jersey's total gasoline consumption. My office is advised that if S. 517 does not allow EPA to retain existing MSAT baseline adjustments or grant new ones, it will constrict the ability of its Virgin Islands joint venture facility to manufacture reformulated gasoline and may cause Port Reading to close. The reformulated gasoline supplied by these two refineries, as I noted previously, today has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average and would be replaced by other suppliers, who would supply less clean gasoline on average. Moreover, New Jersey could lose a major employer in the form of Port Reading which, in addition to producing clean gasoline, has been identified as among the top environmental performers for refineries in the country in Environmental Defense's most recent rankings.

As a matter of sound environmental policy, refiners who voluntarily cleaned up gasoline by removing dirtier components before the baseline period should certainly not be put in a worse position than refiners who waited until regulations forced them to reduce toxic air emissions. Nor should such refiners reap a windfall under S. 517 by having clean refiners end up buying credits from them to stay in business.

I greatly appreciate the interest my Chairman on the Environment and Public Works Committee has shown on this issue, and hope we can work together, along with other interested Senators, to remedy this situation on this and any future legislation that may carry similar provisions.

PRIVATE USE CLARIFICATION

Mr. KYL. I would like to engage in a colloquy with the chairman of the Senate Finance Committee in order to discuss an issue that I know the chairman, the ranking member of the committee and their staffs have been attempting to address for some time. Specifically, we all know that the electric industry is undergoing significant

change However, certain tax provisions, drafted long ago, appear to obstruct the current restructuring of the industry. The Senate Finance Committee has attempted to better understand these tax and non-tax conflicts in the rapidly changing national energy environment by directing the Department of the Treasury to conduct an ongoing study of the issue and report back to the tax-writing committees on an annual basis with legislative recommendations. In addition, the manager's amendment to the tax title to the energy bill before us on the floor has provisions that will facilitate restructuring for cooperatives and investor-owned utilities.

Public power utilities need to know how they can operate in this new environment. This guidance is especially critical given the lack of a legislative solution to modernize Federal ''private use'' tax laws passed in the mid-1980s. I rise today to suggest two mechanisms that will provide very limited, but necessary, guidance for public power utilities. I believe both of these mechanisms can be addressed either through administrative guidance or legislation.

First, the report of the Senate Finance Committee urges the Department of the Treasury to finalize as quickly as possible regulations relating to the definition of private activity bond for public power entities. In adopting these regulations, the committee hopes that the Treasury will use its regulatory authority to provide flexibility to foster the participation of public power in a restructured electric industry. I believe that finalization of the regulations is important.

I further believe that flexibility may be provided in the regulations by, among other measures, lengthening the term of the short-term output contract exception to 5 years; providing specific, more flexible guidelines for utilities to replace load lost from participating in the open access of their transmission facilities; and allowing the advance refunding of bonds used to finance transmission facilities used in open access or regional transmission organizations. I would hope that the legislative history to the tax title to the energy bill would urge the Treasury Department to consider adopting these items to the greatest extent possible when the private activity regulations are finalized.

Second, public power utilities historically finance aggregate generation, transmission and distribution needs with tax-exempt debt and electric system revenues, equity. Moreover, these construction needs are often financed on a system, versus a project, basis. This means that each dollar of borrowing is not tied to a dollar investment in specific projects. This is a common utility practice, but one that complicates the ability to manage private use limitations in the current environment.

Current law does not provide specific guidance in this area, though the Internal Revenue Service has issued individual private letter rulings to entities other than utilities that have sought clarification on the ability to allocate private business use to equity. Unfortunately, the private letter ruling process can be lengthy, administratively cumbersome and not viable were a large number of utilities to pursue this remedy. A modest solution to this issue would be to provide that the portion of a public power utility's system that is financed with amounts other than tax exempt-debt can be used without regard to private use limitations. Public power systems then have a strong incentive to finance projects with equity or taxable debt rather than tax-exempt bonds.

Specifically, language to provide broad guidance in this area could state:

> If, after first allocating private business use contractual sales to the portion of electric output facilities financed with equity or taxable debt, the remaining amount of such contracts, if any, when allocated to the tax exempt bond-financed portion of the facilities would not cause the private business use test to be exceeded, then the private business use limitations are deemed not to have been exceeded.

I have been informed by the Treasury Department that they believe that they have the authority to address this issue and are working on published guidance in this area. Unfortunately, the Treasury and the Internal Revenue Service have been working on comprehensive allocation regulations for some time and guidance is needed now. Therefore, I would again hope that whatever legislative history that emerges with respect to the tax title to the energy recognize the ability of a public power system to allocate its equity to investments in as flexible a manner as possible.

I hasten to add that these two suggestions do not provide a comprehensive fix to the numerous technical private use problems that require the attention of this body. However, it will provide necessary guidance to public power utilities at a time when managing private use has become increasingly challenging due to industry events. Moreover, they will not upset the competitive balance in the industry.

I ask the distinguished Chairman of the Committee on Finance if I can count on him to support language with respect to these two items in any report that this body or the conference may issue.

Mr. BAUCUS. The Senator from Arizona can count on my support in ensuring that guidance with respect to the finalization of regulations relating to the definition of private activity bonds for public power entities is provided at the earliest opportunity and most certainly in conference. Regarding the ability to allocate private business use to equity, I look forward to working with my colleague to fashion an appropriate remedy for this important issue.

NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

Mr. MCCAIN. Mr. President, section 1601 of title XVI of this bill would establish a National Science and Technology Assessment Service to develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. Everyone in this body appreciates that the science and technology policy issues that we face today are diverse and complex. Clearly there is a need for some reliable means for Congress to receive timely, unbiased information on such matters.

However, I am concerned that the details of the organizational structure being proposed in this section have not been fully vetted. No hearings were held on the proposal. Many of those interested are not locked into this particular design proposal, but feel that there is a valid need for such an organization. I hope that we can revise the title XVI provisions to ensure that it meets the needs of Members. Many of us recall the former Congressional Office of Technology Assessment which was abolished in 1995 over concerns about its ability to provide timely information to Members of Congress. Oftentimes their reports were released after a vote on a particular issue, rendering them useless from a Congressional standpoint. There were also concerns that the office had grown to be much larger than originally anticipated. By the time the office was abolished, it had grown to have an annual budget of approximately $22 million and had over 200 employees. The cost of an average report was around $400,000.

I believe that the authors of this title XVI intend that the assessment service be an unbiased, nonpartisan entity whose reports and recommendations would be widely accepted by the Congress. To create such an entity with instant credibility, requires an open process for considering different approaches to structuring it. Without this opportunity and process, the established service may not be received as a reliable non-partisan entity. Without such a reception, the service would be essentially useless.

Although I have filed an amendment that would delete this title from the bill, I am hereby withdrawing that amendment. I hope to work with the chairman of the Commerce Committee, Senator HOLLINGS, to further review the provision while the Energy bill is in conference with the House. I urge Senator HOLLINGS to hold hearings on this proposal to allow for an open debate on the needs and benefits of the congressional service. I further urge the chairman to engage other committees and Members in these discussions.

Mr. HOLLINGS. Mr. President, I thank Senator MCCAIN for his comments and his willingness to work with me on this issue. The need for reliable, sound advice to Congress on scientific and technology issues has never been greater. Many of the issues that we tackle every day involve some scientific or technological element.

Congress needs to be sure that it can avail itself of excellent scientific analyses on complex issues. The advice that we were able to receive in the past from the Office of Technology Assessment on such issues as climate change and homeland security is sorely missed. As Senator MCCAIN noted, any assessment service for the Congress needs to be non-partisan and effective. I look forward to discussions with the ranking member of the Commerce Committee, as well as other members of the Senate, regarding the proposed structure of the National Science and Technology Assessment Service and possible changes to that structure.

REQUEST FOR TAX MODIFICATION

Mr. HARKIN. Mr. President, I have long been interested in providing a modification in the tax law allowing a historic hotel in my State to be restored and used as housing for lower income elderly people. Unfortunately, as the chairman knows, the tax laws often determine the viability of the project and this modest sized project is more complex then most of its size.

Mr. BAUCUS. Mr. President, I appreciate the Senator from Iowa's concern and his persistence. However, because the provision is not an energy tax proposal, it is not appropriate for it to be included in this energy bill. But I do want the Senator to know that there is sympathy for the proposal, and I do plan to consider its inclusion on an appropriate measure in the near future.

DEVELOPMENT OF HIGH TEMPERATURE SUPERCONDUCTOR TECHNOLOGIES

Mr. SCHUMER. I would like to pose a question to my esteemed colleague from New Mexico, who serves as the chairman of the Energy and Natural Resources Committee. It is my understanding that the Energy Policy Act of 2002 contains language that will direct the Secretary of Energy to conduct research and development activities regarding enhanced renewable energy. Within that language's provisions for electric energy systems and storage, there exists language that directs the Secretary of Energy to undertake demonstration projects to further the development of high temperature superconducting, HTSC, technology. I am seeking the chairman's assistance in clarifying the specific factors and goals that are meant to be associated with these demonstration projects.

It is my understanding that the HTSC technology demonstration projects, which may include HTSC cables, fault current limiters, and power transformers, are meant to focus on the development of second generation YBCO-based superconductors that will make several significant contributions to the electrical system. Furthermore, the high temperature superconductor technology demonstration projects should also have a minimal adverse impact on the environment and land use, and produce environmental benefits by reducing reliance on oil as a cooling agent in electric power devices and reducing harmful emissions caused by fossil-fuel-powered generating plants.

I would like to know if the Senator from New Mexico agrees with my interpretation of the language in the Energy Policy Act of 2002.

Mr. BINGAMAN. I respond to my colleague from New York by stating that I do in fact share his understanding of the intent of the language relating to HTSC research in the Energy Policy Act of 2002.

OIL AND GAS DEVELOPMENT ON PUBLIC LANDS

Mr. DURBIN. Mr. President, I ask the chairman of the Energy and Natural Resources Committee to engage in a colloquy with Senator FEINGOLD and me with respect to oil and gas development on Federal lands, an issue that is very sensitive for Americans right now. There are areas on public lands where we can develop oil and gas resources in a responsible way. But we should not take this fact as a green light to degrade environmentally sensitive lands, which should be preserved for generations to come. We need to recognize that the Secretary of the Interior, as the steward of our public lands, must consider a range of factors when developing and use plans for public lands. The Secretary of the Interior is not just in the business of energy—lands administered by the Bureau of Land Management are multiple use lands and the Secretary is required to take many factors into consideration when developing land use plans, including the recreation, range, timber, minerals, watershed, wildlife and fish, and natural, scenic, and historic values.

The Bureau of Land Management has authority to lease public lands for oil and gas development under the authority of the Mineral Leasing Act, and this authority is referenced in section 602 of the energy bill. However, before the BLM exercises its authority, I believe that it is important that the secretary consider the characteristics of the land, including whether the land exhibits wilderness characteristics. For example, section 102 of the National Environmental Policy Act requires the Secretary to consider ''any adverse environmental effects'' and ''any irreversible and irretrievable commitments of resources'' that would result from proposed agency actions. In addition, section 202 of the Federal Land Policy and Management Act requires the Secretary to develop and maintain land use plans for public lands administered by the BLM, using and observing the principles of multiple use and sustained yield, and among other criteria, ''giv[ing] priority to the designation and protection of areas of critical environmental concern.'' Does the Senator from New Mexico agree that section 602 of the Energy Policy Act does not change the Secretary's obligation to comply with all laws and regulations applicable to the BLM's onshore oil and gas program, including applicable requirements under NEPA, FLPMA, and other laws designed to protect environmental values and sensitive areas on public lands?

Mr. BINGAMAN. The Senator from Illinois is correct. Section 602 simply states that in order to ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior is required to ensure expeditious compliance with the requirements of section 102(2)(C) of NEPA, improve consultation and coordination with the States, improve the collection of information related to such leasing activities, and improve inspection and enforcement activities related to oil and gas leases. The section also authorizes appropriations to the secretary. Section 602 does not change any requirements under current law applicable to the management of public lands, including any requirements imposed by NEPA, FLPMA or any other applicable law.

Mr. DURBIN. I thank the chairman. It is my understanding that the current BLM policy requires the agency to consider activities on lands proposed for special designations, such as Areas of Critical Environmental Concern and Wilderness Study Areas, and, subject to valid existing rights, to avoid approval of proposed actions that could degrade the values of potential special designations. Does the Chairman agree that section 602 does not affect this policy?

Mr. BINGAMAN. The Senator from Illinois is correct.

Mr. FEINGOLD. The Senator may be aware that citizens' groups have petitioned the BLM to review several million additional acres for wilderness designation, but these lands are largely not protected from oil and gas development. The BLM's ''Wilderness Inventory and Study Procedures'' manual requires the BLM review wilderness recommendations received from the public, and to make a determination as to whether there is a reasonable probability that the area in question may have wilderness characteristics. If the BLM determines that the area may have wilderness characteristics, and if actions are proposed that could degrade the wilderness values, the BLM ''should, as soon as practicable, initiate a new land use plan or plan amendment to address the wilderness values.'' Does the chairman agree that section 602 does not alter this policy, that the BLM must review wilderness proposals it receives from the public?

Mr. BINGAMAN. The Senator is correct, Section 602 does not change any existing requirements or policies, including the potential wilderness review policy.

Mr. FEINGOLD. I thank the chairman.

PROTECTING LEASES ON THE OUTER CONTINENTAL SHELF

Mrs. BOXER. Mr. President, I rise to discuss an amendment that I have been working on with several of my colleagues for some time now. The amendment is based on S. 1952, a bill that would reacquire and permanently protect certain leases on the Outer Continental Shelf off the coast of California by issuing credits that can be used to

develop energy resources elsewhere in the country.

As you know, for decades, Californians have opposed oil and gas drilling along their coasts. We vividly remember the horrific oil platform rupture and oil spill that occurred off the coast of Santa Barbara in 1969. The ecological implications of that spill and the many other spills and leaks associated with the rigs that are currently along our coast are still being felt by Californians living along the coast.

Unfortunately, 36 more leases off our coast remain eligible for oil and gas development and four additional leases remain in legal limbo.

That is the last thing Californians want or need.

In fact, the State of California has taken the Department of the Interior to court over whether the State has the ability to deny these leases. I strongly support the State in this effort and have joined Representative CAPPS of California in filing an amicus brief in support of the State's position.

I believe every State should have the right to deny oil and gas development off their shores, as offshore activities inevitably impact the people and resources that are onshore. Last year, I reintroduced legislation, the Coastal States Protection Act, to place a moratorium on new drilling leases in Federal waters that are adjacent to State waters that have a drilling moratorium. That bill, however, addresses only future leases.

With regard to the undeveloped existing leases off of California's coast, I believe a proactive approach is needed. These leases are in the midst of protracted and contentious litigation. I do not believe, however, that any interests are best served by waiting for the courts to sort this out. I have been approached by California lessees that want out of California. I want them out; the State wants them out; and the people of California want them out. Instead of hoping the courts reach the same solution, I think it vital that we seek legislative action to eliminate any threat of future drilling off California's shores and remedy this situation as soon as possible.

That is why I have continued to work on this language with my colleagues to find a compromise that would protect the fragile environment off the California coast and at the same time redirect the financial resources for energy production to other areas where it can be used to meet our country's energy needs.

In short, we are working to rid California of unwanted drilling, end a protracted legal battle in which nobody wins, and free the financial resources of the lease owners so that they may produce energy elsewhere. Our goal is a win-win situation.

However, this is a new idea that has significant implications and we have not yet been able to work fully through all of the details. For that reason, I will not offer this amendment to the Energy Bill and will instead try to build consensus around this concept. I am committed to continuing to work on this issue with my colleagues because I know they too are committed to the same goal.

Mr. CAMPBELL. Mr. President, I rise to associate myself with the goal of the Senator from California. One of the California lessees has their headquarters in Colorado. I know that this company has wasted a great deal of time, money and effort in the unproductive leases off the coast of California. It is time for this company to be allowed to recoup its costs so that they can be redirected to more promising development opportunities elsewhere.

We need to enhance our domestic energy production in the interest of national security, and so we have to find a way to reconcile the competing interests of the California environmentalists, the Department of the Interior and the oil companies. We can all agree that our nation needs to produce more energy and that we must do so in environmental sensitive ways. However, the owners of the leases have had their hands tied in California for 20 or more years to no one's satisfaction. It is time to move on, so that both important national goals can be met.

I applaud the efforts of Senator BOXER to continue to seek a compromise that balances the environmental concerns with the need to fairly compensate the companies for their leases so they can redirect their efforts toward the production of more energy for our nation.

Mr. BINGAMAN. Mr. President there is no aggressive advocates on this issue than Senator BOXER. I am willing to continue working with her to see if there is a solution that addresses the environmental concerns of her state, the concerns of the oil and gas industry, and the need to develop additional energy resources. I also want to thank the Senator for her willingness to put their issue aside for now so that consensus can be reached. I am hopeful that through continued efforts we will be able to achieved that consensus.

COMPREHENSIVE STUDIES OF SHALLOW UNDERGROUND STRUCTURES HOLDING NATURAL GAS

Mr. BINGAMAN. I would like to pose a question to my esteemed colleague from Kansas. It is my understanding that there was a terrible accident involving the death of several people in Kansas from the leakage of natural gas from a shallow underground storage structure. As a result, you are offering a noncontroversial amendment to authorize the Department of Energy to conduct a detailed study on the engineering and geology aspects of these shallow underground structures so that their safety can be assessed on a rigorous basis. I appreciate my colleague's desire to work with me on addressing this issue in conference. I agree with him that it can be dealt with in the conference appropriately without taking up valuable Senate floor time.

I would just like to clarify that as this Energy Policy Act of 2002 moves into conference, if the good Senator from Kansas that it might be appropriate to move some of the detailed language under your amendment's section (c) to the subsequent conference report so that it gives the proper guidance and intent to the deparment?

Mr. ROBERTS. I thank my good colleague from New Mexico for understanding the reason why this amendment is important to not only my state but the safety of future underground shallow gas structures in the entire U.S. I look forward to working with him and the Senate conferees on the energy bill to ensure the proper report language is in the conference report based on the legislative language in my amendment.

AMENDMENT NO. 3185

Mr. KYL. Mr. President, on April 22, I submitted amendment No. 3185 which addresses service obligations of load-serving entities. This amendment gives specific direction to FERC in exercising that authority. It amends title II of S. 517 to require FERC to ensure that utilities with service obligations are able to retain existing firm transmission rights in order to meet those obligations.

This amendment allows FERC to go forward with its program to establish a standard market design for wholesale electric markets while at the same time ensuring that transmission owners and holders of firm transmission rights under long-term contracts are able to retain sufficient transmission rights to meet their service obligations under Federal, State, or local law, and thereby to protect retail customers.

This amendment has been reviewed by the Administration, FERC and a number of key participants in the electric restructuring debate. I believe we have some agreement on the concept, but need more time to work out the language. Accordingly, I am not offering the amendment now but would like to work with the managers of the bill to come up with an acceptable version.

Mr. MURKOWSKI. I thank the Senator from Arizona for bringing this very imporatnt concept to our attention. We very much want to work with him to develop an acceptable service obligation amendment.

Mr. BINGAMAN. I thank the Senator from Arizona for not pursuing his amendment at this time, and I agree to work with him to try to find an acceptable solution. To further this effort, I am willing to hold a hearing on the matter.

Mr. SMITH of New Hampshire. Mr. President, I am very pleased that the energy package the Senate will pass contains a solution to the MTBE problem. This comprehensive MTBE legislative package protects our drinking water while preserving air quality and minimizing negative impacts on gasoline prices and supply. Solving the MTBE has been one of my top priorities for over two years. My legislation

was voted out of committee both last Congress and this Congress, and I am pleased that it was finally passed by the full Senate.

As Chairman of the Environment and Public Works Committee, I held a field hearing in Salem back in April 2001 to hear from the folks in New Hampshire about their MTBE problems. I have come to the floor on several occasions to speak specifically about New Hampshire families and small businesses that have been impacted by MTBE contamination. I have visited with many of my constituents who suffer with MTBE contaminated wells.

The Miller family—Christina and Greg, and their son Nathan—live in Derry, New Hampshire. This young family has been struggling for over three years with the MTBE contamination in their well. I spent time at the Four Corners Store and surrounding homes in the Town of Richmond, New Hampshire. Although the store's underground storage tanks are in compliance with the law, an MTBE plume persists from a tank that leaked years ago. This plume has contaminated a number of private wells of the homes near the Four Corners Store. The Goulas and Frampton families who live close to the Four Corners Store, were kind enough to invite me into their homes, and show me the massive treatment system that had been installed by the State. I am very pleased that I can tell these families and many others in New Hampshire that we are one important step closer to having an effective solution to the MTBE problem.

Specifically, this legislation bans MTBE; provides money for the cleanup of MTBE; eliminates the oxygen mandate in the RFG program, and maintains the current level of air quality protection. Additionally, the legislation requires the Environmental Protection Agency (EPA) to conduct an expedited review of state petitions to suspend the oxygen mandate in the RFG program. If the EPA fails to complete the review of a State petition within 30 days, the petition will automatically be granted. This provision could allow New Hampshire to begin to eliminate MTBE from the fuel system even before the oxygenate mandate is lifted.

Finally, the language includes $2 million for the research of techniques to cleanup bedrock contamination and to establish a clearinghouse for sharing the information. According to Dr. Nancy Kinner, a scientist from the University of New Hampshire, tracking and cleaning up MTBE in fractured bedrock is one of the greatest challenges we face as a result of MTBE leaks. This research will help to address that problem.

Mr. President, this was not an easy compromise to reach, but we have come together on an effective solution. I want to thank Senator DASCHLE for including my MTBE legislation in this energy package from the beginning of this process. I would also like to thank the Majority Leader for working so hard with me and other members to hammer out a compromise package and ensuring passage. Senators MURKOWSKI, INHOFE, and VOINOVICH were in tough positions but they worked tirelessly to come to this agreement—without them, we could not have solved the MTBE problem. I would also like to thank the stakeholders, including the refiners, ethanol producers, and environmental groups—all of whom have worked with me over the last few years to reach a consensus.

Last, I would like to thank all the Senate staff who worked on this package. Specifically, I would like to mention David Conover, Chris Hessler, Melinda Cross, Eric Washburn, Chris Miller, Alison Taylor, Janine Johnson, Dan Kish, Jamie Karl and Andy Wheeler. I am pleased that this comprehensive solution is supported by so many of my colleagues.

Mr. BIDEN. Mr. President, the energy bill that we will pass today is not the most perfect bill—there are a number of things in this bill that I don't like. What we will pass today is the product of two months of debate and changes, and it is a compromise. It offers the basis for a comprehensive and balanced plan to address the energy needs of this country.

Anyone who drives a car or pays an electric bill knows that over the past two years there have been huge fluctuations in oil and gas prices. The bill that will pass the Senate today by a bipartisan vote will increase energy supplies—fossil fuels and alternative sources such as ethanol, biodiesel, wind, solar and geothermal—will help stabilize prices, and will do so in an environmentally sensitive way. It provides tax incentives to spur new oil and gas production and development of renewable sources, while also promoting responsible conservation. It includes important consumer protections and assistance for low income persons, particularly the elderly who live on fixed incomes. And I was also pleased that this bill protects the Arctic National Wildlife Refuge from oil drilling, and takes important steps toward cutting greenhouse gas emissions.

I am voting in favor of this bill today because it provides an important framework for a national energy policy. I think that there is more we can do and I am hopeful that in conference, the House and Senate will work together to improve this legislation.

Mr. NELSON of Nebraska. Mr. President, I rise to explain the reality of ethanol production in the United States and do so in opposition to the amendment to postpone the renewable fuels standard implementation date.

There are currently 61 ethanol plants with the capability of producing 2.3 billion gallons of ethanol per year, the amount required by the current RFS on the starting date of January 1, 2004. Some opponents of the RFS claim ethanol plants operate at only 82 percent of capacity.

We have tried to explain that production is below capacity because the market for ethanol at a fair price is below production capability. In previous testimony, I have explained that certain big oil and gasoline companies simply refuse to use ethanol even when wholesale price is well below the wholesale price of gasoline and ethanol's high octane number is a free benefit. The RFS will change that situation.

However, to ease the concern of the RFS opponents, we have accepted their production number of 1.7 billion gallons in 2001—not the 2.3 billion gallon capacity.

There are currently 16 new plants under construction that will add another 400 million gallons of capacity, raising the total to 2.7 billion gallons of ethanol by year's end. Again, taking our opponents numbers, total production is forecast at 2.2 billion gallons.

From a review of proposed new ethanol plants in various stages of planning, design, engineering, permitting and financing, we can very conservatively estimate that another 300 million gallons of production capacity will come on line in 2003, to give us a total of 3 billion gallons capacity and 2.5 billion gallons of production, using the estimates of RFS opponents.

I know ethanol plant operators; they will exceed nameplate capacity when the market is there and the price is fair. We should also have well over 70 million gallons of biodiesel production by 2004. This is equivalent to about 100 million gallons of ethanol, using the 1.5 to 1 ratio for biodiesel and cellulosic biomass allowed by the RFS.

Consequently, without unforeseen obstacles, America will have the capability to produce about 3 billion gallons of ethanol when the RFS requirement is only 2.3 billion gallons to be used throughout 2004—giving us still more construction time in 2004. If a disaster hits, there are safety features in the RFS to deal with the problem.

I might add it is far more likely that a disaster in oil and petroleum product availability will occur than a shortage in the supply of ethanol. Should a fossil fuel disaster hit, ethanol supplies will be most welcome in keeping the price of gasoline down.

I will add to the RECORD an op-ed article written by a professor of rural sociology and environmental studies at the University of Wisconsin in Madison. It appeared in The Washington Post on April 4. It is titled ''Why We Can't Drill Our Way to Energy Independence.'' Professor Freudenburg ends his article with these thoughts: ''Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.''

The professor is right, and Senator KERRY was right when he said we have to create our way out of our dangerous dependence on foreign oil dependence.

I wish my colleagues, determined to weaken the ethanol industry, would

join the creative team by recognizing ethanol, biodiesel and other biofuels are a big part of the solution. We are all patriots. We are clear-sighted and determined to protect our national interest abroad and homeland security in America.

We seem, however, myopic in fully appreciating that transportation fuels do much more than move us to our jobs, our kids to school and goods to the market. They are absolutely vital to our economy, our well being—and to national and homeland security. Interrupt the flow of fossil fuels in our transportation sector and we are weakened in all of these sectors.

We must break that direct connection between fossil fuel imports and the overall well being of America. We can do so through the biofuels provisions in the RFS.

If we were real patriots, we would push beyond the goal of about 3 percent replacement by 2012 and set a goal of 10 percent or about 14 billion gallons by that year. In Nebraska, Iowa, Minnesota, and Illinois we are already well above the 10 percent mark.

For almost all States outside the Corn Belt, there are ample supplies of cellulosic biomass including agricultural and forestry crops and residues, rights-of-way, park, yard and garden trimmings and the biomass and fraction of municipal waste that is a disposal problem, and ends up in land fills and sewers.

We are on the cusp of the science and technologies to cost effectively convert this biomass into biofuels, bioelectricity and biochemicals. That is why I am promoting a ''Manhattan'' type approach in order to rapidly move forward with large demonstration plants and then on to full commercialization.

By working together and with adequate resolve, we can make the 10 percent goal and go beyond to the benefit of America's national, energy, and homeland security and its economy through new basic industries, quality jobs and an expanded tax base. The environmental benefits are equally important.

If the Senator from California is concerned about ozone formation resulting from the introduction of ethanol, she should look to Chicago and Milwaukee where they have been essentially using ethanol blends for years with air quality steadily improving.

If the California Senators are concerned about benzene in their ground water, they should call for reductions in benzene and other aromatics in gasoline. These other aromatics, toluene and xylene, partially break down into benzene, a potent carcinogen, in the combustion process, both in the engine and the catalytic converter. Ethanol can replace these aromatics to the overall benefit of the environment.

California will ban MTBE in 2004. Yet, the California Senators oppose the introduction of ethanol to replace MTBE. They want to turn to the aromatics and alkylates to meet supply and octane needs. The availability and costs of alkylates are unknown. The adverse environmental and health effects of aromatics are well known. Therefore, to accept aromatics and to oppose ethanol is a disservice to the people of California.

The opponents of ethanol bring up the possibility of price fixing by the ethanol industry. I believe bringing such unsubstantiated claims to the Senate, and used as arguments to damage the ethanol industry in its entirety while the future of ethanol is being debated, is regrettable. This sudden flood of media on this issue cast suspicion on the reality of these claims, and leads one to believe that enemies of ethanol are simply continuing their campaign to tarnish ethanol's reputation and the industry in its entirety.

If there are concerns about the price of ethanol, the reality of the marketplace should provide needed comfort. At the wholesale level, ethanol prices are well below those for MTBE, ethanol-free gasoline, the aromatics and, we assume, alkylates, since wholesale prices for this gasoline component are not available.

The RFS is the best option we have to reduce our dangerous dependence on imported oil and to gain other benefits I have already outlined. It is time to bring this debate to a close and to seriously move forward with national determination to lead the world in the production of biofuels, bioelectricity and biochemicals using cellulosic biomass and waste streams as feedstocks.

Mr. President, I ask unanimous consent the op-ed from the Washington Post be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 24, 2002]

WHY WE CAN'T DRILL OUR WAY TO ENERGY INDEPENDENCE

(By William R. Freudenburg)

WASHINGTON, Apr. 24.—It's time for a reality check on energy policy.

Politicians are fond of claiming that increased domestic oil production can restore energy ''independence,'' but anyone who actually believes those claims is living in a world of self-delusion. U.S. energy independence hasn't been physically possible since the days when Elvis was still singing, and if we're talking about oil, it won't ever be possible again.

There are two reasons. One is that the United States simply uses too much oil, too wastefully. The other is that we've already burned up almost all the petroleum we have. The calls for ''energy independence'' aren't based on realism; they're based on nostalgia.

To be fair, we've had quite a petroleum history. Back in 1859, the United States was the country where the idea of drilling for oil originated, and for nearly a century thereafter, we were a virtual one-nation OPEC. Save for a few years around the turn of the last century, the United States produced over half of all the oil in the world more or less continuously until 1953.

But ever since then, our proportion of world oil production has been dropping, with only minor fluctuations, no matter how much our politicians have tried to stop the slide. Ironically, around 1973, when President Nixon's ''Project Independence'' first brought the issue of energy policy (and the idea of energy ''independence'') to the minds of most Americans, the country moved decisively in just the opposite direction from independence. Even during the massive push to increase U.S. oil production in the years of Ronald Reagan and James Watt, the only real effect was a tiny increase in the U.S. proportion of world oil production—from 14.5 percent to 16.8 percent—between 1980 and 1985.

By the time Reagan left office, physical reality had reappeared, and the U.S. share of world oil production was even lower than when he started. In recent years, we have produced less than a tenth of the world's oil.

Why have politicians been arguing about oil exploration on the northern edge of Alaska, even as we keep moving further off the southern edge of the continent, into the ever-deeper waters of the Gulf of Mexico? It's simple: We've already drained almost everything in between.

Politically savvy spin doctors may be able to get many Americans to overlook the facts, at least in the short run, but they aren't going to change reality, and the aren't going to turn back the clock. According to the American Petroleum Institute, the United States is now down to just 3 percent of the world's proven reserves of oil. Wishful thinking isn't going to change that.

Unless the politicians can figure out how to turn their hot air into oil, we need to face the facts: It is no longer possible for the United States to drill its way to energy independence. This country simply doesn't have that much oil left, and if we use that oil faster, we will just run out sooner.

Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.

Mr. FEINGOLD. Mr. President, energy policy is an important issue for America, and my Wisconsin constituents take it very seriously. The bill before us seeks to address the balance of domestic production of energy resources versus foreign imports, the tradeoffs between the need for energy and the need to protect the quality of our environment, and the need for additional domestic efforts to improve our energy efficiency, and the wisest use of our energy resources. Given the importance of energy policy, an energy bill is a very serious matter, and I do not take a decision to oppose such a bill lightly. Mr. President, in my view, this bill does not achieve the correct balance on several important issues, and I will oppose this bill.

Though the bill as amended will revitalize the Federal Government's responsibility to regulate fuel economy, it weakens current law and exempts pickup trucks from any future increases in fuel economy standards. The amendment by the Senator from Michigan, Mr. LEVIN, on fuel economy which I supported requires the Department of Transportation to develop new fuel economy standards in 15 months for light trucks and 24 months for passenger cars. Taking pickup trucks off the table undermines a serious effort to re-think our fuel economy policy in a rulemaking context, and it is a direction I oppose.

In addition, Mr. President, as introduced, this bill contained a renewable

energy portfolio standard requiring electric utilities to generate or purchase 10 percent of the electricity that they sell from renewable sources by 2020. I supported an amendment offered by the Senator from Vermont, Mr. JEFFORDS, to increase this percentage to 20 percent, but on the floor the Senate adopted amendments to water it down to 8 percent. Moreover, with the exemptions for some utilities added to the bill, the real effect will be about 4–5 percent new generation from renewable sources by 2010. We can and should do more to use renewable sources of energy, and this bill should have set a serious target.

In addition, this bill repeals the proconsumer Public Utility Holding Company Act, the Federal Government's most important mechanism to protect electricity consumers. The Senate failed to adopt the amendment by my colleague from Washington, Mrs. CANTWELL, to strengthen consumer protections which I helped write and co-sponsored. The bill should have given the Federal Government more oversight over utility mergers and should have prevented utilities from passing on the costs of bad investments to consumers and from using affiliate companies from undercutting small businesses. Also the electricity provisions of the bill do not re-regulate trading of energy derivatives. This would have been addressed by an amendment offered by the Senator from California, Mrs. FEINSTEIN, which I supported, which would have fostered a more stable market with transparent transactions and helped to prevent another Enron.

Finally, I am also concerned that we added $14 billion in tax breaks without paying for them on this bill. Our budget position has deteriorated significantly over the last year, in large part because of the massive tax cut that Congress enacted. We now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to some sense of fiscal responsibility, and first and foremost that means making sure that the bills we pass are offset. Without offsetting the cost of the tax package, we are digging our deficit hole even deeper and adding to the massive debt already facing our children and grandchildren.

The American people deserved better with this bill, and I cannot vote in favor of it. This measure will need to improve in Conference to get my vote, and I look forward to an improved bill.

Mrs. BOXER. Mr. President, I will vote against the energy bill because it is a bad bill for California and the nation.

The bill includes an ethanol mandate for California that will raise gas prices. Cleaner air for California can be achieved without this mandate. Ethanol has been given a liability waiver if there are adverse consequences from its use. I tried to eliminate this waiver but lost on a 42–57 vote. We already know that ethanol may spread plumes of harmful chemicals, such as benzene, toluene, ethyl benzene, and xylene. So this is a dangerous waiver.

The energy bill does not do enough to protect consumers from another electricity crisis. I worked to include a measure in this bill that would have guarded against future market manipulation by companies like Enron by increasing oversight of the electricity market. Companies would be far less likely to gouge consumers if these additional protections were in place, but the Senate refused to pass this vital measure.

Also, I am disappointed that the Senate walked away from reasonable fuel economy standards and stronger air conditioner efficiency standards, which are so important to our environment and to lessening our dependence on foreign oil.

The ''good guys'' have had few wins. We were able to keep the provision of the bill to provide tax credits for alternative energy sources and alternative fuel vehicles. And we defeated an attempt to open the Alaska Wildlife Refuge to drilling, for which I am very thankful to the grassroots of California for all their efforts. But drilling in Alaska did get 46 votes, and I am concerned that with the bill passing the Senate, drilling in Alaska may not be dead in the conference committee.

In conclusion, the bill does more harm than good for the people of California.

Mr. KENNEDY. Mr. President, I must rise, regrettably, to oppose the energy bill. This legislation means higher gas prices and lower environmental protections for the American people, and it should be opposed.

I commend Senators BINGAMAN and DASCHLE for their leadership and their tireless work on this initiative. I believe I could have lived with many sections of the bill as introduced. I know there are many issues regarding our national energy policy upon which Senator DASCHLE, Senator BINGAMAN and I agree. However, in my opinion the bill in its current form falls far short of the mark for environmental and consumer protections, and forces us to rely on oil more than innovation for our energy needs for the foreseeable future.

The energy bill as introduced wasn't as bold as it could have been, but it represented an improvement over the status quo. It had higher goals for renewable energy. It maintained some consumer protections. There are still provisions in this bill that deserve everyone's support. It's true that we are raising the bar a bit in calling for renewable energy, though not enough. We're providing some tax credits for renewable energy production and energy efficiency. We're improving pipeline safety. We're investing resources in making renewable energy more efficient and profitable. We're conducting research on finding the most appropriate and effective places to site renewable energy facilities. We spoke very clearly that drilling in the Arctic Natural Wildlife Refuge is not in the interests of our economic or national security.

I am also pleased with Senator BAYH's leadership on clean-burning school buses, and I look forward to continuing our work together on this very important issue.

But I think this bill doesn't do enough to ensure that efficiency is a serious component of our energy policy. I commend Senators KERRY and MCCAIN for their efforts on fuel economy standards, but I'm very disappointed in the vote on CAFE. I'm also disappointed that the Senate couldn't find an agreement to set broad goals for fuel consumption as reflected in the Carper amendment. I fear we will be forced to revisit this issue again sooner rather than later.

I'm very concerned that we didn't do enough to protect consumers in this bill. Energy industries wanted fewer regulatory restrictions, and were rewarded in this bill. The underlying bill had adequate consumer protections, but they were watered down by amendments. In today's fast-paced world of energy trading, and mergers, we should err on the side of transparency and consumer protection. The energy bill doesn't do that.

I'm particularly concerned about the potential harm to the environment in this bill. This bill supports hydraulic fracturing. It forces States to use ethanol—and while ethanol clearly addresses air pollution, I'm concerned that the residue created by ethanol, known as EBTE, could pollute our water supply. We shouldn't be trading clean water for clean air.

The fuel oxygenate mandate provisions are cumbersome for Massachusetts. It forces our state to use more ethanol than it will be able to accommodate for several years. The infrastructure to transfer ethanol is inadequate, and when Massachusetts finds itself unable to meet the mandate, it will be forced to pay a credit—increasing gas prices at the pump. I'm also concerned about the impact to the highway trust fund—Federal resources from the gas tax should be spent on repairing and constructing roads and bridges. More ethanol would reduce the revenues in this fund and compromise our ability to maintain our transportation infrastructure.

I am very concerned about the liability protections given to industry. We're subsidizing and capping the liability costs of the nuclear industry in this bill—I believe if you're not prepared to bear the total costs of nuclear power, then you shouldn't enter the business. We're giving blanket product liability protections to fuel additive manufacturers, even though we don't have adequate information on their safety if they drain into our drinking water. An energy bill should be about innovation, conservation, and security—not about providing yet more liability protections for corporations when their products hurt people or the environment.

This bill has some improvements, but I'm sure the Senate could do better.

Mr. MCCAIN. Mr. President, regarding this energy proposal before the Senate proceeds to a final vote today. For 6 weeks, we have debated various aspects of this energy proposal. It's been the most exhaustive debate on energy related issues since 1992 when previous energy legislation was enacted.

In that 10-year time span, unfortunately, conditions have only worsened. America's dependence on foreign oil has increased from 46 percent to 57 percent. In 1992, gas prices were $1.13 per gallon. But, in recent times, consumers have had to absorb several price spikes in gasoline prices, some in excess of $2 per gallon. Special interest tax subsidies are also on the rise. In 1992, the Congress enacted $1.5 billion for energy tax credits and benefits for 5 years. This Senate bill includes more than $13 billion for 10 years, and this amount could increase since the House-passed energy bill includes more than $30 billion in energy tax subsidies.

As I listened to many of my colleagues debate these various issues on the Senate floor, the consistent message I have heard from both sides of the aisle is the need for a balanced energy policy, increasing U.S. energy stability, and protecting American consumers. These are all laudable and important goals. The end result, however, is a bill that falls significantly short of these goals and represents more benefits to special interests than to the American people.

One of the stated objectives of this new energy policy is to reduce America's dependence on foreign oil. Regrettably, we missed a critical opportunity when the Senate rejected a proposal to increase fuel efficiency standards, which would have substantially decreased our Nation's dependence on foreign oil and also reduced greenhouse gas emissions. Had we adopted an increase of fuel efficiency standards to 36 mpg average by 2015, we could have potentially saved 2.6 million barrels of oil per day by 2020. This amount is about equal to present imports from the Persian Gulf.

The Senate also rejected a modest effort to mitigate the growth rate of our Nation's oil consumption, which increases each year by an estimated 2.5 percent, by requiring the Secretary of Transportation to reduce the amount of oil we use to power passenger cars and light trucks by 1 million barrels per day by the year 2015.

Both these critical measures would have gone far to improve energy efficiency, the environment, and public health. By increasing CAFE standards by 46 percent and reducing our consumption of oil, we could also have reduced greenhouse gas emissions by 25 percent in Arizona alone, significantly improving the air that is negatively impacting our citizens. Instead, pressure from car manufacturers and industry won the day, and we rejected these modest approaches to improving energy efficiency and public health.

Another big benefactor in this bill is the ethanol industry. Not only does this bill propose a ten-year extension of tax benefits for the ethanol industry, it also requires that ethanol use in gasoline shall be increased three-fold by 2012.

Proponents of the new reformulated fuel standard requirement suggest that their intention is to help farmers, small ethanol producers, and replace the controversial fuel additive, methyl tertiary butyl ether, MTBE, which has been proven to contaminate groundwater. This new ethanol requirement is so important to its sponsors that they willingly override continuing public and scientific concerns about ethanol's impacts on the environment and public health. Unanswered questions remain about the Nation's production and transportation readiness for this expanded market. Billions will continue to be drawn from the Federal treasury to subsidize the ethanol industry.

The ethanol industry has enjoyed extremely generous subsidies for close to 30 years. By any business standard, it should be more than aptly competitive. This is a free market economy, yet, here we are, essentially guaranteeing the ethanol industry a monopoly on the gasoline market for the next 10 years. Plus, this bill continues the 5.3 cents-a-gallon tax subsidy and other ethanol tax benefits, which drain $1 billion annually from the Federal treasury. By tripling the amount of ethanol use, this amount could raise to $2.5 to $3 billion a year. This is poorly conceived public policy, and blatant corporate welfare at its worst.

Back in March of this year, I voted for the Job Creation and Worker Assistance Act of 2002. It was the economic stimulus package that provided temporary assistance for unemployed Americans and their families. At the time, I stated that we should not ignore the plight of millions of Americans who were laid off and wanted to return to work. I also said that my vote for this legislation should not be interpreted as a total endorsement of all of its provisions. Indeed, I stated my serious reservations about a particular provision in the bill that extended a tax credit to the industry in the business of converting poultry waste into electricity until the end of 2003.

Well, guess what? The tax incentives in the energy bill address the very same provision again but with a twist that will cost taxpayers $2.3 billion over the next 10 years. In the past, this income tax credit has been allowed for the production of electricity from either qualified wind energy, ''closed-loop'' biomass, or poultry waste facilities. But the bill before us not only extends this tax credit until the end of 2006, it also expands the qualifying energy resources to include geothermal energy and solar energy, ''open-loop'' biomass, and swine and bovine waste nutrients.

I am certainly glad that we have gone beyond helping the chicken waste industry now. Now, we have eliminated the discrimination in favor of chickens. We are awarding the productive use of the waste of pigs and cows. But why don't we totally eliminate this animal waste discrimination. Why not give a credit for the waste of dogs, cats, mice, birds? The list is infinite. Let's end discrimination now and give a tax credit for converting all kinds of animal waste. I am very confident that the American taxpayer will feel that their hard-earned money is being well spent. And if you believe that statement, I'm sure that there is some waterfront property in Gila Bend, AZ, you would be interested in buying.

Again, my concern is that the special interests continue to benefit at the expense of hard-working American taxpayers. I regret that I cannot support a bill that is so detrimental to taxpayers and does little to improve national energy security.

Mr. KERRY. Mr. President, today the Senate completed consideration of the energy reform bill after 6 weeks of debate. I voted yea on final passage. Before we began debate on this legislation, I gave a talk here in Washington at the Center for National Policy outlining a sound energy policy for this Nation. Despite my vote for the energy bill, I believe that the Senate has fallen far short of crafting a sound energy policy for this nation.

The Senate did not enact a national energy policy today. I should add that the House and President has failed at that task, as well. Why then am I voting for the Senate bill? Because the Senate bill is far better than the President's plan or the House bill. It is critically important that the Senate have a voice in this discussion and put forward its work. After 17 years in the Senate, I can see from this debate, that while the bill we passed today falls far short of what the Nation needs, it is simply the most the political system can bear right now. The fundamental changes we need were resisted and ultimately defeated by the special interests that benefit from the status quo. And while it may be too much to ask, I hold out hope that the bill can be improved in the conference process. If it is not improved, I do not believe I will be able to support the conference report.

I want to quickly outline some of the strengths in this bill and some of the weaknesses.

The tax package is reasonable and balanced. It totals about $15 billion, with that cost nearly equally divided between coal, oil, gas, and nuclear and energy efficiency and renewable energy. In the context of this measure, I support the assistance to clean coal, marginal well production, and other areas. I strongly support the tax credit for hybrid, fuel cell, and alternative fuel vehicles. I strongly support tax credits for efficient air conditioners, water heaters and other appliances. I strongly support the tax credits for wind, solar, biomass, geothermal, and

other renewable electricity and energy production.

The bill contains significant provisions to increase oil and gas production. As I have said, it includes new tax credits for marginal well and other production. It also includes loan guarantees and prices supports for the construction of a natural gas pipeline from the North Slope of Alaska to the Lower 48 States. This will move more than 35 trillion cubic feet of natural gas to market, be the largest private works project ever undertaken in North America, and create hundreds of thousands of jobs.

The bill also contains a very modest renewable portfolio standard that would require 10 percent of the Nation's electricity be produced from renewable energy sources by 2020. This standard is weaker than what I believe is possible. I have advocated that the Nation set a goal of producing 20 percent of its electricity from renewable sources by 2020. Unfortunately, the Senate not only accepted a lower target, but it adopted an amendment that undermines the integrity of the RPS system allowing for the purchase of inexpensive credits, credits potentially below the market price of renewable electricity. Nevertheless, it is important to enshrine this important concept of a renewable portfolio standard into law.

I supported the renewable fuel standard in the law. This provision was supported by the State of Massachusetts as a way to end more costly mandates under the Clean Air Act, ensure clean air, end the use of polluting MTBE, and create a national market for corn ethanol, biomass ethanol, and other renewable fuels.

The bill's most significant failure is that it does nothing to meaningfully reduce oil consumption or enhance efficiency in the transportation sector. The Senate rejected a proposal I crafted with Senator MCCAIN that would have raised fuel economy standards for America's passenger vehicles and save 1 million barrels of oil per day by 2015. The result is that the Senate has foregone action on the single greatest step we can take as a nation to reduce our dependence on oil, protect the economy from oil price shocks, and reduce harmful pollution.

For the past year I have urged my colleagues to oppose drilling in the Arctic National Wildlife Refuge. I am grateful that a majority of the Senate voted to protect the refuge. I am grateful that, while this bill is inadequate, it does not open the refuge to oil drilling. I will oppose any attempt to add drilling in this bill in conference with the House.

As I have said, this energy bill is not an energy policy for the Nation. It is a collection of policies, many good and many bad, that will, in total, move the Nation only incrementally forward. It is not by any means a solution to the challenges that we face. While I voted for this bill today, I pledge myself to continuing the fight for clean, reliable, and domestic energy and for a real energy policy for this Nation.

Mrs. FEINSTEIN. Mr. President, when the members of the Senate Energy Committee, including Senator SCHUMER, Senator CANTWELL, Senator WYDEN, and I, began talking about doing a comprehensive energy bill more than a year ago there were three major things all of us said that we wanted to see in the bill.

First we believed that we needed to reduce our energy consumption and hence our country's dependence on foreign oil.

Second we wanted to get to the bottom of what was happening with energy markets in California and the West where electricity and natural gas prices were 10–25 times higher that they should have been.

And we wanted to do all we could to ensure that a crisis of this magnitude could never happen again.

And third, we wanted to address global warming by quantitatively and measurably reducing our emissions of greenhouse gases.

These are still the elements I support in an energy bill. But the simple fact of the matter is that these elements are not in this bill.

First the Senate rejected Senator CANTWELL's and my amendment to provide transparency, oversight and authority by the Commodity Futures Trading Commission (CFTC) on energy derivative trading.

What we saw in energy markets was the on-line trading of energy commodities like natural gas and electricity multiple times to drive up prices and escape any federal oversight or transparency whatsoever.

This is what Enron was doing through its on-line trading company, Enron On-Line before the company went bankrupt.

And Dynegy and Williams, two companies operating on-line exchanges similar to Enron On-Line have taken over some of Enron's market share and are trading without oversight or transparency either.

The Senate had the opportunity to address this problem which arose from the Commodity Futures Modernization Act of 2000.

But instead the Senate rejected our amendment which would have ensured that there was proper oversight for energy trading.

So I don't think this energy bill will do a single thing that assures me that we won't have another crisis in my state.

The Senate also had the opportunity to pass legislation to increase fuel economy standards. Senator SNOWE and I introduced legislation last year that would have closed what is known as the SUV Loophole.

That loophole allows SUVs and other light duty trucks to meet lower fuel economy standards than other passenger vehicles. The standard is 27.5 miles per gallon for cars and 20.7 miles per gallon for SUVs.

Our bill would have saved a million barrels of oil a day, reduced our dependence on foreign oil by 10 percent, and prevented more than 200 million tons of carbon dioxide from entering the atmosphere each year.

It was the single most important thing our country could have done not only to combat global warming, but to become more fuel-independent at the same time.

I regret that we did not have the opportunity to vote on this measure as the Senate instead overwhelmingly defeated a much more ambitious proposal to significantly raise standards for all vehicles.

I am convinced that had we not done that, the Feinstein-Snowe amendment would have had a real shot at winning.

By a longshot however, the ethanol mandate is the most troublesome provision in the Senate energy bill.

What was also sneaked into this bill without a hearing was essentially a new gas tax that will result in a wealth transfer from California and New York and other coastal States to States in the Midwest.

It actually triples the ethanol market by mandate.

And if a State does not need it, it forces that State to buy credits to pay for it.

In fact, the mandate extorts California to use 2.68 billion gallons of ethanol over nine years that it does not need.

All this for a substance that is already subsidized to the tune of 53 cents per gallon and protected from any foreign competition through significant tariffs.

No one knows for sure how much gas prices will increase because of this mandate.

One recent analysis indicates that prices will increase 4 to 10 cents per gallon across the United States if the Senate energy bill becomes law.

I believe that the price spikes in California will be even more severe beginning in about 2004 as our State is close to our refining capacity and using ethanol will shrink our gasoline supply and force us to refine more.

California also does not have the necessary infrastructure in place to transport the ethanol to market.

I am particularly concerned about the limited number of suppliers in the ethanol market.

In fact, one company ADM controls 41 percent of the market.

And of course, nobody really knows the long-term health and environmental effects of nearly tripling the amount of ethanol in our gasoline supply.

Some evidence suggests that (1) reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and (2) ethanol enables the toxic chemicals in gasoline to seep further into groundwater and ever faster than conventional gasoline.

But just like when we introduced MTBE into our gasoline we simply

don't know what the ramifications will be.

And of course to top it off this bill protects these energy producers from any future liability.

And the funniest thing of all is that all this is for a gasoline additive that California and other States hardly need.

With the exception of the winter months in some of the southern part of the State, California can meet all its Clean Air Act Standards with its own reformulated gasoline.

In actuality we need to use very little ethanol.

So that is why I strongly oppose this bill and I believe we will rue the day we passed this ethanol mandate and this energy bill.

Mr. BUNNING. Mr. President, I rise today to talk about biodiesel, an alternative source of energy. I believe that we have made great strides on this energy bill. A sensible energy policy requires that we boost production of domestic energy sources while also balancing conservation. Biodiesel as an alternative fuel is one good way this energy bill will increase domestic production and lessen our dependence on foreign oil.

I am very happy to hear that the Finance Committee's tax proposals were added to this bill. The tax proposals included provisions that promote conservation and expanded use of cleaner burning fuel.

Also in these provisions are tax credits for biodiesel. The tax credits are a good start at encouraging the use of biodiesel as an alternative fuel source. However, the tax provisions do not treat all biodiesel the same.

There are many types of biodiesel including animal fats, recycled cooking oils or restaurant greases, and vegetable oils made up of soybeans, sunflower seed, canola, safflower seed, and flaxseed. In the tax provisions, though, the vegetable oils are treated differently than the animal fat and recycled oils.

There should be equal tax treatment for biodiesel. The different tax credits for biodiesel sends a confusing signal to the biodiesel market. It encourages growth only in one area of this beneficial renewable fuel, vegetable oil.

In addition, vegetable production has highly federalized subsidies and a lucrative byproduct market. For instance, glycerin from soy refining is used in a variety of food and pharmaceutical processes, and has a value advantage of 10–15 cents per gallon of biodiesel. The rendering industry, the primary source of animal-based biodiesel feedstocks, receives no Federal support and has a more limited byproduct market.

The unequal tax treatment is in stark contrast to the remainder of the energy bill. The bill includes all domestic energy sources in its renewable energy provisions and treats animal and vegetable sources biodiesel equally.

Kentucky has a large amount of soybean crops. So, I support encouraging the use of vegetable oil and support the tax credits in the bill. However, tax incentives should not discriminate between different kinds of alternative fuels.

One of the goals of the pending energy bill is to encourage development of renewable energy supplies. Including all sources in the tax provision will further this effort and maximize the positive impact on U.S. agriculture.

I hope that we find a way to encourage all alternative sources of energy. This is important to our production and will strengthen our national security.

Mr. JEFFORDS. Mr. President, I wish to state my support for the amendment offered by my distinguished colleague from Illinois, Senator FITZGERALD, and to express my extreme disappointment that it was not agreed to by this body.

This very sensible amendment would have clarified that the incineration of municipal solid waste will not be treated as renewable energy for purposes of the renewable portfolio standard and for the Federal renewable energy purchase requirement.

This issue arises because the burning of landfill waste in incinerators is one method of producing electricity. It produces only a minimal percentage of our electricity, but creates almost one quarter of the nation's mercury emissions, and significant levels of dioxin.

Dioxin, a known carcinogen, cause impairment of immune, nervous, reproductive and endocrine systems, even at extremely low concentrations. Infants are particularly sensitive to dioxin because of dioxin concentrations in human breast milk. Studies of infants show up to 65 times the maximum dioxin exposure recommended by the Environmental Protection Agency.

The National Academy of Science has found that although waste incinerators have reduced their dioxin air emissions, total dioxin releases in fly ash, bottom ash and other revenues have not decreased.

According to the most recent EPA data, 2.2 tons of mercury were emitted from garbage incinerators in 2000. This accounts for almost 20 percent of the nation's mercury emissions. Toxic amounts of mercury exist in our lakes, rivers and groundwater. Mercury causes neurological damage and birth defects, resulting in developmental delays and cognitive defects.

The renewable portfolio standard contained in the bill is intended to provide incentives and market support for the production of clean, renewable energy technologies. These include wind, solar, geothermal and biolass energy. One of the primary reasons for promoting these energy sources is that they give us clean power. They provide electricity that is free of the toxic wastes and emissions associated with many of our traditional fuel supplies.

Including the incineration of municipal solid waste in this category flies in the face of reason. If we want to keep mercury flowing into our streams and rivers, we can just pour more money into coal-fired power plants. An energy source that cripples our infants and causes cancer is not something we should support under the umbrella of renewable energy.

I am aware that incinerators have made significant strides in reducing toxic emissions. However, as I have stated above, municipal solid waste incinerators still account for 20 percent of nationwide mercury emissions, and still contribute to the release of highly toxic dioxins.

It is completely inappropriate to incentivize the continued release of these toxic substances as part of a provision aimed at clean, renewable energy.

Neither the amendment nor the underlying bill language would in any way undermine or hamper the current incineration of municipal solid waste, and would not prohibit or discourage new incineration. Neither the amendment nor the underlying bill language will not create new regulations regarding incineration of municipal solid waste, nor change existing ones. All this amendment would have done is ensure that municipal solid waste is not encourage as a renewable energy resource.

Including energy sources that result in highly toxic emissions does however undermine the foundation of the renewable portfolio standard, which is to help clean, renewable energies to compete against other energy sources.

Mr. President, I am greatly disappointed that this amendment was defeated but intend to address this issue further in conference.

Mr. REID. Mr. President, the world's energy system has evolved for thousands of years.

Almost without trying, the global energy system has favored fuels that burn cleaner and more efficiently: from wood burning in prehistoric caves to the Franklin stove of the 18th century; to coal despite the fact that wood was more abundant; to oil required to meet the insatiable needs of a motorized transportation sector at the start of the 20th century; to natural gas, which can be distributed through a system of pipes right into the kitchen or a home furnace, or easily converted into electricity; and now to renewable energy sources.

Faced with uncertainties in electricity energy markets, turmoil in the Mideast, the need to cut back on the fossil fuel emissions linked to global warming, local and regional air pollution that contributes to high rates of asthma and smog-filled national parks, the United States must diversify its energy supply using renewable energy.

If State regulators approve Nevada Power's latest rate proposals for 2002, Las Vegas electricity rates will have jumped a total of 75 percent since 1999. In the same period, natural gas prices have doubled. We need to change the energy equation. We need to diversify

the Nation's energy supply to reduce volatility and ensure a stable supply of electricity. We must harness the brilliance of the sun, the strength of the wind, and the heat of the Earth to provide clean, renewable energy for our Nation.

I am also pleased that the energy bill currently before the Senate contains a renewable portfolio standard requiring that a small, gradually growing percentage of the nation's power supply come from renewables such as wind, solar, biomass and geothermal sources over the next two decades.

I am pleased that the tax provisions of this bill strengthen the production tax credit for renewable energy resources.

Eligible renewable energy resources have been expanded from wind and poultry waste to include geothermal, solar, open-loop biomass, and animal waste. The credit has been extended for 5 years for geothermal and solar, and animal waste, and 3 years for biomass. We need this production tax credit to provide business certainty and ensure the growth of renewable energy development and to signal America's long-term commitment to renewable energy. It is time to level the playing field—subsidies for fossil fuels dominate the Federal Tax Code, with 62 percent of all Federal tax expenditures going to oil and gas companies.

After pouring billions into oil and gas, we need to invest in a clean energy future.

Other nations are developing renewable energy resources at a much faster rate than the United States. In 1990, America produced 90 percent of the world's wind power; today we generate less than 25 percent. Germany now has the lead in wind energy, and Japan in solar energy. Foreign corporations are using the same technology available to us—in fact, many of these technologies were developed in the U.S. But they have surpassed us because their governments have provide stable support for renewable energy production and use. America needs to reestablish its leadership in renewable energy.

In the U.S. today, we get less than 3 percent of our electricity from renewable energy sources like wind, solar, geothermal and biomass. But the potential for much greater supply is there. For example, Nevada, is considered the Saudi Arabia of geothermal. My state could use geothermal energy to meet one-third of its electricity needs, but today this source of energy only supplies 2–3 percent. This needs to change.

The good news is that the production tax credit for renewable energy resources really works to promote the growth of renewable energy.

In 1990, the cost of wind energy was 22.5 cents per kilowatt hour and, today, with new technology and the help of a modest production tax credit, wind is a competitive energy source at 3 to 4 cents per kilowatt hour. At the Nevada Test Site, a new wind farm will provide 260 megawatts to meet the needs of 260,000 people—more than 10 percent of Nevada's population within 5 years. In the last 5 years, wind energy has experienced a 30 percent growth rate. In 2001, wind energy capacity grew nationally from 2,600 Megawatts to 4,300 Megawatts, a 65 percent increase. With the benefit of the production tax credit, wind energy is the fastest growing renewable. We need to do the same for the other renewable energy resources.

America needs to build its energy future on an environmental foundation that protects air and water quality.

A recent article in The Journal of the American Medical Association revealed an alarming link between soot particles from power plants and motor vehicles and lung cancer and heart disease.

This was an exhaustive study of 500,000 people in 16 American cities, whose lives and health have been tracked since 1982. Experts gave the study high marks. Its conclusions are obvious—we need to do a better job protecting the air we breathe.

The adverse health effects of power-plant and vehicle emissions cost Americans billions in medical care, and our cost in human suffering is immeasurable. Simply put, the human cost of dirty air is staggering. If we factor in environmental and health effects, the real cost of energy becomes apparent, and renewables become the fuel of choice.

America's abundant and untapped renewable resources can fuel our journey into a more prosperous and safer tomorrow without compromising air and water quality. The potential is enormous. We need to expand and extend the production tax credit to enable renewable energy to compete on a playing field that currently is heavily inclined towards the continued production of oil, gas, and coal. In many States, including Nevada, expanded renewable energy production will provide jobs in rural areas—areas that are desperate for economic growth.

I urge my colleagues to support this tax package, with its provisions for a production tax credit to encourage the growth of renewable energy resources. Renewable energy—as an alternative to traditional energy sources—is a common-sense way to make sure that the American people have a reliable source of power at an affordable price. Renewable energy is the cornerstone of a successful, forward looking, and secure energy policy for the 21st century.

Mr. REID. Mr. President, it is my understanding we are now going to move to final passage. I would like to say, before everyone votes—and we will be very quick here—we have spent approximately 6 weeks on this bill. It has been a tremendous amount of time and I have been here a lot of the time. But I want to extend the full appreciation of the entire Senate for the work done by the two managers of this bill. Senator BINGAMAN and Senator MURKOWSKI have worked through some very difficult issues. I think they have made the Senate very proud in the work they have done.

Mr. LOTT. Mr. President, I cannot let this opportunity go by. I will be brief so we can vote. I know Senators have obligations they want to fulfill, but I have to say we do owe a debt of gratitude from the Senate as a whole to the chairman and the ranking member of the Energy and Natural Resources Committee. They have been at this for 6 weeks. It has been at least 5 years since we spent that long—I don't think, since I have been in the Senate, we have spent 6 weeks on a bill. So this is a monumental undertaking. It is coming to a positive result.

They provide bipartisan leadership. They have been persistent, and I thank them for that. I especially have to say to my colleague from Alaska, I appreciate his attitude. Even though I know his feelings on an issue that meant so much to him and the other Senator from Alaska, Mr. STEVENS, he said we had to move forward on an energy policy for this country.

You did the right thing for your country. I know in the end we are going to do the right thing for you and your State, too.

I yield the floor.

Mr. DASCHLE. Mr. President, we are now reaching the end of 6 weeks of debate on this energy bill. I want to thank Chairman BINGAMAN for his tireless leadership.

He began this process by coordinating the work of nine separate committees, and he has done an amazing job of shepherding this large, difficult, and sometimes contentious piece of legislation to its conclusion.

When we began this energy debate, I spoke about the need to keep in mind four key goals. I said that any energy plan we pass should increase our energy independence . . . it should be good for consumers . . . it should create jobs . . . and it should be responsible—both environmentally and fiscally.

In a number of places, this bill meets those goals. In some, it falls short. But overall, this is a far more responsible, progressive, consumer-friendly energy policy than the one advanced by the Administration, or passed by the House.

Our energy plan invests in new ideas, new technologies, and new approaches to old problems.

It demonstrates that our energy policy need not be a tug-of-war between increased production and increased conservation. This bill helps us do both.

For example, this bill encourages the construction of a pipeline to bring natural gas from Alaska to the lower forty-eight states. There are 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska.

Right now, that gas is being pumped back into the ground because there's no way to get it to the American consumers who need it.

Our nation faces a long-term shortage of natural gas, all experts agree. An Alaska pipeline would deliver at least 4.5 billion cubic feet of gas per day to the Midwest, the central point of the nation's gas delivery network. 4.5 billion cubic feet per day is nearly ten percent of America's daily gas consumption.

Last month, Alaska Governor Tony Knowles met with me to discuss the additional provisions he felt were needed to invigorate this project. At his urging, and with the strong support of Senators MURKOWSKI and STEVENS, the bill we are clearing for conference today not only assures that any gas pipeline from Prudhoe Bay will run through Alaska, it also seeks to assure access to the gas for residential and business users in Alaska, protects access to the pipeline for future gas discoveries, and reduces the financial risk resulting from wildly fluctuating gas prices.

The provisions we added are important to our nation's energy and economic security, and improve the viability of the Alaska gas pipeline project. They should be retained in conference, and I will work with Senator MURKOWSKI and Governor Knowles to protect them.

That pipeline is one example of how this bill will allow us to use our traditional fossil fuel supplies more intelligently.

Other examples include tax incentives to increase common-sense conservation in our homes, expand the use of renewable energy like wind, solar and geothermal power, and encourage investments in new technologies to help us use energy sources like coal in a more clean and efficient manner.

And, when it comes to energy efficiency, this bill also says that the federal government must lead by example.

I also said at the beginning of this debate that we already look for the ''Made in America'' label on our clothes. We need to put that same ''Made in America'' label on our energy, too.

That's why this bill includes tax incentives to help us diversify our energy supplies by harnessing the power of the wind, the sun, and the heat of the earth itself, and to keep the energy produced from those sources affordable.

And that's also why this bill triples the amount of ethanol we use.

Yesterday, I was out in South Dakota at an ethanol plant with President Bush. I agree with the President when he said, ''[ethanol is] important for the agricultural sector of our economy, it's an important part of making sure we become less reliant on foreign sources of energy.''

To that I would add that it's an important way of keeping our air clean, as well.

Tripling the use of ethanol is a win, win, win, and I'm glad that's what this bill does.

The electricity provisions in this bill will shore up the authority of the Federal Energy Regulatory Commission to make our electricity more reliable and competitive, and will establish a small but important renewable portfolio standard.

Remember, ethanol and renewable energies come from American farmers and producers, pass through American refiners, and fuel American energy needs.

No soldier will have to fight overseas to protect them. And no international cartel can turn off the spigot on us.

It is important we make sure these provisions stay as part of this bill in the conference.

On a personal note, I should add that crafting this fuels compromise took enormous effort, and I would like to thank Senators JIM JEFFORDS and BOB SMITH of the EPW Committee, as well as Senators TIM JOHNSON, DICK LUGAR, BEN NELSON and CHUCK HAGEL for their vision and hard work.

I do regret that we failed to keep the vehicle fuel-efficiency provisions that were originally in this bill—something that could have been done without affecting safety or performance.

That measure we would have saved American drivers billions of dollars—and saved our nation the same amount of oil we are currently importing from the Persian Gulf.

Bold steps like that would have moved us much closer to energy independence, and I hope that we can work to increase vehicle fuel efficiency in conference.

While I am frustrated that we didn't take that large step forward, Congress did the responsible thing by refusing to take a huge step backward by opening the Arctic National Wildlife Refuge for oil drilling.

Ultimately, a bipartisan majority of the Senate concluded that drilling in the Arctic Refuge would do very little to help our economic situation or increase our energy independence—but would do a lot to damage one of the last pieces of pristine wilderness in this country.

Finally, this bill reflects the growing bipartisan consensus that the threat of global climate change is real and, unless we act, will have devastating consequences for our children and grandchildren.

The climate change provisions in this bill will help restore American credibility in this area and begin the long-overdue process of American engagement in solving this growing problem.

In the end, this bill recognizes that we can't be content to pursue an energy policy based upon the old philosophy of dig, drill, and burn—and begins the process of moving towards more innovative approaches to our energy future.

It doesn't get us all the way there, but it gets us moving in the right direction.

I am hopeful that we can continue to move even further in that direction when this bill goes to conference. But for that to happen, we need to pass this bill now.

It has been six weeks on the floor.

We have had a good, open, and fair debate. We've debated and voted on dozens of amendments.

Let us acknowledge the important role of conservation and renewable sources for our nation's energy future.

Let us start moving towards a more balanced and far-sighted energy policy.

Let us pass this bill.

The PRESIDING OFFICER. Under the previous order, the substitute amendment, No. 2917, as amended, is agreed to.

The amendment (No. 2917), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 517) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 4 by title.

The legislative clerk read as follows:

A bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 517, as amended, is inserted in lieu thereof, and the clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BINGAMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—88

Akaka	Cochran	Hagel
Allard	Collins	Harkin
Allen	Conrad	Hatch
Baucus	Corzine	Hollings
Bayh	Craig	Hutchinson
Bennett	Crapo	Hutchison
Biden	Daschle	Inhofe
Bingaman	Dayton	Inouye
Bond	DeWine	Jeffords
Breaux	Dodd	Johnson
Brownback	Domenici	Kerry
Bunning	Dorgan	Kohl
Burns	Durbin	Landrieu
Byrd	Edwards	Leahy
Campbell	Ensign	Levin
Cantwell	Enzi	Lieberman
Carnahan	Fitzgerald	Lincoln
Carper	Frist	Lott
Chafee	Grassley	Lugar
Cleland	Gregg	McConnell

Mikulski	Santorum	Thomas
Miller	Sarbanes	Thompson
Murkowski	Sessions	Thurmond
Murray	Shelby	Torricelli
Nelson (FL)	Smith (NH)	Voinovich
Nelson (NE)	Smith (OR)	Warner
Nickles	Snowe	Wellstone
Reid	Specter	Wyden
Roberts	Stabenow	
Rockefeller	Stevens	

NAYS—11

Boxer	Graham	McCain
Clinton	Gramm	Reed
Feingold	Kennedy	Schumer
Feinstein	Kyl	

NOT VOTING—1

Helms

The bill (H.R. 4) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees in the following ratio: Energy Committee, 6 to 5; the Finance Committee, 3 to 2.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider two nominations.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that one vote suffice for both judges on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BREAUX. I object.

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I did not hear the request.

The PRESIDING OFFICER. The Senator from Oklahoma asked that one vote suffice for the two nominations.

Mr. WELLSTONE. I object.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish the Senator had the courtesy of telling the chairman what he was going to recommend. I would have pointed out to him that under the Senate practice and procedure, that cannot be done. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. DASCHLE. Mr. President, just for the information of our colleagues, there will be no more votes tonight after the two votes we have on the judges. The next vote will occur on Monday evening at approximately 5:30. There will be no votes tomorrow.

NOMINATION OF JOAN E. LANCASTER, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota, which the clerk will report.

The assistant legislative clerk read the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Mr. LEAHY. Mr. President, with today's votes on Judge William Griesbach to the U.S. District Court for the Eastern District of Wisconsin and Justice Joan Lancaster to the United States District Court for the District of Minnesota, the Senate will have confirmed its 40th and 41st district court judges in the less than 10 months since I became chairman this past summer. This is in addition to the nine judges confirmed to the courts of appeal.

With today's votes, the total number of Federal judges confirmed since the change in Senate majority will now be 50. As our action today demonstrates, again, we are moving to confirm President Bush's nominees at a faster pace than the nominees of prior Presidents.

It took almost 14 months for the Senate to confirm 50 judicial nominees for the Reagan administration. It took more than 15 months for the Senate to confirm 50 judicial nominees for the Clinton administration. And it took nearly 18 months for the Senate to confirm 50 judicial nominees for the George H.W. Bush administration.

At the risk of offending some of my colleagues, we have confirmed 50 judicial nominees in 10 months—while it took the Senate nearly twice that amount of time to confirm the same number of his father's judicial nominees and nearly 50 percent more time to confirm the same number of President Clinton's and President Reagan's nominees. With today's confirmations, in the fewer than 10 months since the shift to a Democratic majority in the Senate, President Bush's judicial nominees have been confirmed at a rate of five per month, a pace nearly double that of the average for the last three Presidents, two of whom had Senates led by their own party.

The confirmation of these nominees today demonstrates our commitment promptly to consider qualified, consensus nominees. I commend Senator KOHL and Senator FEINGOLD who worked with Chairman SENSENBRENNER to utilize a bipartisan commission process to recommend District Court nominees as has been the practice in Wisconsin for over 20 years.

Once confirmed, Judge Griesbach, who is a well-regarded judge in Eastern Wisconsin, will be the first District Judge to sit in Green Bay, WI.

Justice Lancaster, like Judge Griesbach, received the support of her Senators, Democrats who endorsed this Bush nominee. Both nominees appear to be the type of qualified, consensus nominees that the Senate has been confirming expeditiously to help fill vacancies on our Federal courts. I congratulate them and their families.

With today's votes on Judge Griesbach and Justice Lancaster, in fewer than 10 months of Democratic leadership, 50 judicial nominees have been confirmed. That number exceeds the number of judicial nominees confirmed during all of 2000, 1999, 1997 and 1996, four out of six full years under Republican leadership. I would like to commend all Senators, but in particular the members of the Judiciary Committee, for their efforts to consider scores of judicial nominees for whom we have held hearings and on whom we have had votes during the last several months.

Mr. HATCH. I rise to support the nomination of Joan Ericksen Lancaster to be U.S. District Judge for the District of Minnesota.

I have had the pleasure of reviewing Justice Lancaster's distinguished legal career, and I have concluded as did President Bush, that she is a fine jurist who will add a great deal to the federal bench in Minnesota.

Justice Lancaster's record of service in private practice and for the government is exemplary of the quality of judges the President has nominated.

Following her graduation from the University of Minnesota Law School, Justice Lancaster worked as an Assistant City Attorney, trying approximately 12 jury and 40 court trials.

From 1983 to 1993, Justice Lancaster served as an Assistant U.S. attorney for the District of Minnesota, representing the federal government in medical malpractice, tort, and insurance matters, and later prosecuting Federal crimes. Justice Lancaster then worked for several years as a partner with the Minneapolis firm of Leonard, Street & Deinard.

In 1995, Justice Lancaster was named as a District Court Judge in the 4th Judicial District in Minnesota, where she was assigned to family and juvenile cases. She also presided over adult civil and criminal matters.

Since 1998, she has served as an Associate Justice on the Minnesota Supreme Court.

Justice Lancaster is liaison to the Court's Juvenile Delinquency Rules Committee and has served as chair of the Minnesota Supreme Court Task Force on Juvenile Justice Services.

She has also served on a statewide task force devoted to addressing the problem of fetal alcohol syndrome.

I have every confidence that Justice Joan Lancaster will serve with distinction on the federal district court for the District of Minnesota.

Mr. WELLSTONE. Mr. President, I commend to the Senate for confirmation tonight the nomination of Justice

Joan Ericksen Lancaster to serve as a judge of the United States District Court in Minnesota. I also thank Chairman LEAHY and Senator HATCH for moving this nomination through the Senate so quickly.

Chairman LEAHY has been criticized by some Republicans, at times grossly unfairly, for the pace with which certain nominees have come through the committee. This nomination, which has enjoyed broad bipartisan support here in the Senate, has moved very quickly, and for that I am very grateful. It is a model of how this process should work, and I would hope the White House would see it in those terms as the President makes future Federal judicial nominations.

The Senate will have no problem offering its advise and consent to experienced, able jurists like Joan Lancaster, with longstanding records of public service in their communities, who are deeply committed to equal justice and equal opportunity for all Americans. But when the President nominates controversial figures with very extreme views, or records which call into question their commitment to equal opportunity and equal justice, the Senate will take more time to scrutinize those records and to determine if they deserve its consent, and reject them if they don't.

Justice Lancaster's qualifications are outstanding. She is currently serving with distinction as an Associate Justice on the Minnesota Supreme Court, and has held that position since 1998. She has also served as a Judge of the 4th District Court in Hennepin County for three years, and as a Partner at the law firm of Leonard, Street and Deinard in Minneapolis for two years before that. Particularly relevant to the position for which she is being confirmed tonight are her ten years as an Assistant U.S. Attorney in the District of Minnesota, where she provided leadership in both the civil and criminal divisions.

Justice Lancaster's compassion, her deep commitment to creating a better, more just society and her record of public service are enormously impressive. She has lived what she speaks. She as a co-chair of the Governor's Task Force on Fetal Alcohol Syndrome, chaired the Minnesota Juvenile Justice Services Task Force, chaired a number of important committees on the operations of the court, and has served on the boards of a host of other important Minnesota-based organizations dedicated to the causes of children, the legal system, and education. Her stints as a distinguished law professor at the University of Minnesota and the William Mitchell College of Law highlight her impressive intellectual and courtroom talents.

Through these and her many other professional accomplishments, Justice Lancaster has earned the high regard of her peers. She received a well-qualified rating from the American Bar Association and she was reported out of the Judiciary Committee unanimously, and has from the start enjoyed my enthusiastic support and that of Senator DAYTON.

In my conversations with judges, and lawyers who have both practiced with an argued before Justice Lancaster, it is clear that she is widely respected and is seen as a brilliant, thoughtful and independent jurist with a deep commitment to justice and to the American promise of equal opportunity for all before the bar of justice. I thank Representative RAMSTAD and President Bush for this excellent nomination, and again than Senator LEAHY for moving her quickly through the process.

I congratulate Justice Lancaster and her wonderful children, John and Claire, whom I have had the pleasure to meet. I know Justice Lancaster will continue to serve as an outstanding jurist in Minnesota, and I offer her my warn congratulations, anticipating her confirmation. I commend her to the full Senate enthusiastically, and am confident she'll receive an overwhelming vote of support.

Mr. President, on behalf of myself and the Presiding Officer, Senator DAYTON—unless he is going to be able to join me on the floor—we congratulate Justice Joan Ericksen Lancaster, who will now serve as a judge for the United States District Court in Minnesota.

She is highly qualified. We thank Senator LEAHY and Senator HATCH for moving this so quickly. We thank all of our colleagues.

I want to say a special hello to her wonderful children, John and Claire. I believe she is watching this proceeding.

You should be proud, Judge Lancaster.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Minnesota.

Mr. DAYTON. Madam President, I second the comments of the senior Senator from Minnesota.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota? The yeas and nays were previously ordered on the nomination. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 95 Ex.]

YEAS—99

Akaka	Breaux	Cleland
Allard	Brownback	Clinton
Allen	Bunning	Cochran
Baucus	Burns	Collins
Bayh	Byrd	Conrad
Bennett	Campbell	Corzine
Biden	Cantwell	Craig
Bingaman	Carnahan	Crapo
Bond	Carper	Daschle
Boxer	Chafee	Dayton
DeWine	Inouye	Reed
Dodd	Jeffords	Reid
Domenici	Johnson	Roberts
Dorgan	Kennedy	Rockefeller
Durbin	Kerry	Santorum
Edwards	Kohl	Sarbanes
Ensign	Kyl	Schumer
Enzi	Landrieu	Sessions
Feingold	Leahy	Shelby
Feinstein	Levin	Smith (NH)
Fitzgerald	Lieberman	Smith (OR)
Frist	Lincoln	Snowe
Graham	Lott	Specter
Gramm	Lugar	Stabenow
Grassley	McCain	Stevens
Gregg	McConnell	Thomas
Hagel	Mikulski	Thompson
Harkin	Miller	Thurmond
Hatch	Murkowski	Torricelli
Hollings	Murray	Voinovich
Hutchinson	Nelson (FL)	Warner
Hutchison	Nelson (NE)	Wellstone
Inhofe	Nickles	Wyden

NOT VOTING—1

Helms

The nomination was confirmed.

NOMINATION OF WILLIAM C. GRIESBACH, TO BE UNITED STATES DISTRICT COURT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of William C. Griesbach, to be United States District Court Judge for the Eastern District of Wisconsin.

Mr. HATCH. Madam President, I rise to support the confirmation of William C. Griesbach to be U.S. District Judge for the District of Wisconsin.

I have had the pleasure of reviewing Mr. Griesbach's distinguished legal career, and I have come to the opinion that he is a fine lawyer who will add a great deal to the Federal bench in Wisconsin.

Judge Griesbach is a Wisconsin native and attended both college and law school in the area. He graduated from Marquette University in 1976 and from Marquette University Law School in 1979.

After graduation from law school, Judge Griesbach served as a law clerk to the Honorable Bruce F. Beilfuss, Chief Justice of the Wisconsin Supreme Court. He then worked for 2 years as a staff attorney for the U.S. Court of Appeals for the 7th Circuit before joining a Green Bay law firm where he spent 5 years as an attorney handling primarily civil cases, including personal injury, insurance, commercial and employment litigation.

In 1987, he returned to public service as an Assistant District Attorney in Brown County until 1995 when he was appointed to the Wisconsin Circuit Court for Brown County, the position in which he currently serves.

His docket has included the full range of cases appearing before a State trial court, including criminal, civil, juvenile and domestic matters.

In 1998, he was ranked highest among local circuit judges in several categories, including temperament, fairness, and judicial scholarship.

Judge Griesbach has also made substantial contributions to the community, serving as a board member for

Wisconsin Family Ties, a non-profit organization that provides information and support to families with children that have mental, emotional and behavioral disorders; as a board member of the Family Violence Center in Green Bay; and as a board member of Legal Services of Northeast Wisconsin, a nonprofit organization that provides legal services for the poor.

I have every confidence that William Griesbach will serve with distinction on the Federal district court for the District of Wisconsin.

Mr. KOHL. Madam President, today is a proud day for the state of Wisconsin. For 10 years we have worked to establish the Green Bay judgeship that makes this day possible. And for far longer, Judge Griesbach has developed the ability, gained the experience and cultivated the temperament necessary to be the first Federal judge to sit in Green Bay.

We are confident that Judge Griesbach is the right man for the job. He possesses all the best-qualities that we look for in a judge: intelligence, diligence, humility, and integrity.

The Green Bay community has waited a long time for a Federal judge. When Judge Griesbach is sworn in we think they will find it was well worth the wait.

The lawyers who practice in front of Judge Griesbach agree. In a 1998 survey by the Green Bay News Chronicle, Brown County attorneys ranked Judge Griesbach as the best judge in the area. In fact, he was rated first in every category polled, including: temperament; fairness; legal scholarship; work habits; and decisiveness. That is quite a testament to his ability.

So, it came as no surprise that the bipartisan Wisconsin Federal Nominating Commission concluded that Judge Griesbach would make a fine Federal judge. For the past 23 years, Wisconsin has used a nominating commission to select candidates for the Federal bench. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find qualified candidates. Judge Griesbach's selection demonstrates that our process has succeeded once again.

The Commission's reasons for his recommendation became apparent when I met him for our interview. He was candid, humble, and thoughtful. He has impressed everyone. He also made a fine impression during his Senate Judiciary Committee hearing.

Judge Griesbach will inaugurate a tradition of fair and well-respected jurists in northeastern Wisconsin. I support Judge Griesbach's nomination and commend our colleagues for supporting this fine judge.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William C. Griesbach, to be United States District Court Judge for the Eastern District of Wisconsin? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. NICKLES, I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 96 Ex.]

YEAS—97

Akaka	Durbin	McConnell
Allard	Edwards	Mikulski
Allen	Ensign	Miller
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Fitzgerald	Nelson (NE)
Bingaman	Frist	Nickles
Bond	Graham	Reed
Boxer	Gramm	Reid
Breaux	Grassley	Roberts
Bunning	Gregg	Rockefeller
Burns	Hagel	Santorum
Byrd	Harkin	Sarbanes
Campbell	Hatch	Schumer
Cantwell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inouye	Smith (OR)
Cleland	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Collins	Kerry	Stevens
Conrad	Kohl	Thomas
Corzine	Kyl	Thompson
Craig	Landrieu	Thurmond
Crapo	Leahy	Torricelli
Daschle	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lincoln	Wellstone
Dodd	Lott	Wyden
Domenici	Lugar	
Dorgan	McCain	

NOT VOTING—3

Brownback	Helms	Inhofe

The nomination was confirmed.

Mr. DASCHLE. Madam President, I wanted to make note of a very important fact with regard to judicial nominations. With the confirmation now of the two judges tonight, we have reached an even 50 so far since we have become members of the majority. Forty-one district judges and nine circuit judges have now been confirmed. We have now exceeded the number of judges confirmed in the first year of the Reagan administration, the first Bush administration, and the Clinton administration. We have done that in 10 months, not 12. We will do much more over the course of the next 2 months, but I think it is a record of which we can be very proud. It is a record about which we feel very strongly. It is a record we said we would deliver when we became members of the majority. It is a record I think bears some attention, especially now that we have reached 50 confirmations in this relatively brief period of time.

I yield the floor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I want to take a moment to congratulate, first, the extraordinary effort made by the Chair of the Energy Committee, Senator BINGAMAN. I think he has put more time on the floor in the last few weeks than anybody in recent times. Were it not for his patience and extraordinary willingness to work with all of us, we would not be celebrating the successful conclusion of this work today.

I know I speak for all Senators and congratulate him and commend him for the work and leadership he has shown and for the tremendous contributions he has made to public policy in energy today. I am grateful for his friendship, but I am especially appreciative of his leadership, and I think that ought to be recognized.

I also congratulate the ranking member, the Senator from Alaska, for his efforts as well. I know there may not be any more important legislation from the Senator from Alaska than this one. He has demonstrated a resolve and an extraordinary persistence, and were it not for his efforts and the work he has done, especially in recent weeks, we would not be here as well. So he also deserves special commendation and recognition for the remarkable job he has done.

Finally, as is the case in so many instances, the distinguished assistant Democratic leader deserves recognition. He does not like it when I do this, but I do think it is important for the historical record to note that his constant presence on the floor, his willingness to work with Senators in working through the amendment logjams on so many occasions was absolutely invaluable. So I thank him as well for his constant effort on the floor, but in particular on this bill.

I thank all of our colleagues, and I appreciate very much the work that has been done.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, before the majority leader leaves, let me return the compliment. This was the Daschle-Bingaman bill we passed in the Senate. It was his leadership that was absolutely essential in getting this to the floor and his continuing leadership in keeping it on the floor. He has devoted 6 weeks of Senate floor time to this bill, and at many crucial points he made absolutely essential decisions to get us to closure.

Let me also indicate what everyone in the Senate knows, and that is without the superb work that Senator REID, our assistant floor leader, does, without his tremendous effort, we could not possibly have completed this work. He was present every day, every hour, moving this bill forward, working with

Senators on both sides of the aisle. To the extent we have succeeded, he deserves the lion's share of the credit.

Let me also acknowledge the great work Senator MURKOWSKI has done. He has been committed to getting an energy bill through the Senate for a very long time. He had strongly held views on certain aspects of that bill, with which we are all familiar. He was very committed also, though, to work with those of us on this side of the aisle to see to it that we got a bill through the Senate. So I compliment him.

I did want to also thank and compliment the excellent staff we had on the Energy Committee. First, I thank Bob Simon, who is the staff director for the Democratic side in the Energy Committee. He did a superb job working on every aspect of this.

I have a long list of folks to thank. I will run through the list. I acknowledge the tremendous contribution each one has made: Vicky Thorne, who is central to our activity, John Watts, Bill Wicker, Patty Beneke, Jonathan Black, David Brooks, Shelley Brown, Mike Connor, Deborah Estes, Kira Finkler, Sam Fowler, Amanda Goldman, Leon Lowery, Jennifer Michael, Shirley Neff, Malini Sekhar. All of those staff people on our Energy Committee did an absolutely superb job. My personal staff, James Dennis, John Epstein, and John Kotek, all made a great contribution.

The floor staff the cloakroom staff did a tremendous job, Lula and Marty and all the others who have worked on this bill. They work day in and day out on the floor and do a superb job. I appreciate their good work.

Senator DASCHLE's staff, Eric Washburn, Peter Umhofer, and Senator REID's staff, Peter Arapis, all did a wonderful job, and I appreciate the good work. Those of us who are elected to these jobs get to take the credit, but we know who actually does the work.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Briefly, I note the contribution of our staff. As is always the case, we could not do what we do were it not for them. On this particular bill, I think their contribution will never be fully calculable, but it was invaluable. I thank our floor staff profusely for their effort. As Senator BINGAMAN noted, Eric Washburn from my staff has been a remarkable contributor to our effort. Were it not for his daily counsel, I would not have been able to accomplish what we have.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the majority leader for his comments, and I thank my good friend Senator BINGAMAN. I think it is noteworthy that we are at the end of a long road towards a comprehensive energy policy. I, too, want to thank all of those who worked so tirelessly on the legislation that helped make this momentous achievement possible. I think it was nearly 7 weeks that we have been on this bill. We have lost a little track of time.

Indeed, the staffs of both the majority and the minority of the Energy Committee have done a tremendous job, and we owe them a debt of thanks. I think we have had over 400 amendments we have reviewed and dispensed with over the course of this period of time.

I, of course, thank my own team for their dedication and work. To those on the other side, I thank them as well for their work, their cooperation, their professionalism, and that of the professional staff. They can be very proud of their efforts.

I am appreciative of my relationship with Senator BINGAMAN and his commitment to proceed with this bill. He has truly proceeded as a gentleman during the debate.

I think the recognition of Senator REID is most noteworthy because Senator REID has been very cooperative in moving this process along, and Senator DASCHLE, without his overall support and commitment to stay with the bill, the bill may have been pulled at previous times or anywhere along the way. That was not the case. I think we both recognize that this bill came about in a rather unusual manner, but I think we worked diligently through the amendment process to come up with something of which we can be proud.

So I congratulate everyone on a job well done. I think it is fair to say that the passage of this bill culminates my almost 22 years in the Senate. It is not all I had wished for, but, by the same token, the glass is either half full or half empty. Today, as far as the Senator from Alaska is concerned, it is a little more than half full. Around here sometimes those are pretty good odds.

We did get the gas line provision in; we got a heavy oil provision, both of which are very important for my State as well. So as we look to the conference and the conferees, we look to proceeding with the work ahead.

I also thank the Republican leader, who has been with us in this entire matter. Senator LOTT, at the beginning of the 107th Congress, declared that getting an energy bill passed would be one of the Republicans' top five priorities. He stood by us side by side at the extended press conferences that we have had for over a year. He has always been supportive. Once the energy bill came to the floor this year, the leader established an energy task force and held daily meetings directing our efforts each morning at 9 a.m. I am not sure where we will go at 9 a.m., we are so programmed.

He promised, although we had reservations, it was our ticket to conference and we would work to improve it on the floor and get to conference. That is what has happened. Now, hopefully, the report will be forthcoming and we will get a bill to the President. We thank Senator LOTT for his leadership.

We made significant progress in many aspects. They speak for themselves: CAFE, electricity, renewables, and so forth.

I recognize the efforts of our Commander in Chief, President George W. Bush. Today is a great victory for George W. Bush and his programs. We all recognize the world is a different place today than it was when the effort started more than a year ago. We have seen the tragic events that reshaped our national focus. But we underscore the need for a national energy policy. Now more than ever we need an energy policy with solutions, solutions that begin at home.

The administration's national energy policy has served as a legislative blueprint for the energy debate that has taken place in the Congress. This is what we have had. We have had a committee process more or less on the floor of the Senate. We have made it work. Between the House-passed H.R. 4 and the Senate bill, nearly every one of the President's initiatives have been adopted. The President has been a true leader on this issue. Today marks a great victory for him. I am pleased to have been a part of this success.

Our work is not done. There is more to do. The Senate goes into conference with NASA programs dealing with ethanol, renewable portfolio standards, the Alaska gas issue, electricity, climate change, and ANWR is in the House bill. These provisions will have to be worked out in what will likely be a very difficult conference. We are up to the challenge and we look forward to working with our House Members and Chairman TAUZIN. I believe the House leadership and the administration certainly are up to it. Working with our colleagues on the other side, I think we can get a bill to the President this year.

In closing, remember, we must get a plan to the President not because it is the President's legislation or his priority, and not because it is the Senate's legislation or the Senate's priority, but because it is the people's priority. That is our obligation—reliable affordable energy supply that powers this Nation. It is up to us to deliver this comprehensive bill. Without such a stable energy supply, our security is threatened, whether it is economic security, personal security at home, at work, or our national security on the world stage. Energy means security.

I thank the staff director, Brian Malnak, for his tireless work; Jim Beirne, chief counsel; Bryan Hannegan, staff scientist. I thank staff assistants Dan Kish, Christine Drager, Mike Merge, Howard Useem, Colleen Deegan, David Woodruff, Joe Brenckle, Frank Gladics, Jack Phelps, Jim O'Toole, Josh Bowlen, Julia Gray, Shane Perkins, Jared Stubbs, Macy Bell, and Dick Bouts; our personal office staff: Alexander Polinsky, Joel Gilbertson, Chuck Kleeschulte, Charles Freeman, Isaac Edwards, Chris Eyler, Kristin Daimler, Julie Teer, Sarah Berk,

Carrie Lehman, and Jerry Ritter. They have done a magnificent job.

If I left anybody off the payroll, I apologize.

I congratulate my good friend, Senator BINGAMAN, and Senator REID for making this possible.

The PRESIDING OFFICER. The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak for a period not to exceed 5 minutes each, with the exception of Senator BIDEN, who wishes to speak for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

SAUDI ARABIA

Mr. BIDEN. Madam President, today the Crown Prince of Saudi Arabia, Prince Abdullah, met with President Bush in Crawford, TX. Based on the reports from that meeting, there were several items on the agenda, one of which was the conflict between the Israelis and Palestinians, and the other was the nature of the Saudi-U.S. bilateral relationship.

A report this morning in the New York Times said that the Crown Prince intended to deliver a ''blunt message'' to President Bush. Apparently, a Saudi official indicated after that meeting that oil would not be used as a weapon. Earlier, an unnamed Saudi official said that we, the United States, may face a ''strategic debacle'' unless we alter our relationship with Israel.

There is nothing wrong with blunt messages and blunt talk between friends. I am confident the President of the United States was equally blunt in the message he delivered. No doubt the Crown Prince discussed ways to advance his initiative with regard to Israel, a breakthrough that I publicly stated several times in recent weeks has not been fully appreciated by the world.

The Saudis had endorsed unanimously at the Arab League meeting last month in Beirut a plan that holds out hope for normal peaceful relations between Arab States and Israel. However, laying down that plan is not enough. It is time for more mature leadership.

We have been asked by the rest of the world and the Crown Prince to take an active role in supporting this plan. That is fine. However, I add, I hope the President discussed what active role the Saudis should take in dealing with peace in the Middle East. When the Crown Prince goes home, what concrete steps will he take to move the process forward, to create a new environment that builds trust and hope for a political settlement?

I am troubled by the apparent disconnect between the initiatives for peace taken by the Crown Prince and his nation and the contradictory behavior that is prevalent in Saudi Arabia and its policies. For example, in March the Saudi newspaper, Al-Riyadh, carried a vile, anti-Semitic article by someone claiming to be a professor. The article resurrected the centuries-old blood libel that civilized people would have thought was a thing of the past. This Saudi professor, in a leading Saudi newspaper, wrote for the Jewish holidays: ''Blood must be taken from a non-Jew, dried, and mixed with dough to make pastries.'' It goes on to say that using human blood in pastries was a ''well-established fact historically and legally throughout the history of mankind and that this was one of the main reasons for the persecution of Jews and the exile of Jews in Europe and Asia at different times.''

Finally, the article says: ''The needles enter the body extremely slowly causing immense pain that gives the Jewish vampires extreme pleasure and they closely monitor this bloodletting in detail with pleasure and enjoyment that is beyond comprehension.''

That is printed in a leading Saudi newspaper. The editor of that paper says that he was out of town when this article appeared, and later wrote that it was unworthy of publication.

Forgive me if I have a hard time believing that the article simply slipped through the cracks and that it was a fluke. I can believe many things about Saudi Arabia, but freedom of the press is not one of them. This article was published because no one who saw it believed that it contained anything offensive or untrue.

Imagine the outrage in Riyadh, in Cairo, in Amman, in the United Nations, and elsewhere if a Jewish professor published an article in an American paper saying that Muslim holiday feasts were prepared with the blood of ritualistically sacrificed Jews? Can anyone imagine what the Saudis would expect of the President of the United States, what the Saudis and the rest of the civilized world would rightly expect of all United States Senators who had nothing to do with it being published, but saw it published? The civilized world would demand of us, as they would have a right to, that we, the leaders of this country, stand up one at a time and disavow these vile, vile, vile diatribes.

What did people expect of us, and what did our President do, when a group of mostly Saudi citizens killed thousands of Americans on the 11th? The President did the right thing. He stood up and he said: This is not about Saudi Arabia, this is not about Muslims. He did the right thing.

I wonder what would have happened had it been the reverse. I wonder what would happen.

It is time for some mature leadership here. It is not enough just to lay down a good plan—and it is a good plan the Saudi Crown Prince laid down and which was adopted in Beirut. What would the Saudis expect us to say, though, were the roles reversed? What action would they demand of the President if in fact such vile lies were printed about Muslims and Saudis in an American paper? And what would the rest of the world have us say about such slander, in a country where there is freedom of the press, the United States?

Another example of this disconnect that baffles me is the recent telethon, ordered by King Fahd, which, according to press reports, raised over $85 million for families of so-called Palestinian martyrs. According to the Saudi Government, these people are defined as people ''victimized by Israeli terror and violence.'' But in the common parlance of the region, this term often refers to suicide bombers.

In the aftermath of September 11, in which 15 Saudis engaged in the most deadly suicide attacks in history, one would hope the Saudi Government might think twice before offering financial incentives for so-called martyrdom.

Imagine if the President of the United States and the Members of the Congress contributed to a telethon for someone who walked into a hotel in Riyadh and killed 100 Muslims. What would we say? What would we be expected to say? What would we think? What would happen if the President of the United States said: We condemn it, but we understand the frustration of the Saudi people, in having no democracy? We understand the frustration of the Jewish people, being victims of suicide bombing? It would be an outrage, an outrage. And the whole world would say: Where is the moral leadership of the United States?

But the Saudi support for the cult of martyrdom is not restricted to offering financial incentives. Recently the Saudi Ambassador to the United Kingdom wrote a poem entitled ''The Martyrs.'' The poem appeared in Arabic language newspapers and praised Palestinian suicide bombers, particularly a young deranged Palestinian woman from a refugee camp who killed herself and two Israelis on March 29. The Ambassador refers to her as ''the bride of loftiness.''

This is written by the Saudi Ambassador to the United Kingdom.

> She embraces death with a smile
> while the leaders are running away from death . . .

He goes on to say:

> We complained to the idols of a white house whose heart is filled with darkness.

Given the opportunity to renounce this poem, a Saudi spokesman said on United States television:

> The ambassador is a very well known poet . . . he was expressing the anger and frustration people feel.

Give me a break. That is not good enough. I personally met with this spokesman, who is a fine man. I expected more from a man as educated and sophisticated as Mr. Al-Jubeir. If an American diplomat wrote a poem—

if the Ambassador from the United States to England wrote a poem extolling terrorism and attacking the leader of an ally, the President of the United States would have his or her head on a platter the next day. They would be fired.

What would happen if an ambassador of the United States to another great country wrote a poem that extolled the virtues of some Saudi citizen who—like bin Laden—attempted to assassinate or was engaged in a plot to do harm to the royal family? What would the Saudis expect of us? What would the Saudis, or any civilized nation, expect the United States President to do? They would expect him to do exactly what he would do: Fire the person on the spot, and vocally, in more than one language, disavow the poetry.

Since September 11, we have become all too familiar with the term ''madrassa,'' a term probably few had ever heard of in the United States. We have learned that madrassas are religious schools. We have learned the extent to which funds from Saudi Arabia have supported madrassas, over 7,000 of them in Pakistan and in Afghanistan. We have learned that many madrassas indoctrinate children with distorted and hateful ideas.

But now we have learned that the problem with education is not simply outside of Saudi Arabian borders, but within the kingdom itself. According to an article in last October's New York Times, 10th grade textbooks in Saudi Arabia warn students to ''consider the infidel their enemy.''

Saudis claim such quotes are taken out of context, but in what context is religious prejudice acceptable?

Of course, hateful diatribes and words of incitement also are found in Palestinian textbooks.

While Arafat is talking about peace in Oslo, the textbooks in the West Bank talk about ''the hated Jew.'' And they have long been accompanied by schoolroom maps in the Middle East that pointedly do not show, even on a map, Israel as a state. When our Saudi friends argue their support and funding for Palestinian causes is for humanitarian and educational purposes, I think it is fair to ask why they continue to turn a blind eye toward this fomenting of hate that exists in their region and their country.

I mention these examples to illustrate why there is a disconnect when we hear Saudi leaders talk of making peace with Israel.

Peace will not happen by itself. It has to be nurtured. Certainly those Arab nations we put in the moderate camp ought to prepare their people for the ''normal, peaceful relations'' they espoused in Beirut. If the Crown Prince means what he says about normal, peaceful relations with Israel—and I believe he does—then it is time for his government to prepare Saudi Arabia and the rest of the Arab world for this new day. No responsible leaders want to see bloodshed continue in the Middle East. We all want for it to end immediately. All of us would like to see a peaceful settlement. To make it happen, everyone—everyone—must shoulder responsibility.

It is time for big nations and serious leaders to stand up, to stand up and speak the truth. It is time for nations with the ability to directly influence events to exercise simply mature leadership.

I am not expecting the Saudis to all of a sudden take a pro-Israeli position. But I am expecting, I do demand of them as a civilized nation and a mature country, to do the right thing.

The United States must do its part, too. I have urged the administration to increase its involvement, not only in resolving the current crisis but also convening an international peace conference that would move the parties quickly to a political solution or at least provide a political horizon.

The Arab world must demonstrate mature leadership as well. It cannot simply demand that the United States abandon Israel, something we will never do.

Let me say that again: Something we will never do. Over my dead physical political body will we ever abandon Israel. But that does not mean we believe everything Israel does is right. It does mean, though, we will fight for Israel's right to exist within secure borders.

Mature leadership means taking risks and confronting those forces that hinder progress—not abetting those forces.

Mature leadership means condemning terrorism—not extolling the virtues of ''martyrdom.''

Mature leadership means halting the flow of funds to terrorists—not providing financial incentives for more terror.

Mature leadership means creating an educational system that provides the foundation for future progress—not text and textbooks that promote religious bigotry.

Mature leadership means being responsive to the legitimate demands of one's citizen for political openness and transparency—not stifling dissent and exporting your problems elsewhere.

Mature leadership means sitting down with the Israelis and talking peace—not treating them as pariahs.

I find it fascinating that the President was criticized for authorizing and directing the Secretary of State to sit down with the person who many Israelis consider a pariah and who many of us consider a pariah—Yasser Arafat. The Saudis thought that was essential. Why will they not sit down? Why will they not sit down with a man who is the elected leader of Israel, regardless of whether or not they think on the West Bank he is a pariah as many Israelis and Americans think is the case with Mr. Arafat?

The President has shown mature leadership. I may disagree with his approach, but why is it expected of us and not of them?

As the birthplace of Islam and the land of the holiest Muslim sites, Saudi Arabia has a critical role to play in resolving one of the most intractable conflicts of our time.

This is an opportunity for the Saudi Royal Family to make a real contribution to peace. They have taken the first steps with bold action that holds out hope for peace as they presented their peace plan.

Now let them take the next step of mature, consistent leadership. Let them denounce the Palestinian leadership that uses terror to gain political leverage. Let them denounce hateful language. Let them denounce the incitement to violence in textbooks and in the media.

I hope they will take the next step so the Saudi initiative will not become just another missed opportunity—an interesting footnote in history.

I hope our relationship with the Saudis can improve. I hope the Saudi Arabian citizens can begin to enjoy the freedom they deserve.

But these things can only occur with farsighted, mature leadership.

There has never been a time when we have needed such leadership more than it is needed now. I hope that kind of leadership will enable our two countries to move forward together to achieve progress and peace—not just for the Israelis and Palestinians but for all the people of the Middle East.

I urge the administration to increase its involvement—not only in the present circumstance but beyond.

Let us be honest. This is a historic opportunity. The Saudis have made a significant proposal. I beg them, do not squander the opportunity to be remembered for the century as the party and the force that was the catalyst for bringing an end to the suffering of the people in the Palestinian-Israeli conflict.

I yield the floor.

TRIBUTE TO BRIGADIER GENERAL DAN L. LOCKER, COMMANDER, 81ST MEDICAL GROUP AND LEAD AGENT, TRICARE REGION IV

Mr. LOTT. Mr. President, I would like to take a moment today to recognize one of the finest officers in the U.S. Air Force, Brigadier General Dan L. Locker. On July 31, 2002, General Locker will retire from the Air Force and his positions as Commander of the 81st Medical Group, Keesler Medical Center, Keesler Air Force Base, MS, and Lead Agent for Department of Defense TRICARE Region IV. During his time at Keesler Air Force Base, General Locker has exemplified the Air Force core values of integrity, service before self, and excellence in all endeavors. Many Members and staff have enjoyed the opportunity to meet with him on a variety of Department of Defense health care issues and have come to appreciate his many talents. Today it is my privilege to recognize some of Dan's many accomplishments since he

entered the military 30 years ago, and to commend the superb service he provided the Air Force, the Congress, and our Nation.

Dan Locker was commissioned in the Air Force Reserve in 1970 through the Health Professions Scholarship Program. A proud Texan, he completed his bachelor's degree in biology at Southwest Texas State College in 1967. He entered active duty in 1972, and received his Doctor of Medicine degree in 1973 from the University of Texas Medical School in San Antonio. He then completed residencies in family practice at Scott Air Force Base, IL, and general surgery at Keesler Air Force Base, MS. An active chief flight surgeon, General Locker has logged more than 1,000 hours of flight time in numerous military aircraft, including 21 combat missions and 25 combat hours.

From early in his career, General Locker's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select command positions. He was the Chief of Surgical Services in his first post-residency assignment at Mountain Home Air Force Base, ID. From there, he went overseas to serve as Chief of General Surgery and Director of U.S. Air Forces in Europe Flying Ambulance Surgical Trauma teams in Wiesbaden, Germany. While in Germany, he also was the military consultant to the Air Force Surgeon General for general surgery. Next, he moved to the Royal Air Force Lakenheath, England, where he served as deputy commander for hospital services. Then it was back to Texas to command, first, the 96th Strategic Hospital at Dyess Air Force Base, and then the 82nd Medical Group at Sheppard Air Force Base. After proving his staff proficiency as Director of Medical Service Officer Management at the Air Force Military Personnel Center at Randolph Air Force Base, TX, then-Colonel Locker, was summoned to be the Command Surgeon at Headquarters, U.S. Air Forces in Europe in Ramstein Air Base, Germany. While in that position, he was responsible for management, resources, and oversight of all health care provided at 12 Air Force clinics, hospitals, and medical centers throughout Europe.

In 1997, Dan Locker was promoted to brigadier general, and was selected for his current high-profile position as commander of the second largest medical center in the Air Force at Keesler Air Force Base in the great State of Mississippi. General Locker took Keesler Medical Center to new heights, earning the 81st Medical Group the Air Force Outstanding Unit Award, the Department of Defense TRICARE Customer Service Award, and the TRICARE Access to Care Award. The TRICARE honors resulted in a $100,000 cash award, that was used to improve the quality of life and benefit the more than 2,000 health care professionals of the 81st Medical Group at Keesler. General Locker has worked diligently to hone the military professionalism of the ''Combat Medics'' at Keesler Medical Center, which is responsible for the direct delivery of health care to more than 50,000 patients in the Keesler area, and provides referral and consultative services to an additional 605,000 beneficiaries in a 5–State region.

As Lead Agent for TRICARE Region IV, General Locker is responsible for the direction of all managed health care activities at 23 military treatment facilities throughout all of Mississippi, Alabama, Tennessee, and parts of Louisiana and Florida. In addition, through a $4 billion contract with Humana Military Healthcare Services, he is responsible for the provision of care to all military beneficiaries in the region. The Managed Care Support Contract relationship with Humana was so strong that both parties were recognized by the National Managed Health Care Congress with the 2001 AstraZeneca Partnership Award for improving the delivery of health care throughout the Gulf-South Region.

A dynamic and skilled lecturer, General Locker has delivered presentations around the world on a variety of clinical and technological health care issues to a broad range of audiences, both military and civilian. Still active in his surgical practice, he spends a week each winter, leading a team on a humanitarian mission trip to Mexico to help provide much-needed care to rural and under-served patients. Just last week, he was presented the prestigious Excalibur Award by the Society of Air Force Clinical Surgeons for demonstrating the highest personal dedication, surgical competence, and providing leadership and vision to further advance the field of surgery.

I offer my congratulations to Dan, his wife, Cynthia, daughters, Valerie and Rachel, and son, Ryan. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career.

I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Locker. He is a credit to both the Air Force and the United States. We wish our friend the best of luck in his retirement and we look forward to working with General Locker in his next career.

TRIBUTE TO BRIGADIER GENERAL ROOSEVELT ''TED'' MERCER, JR., COMMANDANT, JOINT FORCES STAFF COLLEGE

Mr. LOTT. Mr. President, I would like to take a moment today to recognize one of the finest officers in the United States Air Force, Brigadier General Roosevelt ''Ted'' Mercer, Jr. On May 9, 2002, General Mercer will become the Commandant of Joint Forces Staff College at the National Defense University in Norfolk, VA. He will be leaving the job as Commander of the 81st Training Wing at Keesler AFB MS, a position he has held and executed with great pride, leadership, and honor. During his time at Keesler, as Commander of the 81st Training Wing, General Mercer personified the Air Force core values of integrity, service before self, and excellence in all things. Many Members and staff enjoyed the opportunity to meet with him on a variety of Air Force issues and came to appreciate his many talents. Today it is my privilege to recognize some of Ted's many accomplishments since he entered the military 27 years ago, and to commend the superb service he provided the Air Force, the Congress and our Nation.

Ted Mercer entered the Air Force through the Reserve Officer Training Corps program at University of Puget Sound in Tacoma, Washington. While there, he completed his bachelor's degree in urban planning in 1975, as well as being a distinguished graduate of the university's ROTC program. Upon graduation, he was assigned to Vandenberg Air Force Base in California, where he became proficient in Titan II missile combat crew operations, so much so that by 1980 he became an instructor in missile combat crew operations at Vandenberg.

From early in his career, General Mercer's exceptional leadership skills were always evident to both superiors and subordinates as he repeatedly proved himself in numerous select command positions. He was the Commander of the 447th Strategic Missile Squadron at Grand Forks Air Force Base, North Dakota; Commander of the 45th Logistics Group at Patrick Air Force Base, Florida; and at Minot Air Force Base, North Dakota he was Commander of the 91st Operations Group. In June 1998, he assumed command of the 30th Space Wing at Vandenberg Air Force Base, California. As I've stated earlier, he superbly led the 81st Training Wing at Keesler Air Force Base, Mississippi from September 2000 until May 2002.

Ted Mercer also has excelled in a variety of key staff assignments. These include serving as Deputy Director of Operations, Headquarters U.S. Space Command at Peterson Air Force Base, Colorado; Vice Director of Plans, Directorate of Plans, Headquarters U.S. Space Command at Peterson Air Force Base, Colorado; Chief, Nuclear Division, Directorate of Plans and Policy, Headquarters U.S. European Command, Stuttgart, Germany; and Executive Officer, Directorate of Personnel Plans, Deputy Chief of Staff for Personnel, Headquarters U.S. Air Force, Washington DC. General Mercer also served as Chief of Congressional Affairs, Deputy Chief of Staff for Personnel, Headquarters U.S. Air Force in Washington DC, and has been awarded a Defense Superior Service Medal and Legion of Merit among other decorations.

We were all pleased to see General Mercer selected as Commandant of the Joint Forces Staff College at the National Defense University in Norfolk, VA. I offer my congratulations to him,

his wife, Mike, and daughter, Sidnee, on this new assignment. The Congress and the country applaud the selfless commitment his entire family has made to the Nation in supporting his military career.

I know I speak for all of my colleagues in expressing my heartfelt appreciation to General Ted Mercer. He is a credit to both the Air Force and the United States of America. We wish our friend the best of luck in his new command.

ARTHUR M. SCHLESINGER, JR. ON AMERICAN DEMOCRACY

Mr. KENNEDY. Mr. President, few individuals have made a greater contribution to the study of American history than Professor Arthur M. Schlesinger, Jr.

Arthur's been a pre-eminent historian for over half a century, ever since 1946, when he won the Pulitzer Prize at the age of 28, for his book ''The Age of Jackson.''

As Oscar Wilde once said—anybody can make history but only a truly great man can write history. And Arthur Schlesinger has written about history with unsurpassed eloquence, and he's shaped that history with his unsurpassed wisdom and scholarship. In so many ways, Arthur Schlesinger represents the best of the liberal and progressive ideal in the 20th century.

Arthur Schlesinger continues to represent these ideals in the 21st century, and I believe that his article on the 2000 presidential election published in last month's issue of The American Prospect will be of interest to all of us in Congress. I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the American Prospect, Mar. 25, 2002]

NOT THE PEOPLE'S CHOICE

(By Arthur M. Schlesinger, Jr.)

The true significance of the disputed 2000 election has thus far escaped public attention. This was an election that made the loser of the popular vote the president of the United States. But that astounding fact has been obscured: first by the flood of electoral complaints about deceptive ballots, hanging chads, and so on in Florida; then by the political astuteness of the court-appointed president in behaving as if he had won the White House by a landslide; and now by the effect of September 11 in presidentializing George W. Bush and giving him commanding popularity in the polls.

''The fundamental maxim of republican government,'' observed Alexander Hamilton in the 22d Federalist, ''requires that the sense of the majority should prevail.'' A reasonable deduction from Hamilton's premise is that the presidential candidate who wins the most votes in an election should also win the election. That quite the opposite can happen is surely the great anomaly in the American democratic order.

Yet the National Commission on Federal Election Reform, a body appointed in the wake of the 2000 election and co-chaired (honorarily) by former Presidents Gerald Ford and Jimmy Carter, virtually ignored it. Last August, in a report optimistically entitled To Assure Pride and Confidence in the Electoral Process, the commission concluded that it had satisfactorily addressed ''most of the problems that came into national view'' in 2000. But nothing in the ponderous 80-page document addressed the most fundamental problem that came into national view: the constitutional anomaly that permits the people's choice to be refused the presidency.

Little consumed more time during our nation's Constitutional Convention than debate over the mode of choosing the chief executive. The framers, determined to ensure the separation of powers, rejected the proposal that Congress elect the president. Both James Madison and James Wilson, the ''fathers'' of the Constitution, argued for direct election by the people, but the convention, fearing the parochialism of uninformed voters, also rejected that plan. In the end, the framers agree on the novel device of an electoral college. Each state would appoint electors equal in number to its representation in Congress. The electors would then vote for two persons. The one receiving a majority of electoral votes would then become president; the runner-up, vice president. And in a key sentence, the Constitution stipulated that of these two persons at least one should not be from the same state as the electors.

The convention expected the electors to be cosmopolitans who would know, or know of, eminences in other states. But this does not mean that they were created as free agents authorized to routinely ignore or invalidate the choice of the voters. The electors, said John Clopton, a Virginia congressman, are the ''organs . . . acting from a certain and unquestioned knowledge of the choice of the people, by whom they themselves were appointed, and under immediate responsibility to them.''

Madison summed it up when the convention finally adopted the electoral college: ''The president is now to be elected by the people.'' The president, he assured the Virginia ratifying convention, would be ''the choice of the people at large.'' In the First Congress, he described the president as appointed ''by the suffrage of three million people.''

''It was desirable,'' Alexander Hamilton wrote in the 68th Federalist, ''that the sense of the people should operate in the choice of the person to whom so important a trust was to be confided.'' As Lucius Wilmerding, Jr., concluded in his magistral study of the electoral college: ''The Electors were never meant to choose the President but only to pronounce the votes of the people.''

Even with such a limited function, however, the electoral college has shaped the contours of American politics and thus captured the attention of politicians. With the ratification of the 12th Amendment in 1804, electors were required to vote separately for president and vice president, a change that virtually guaranteed that both would be of the same party. Though unknown to the Constitution and deplored by the framers, political parties were remolding presidential elections. By 1836 every state except South Carolina had decided to cast its votes as a unit—winner take all, no matter how narrow the margin. This decision minimized the power of third parties and created a solid foundation for a two-party system.

''The mode of appointment of the Chief Magistrate [President] of the United States,'' wrote Hamilton in the 68th Federalist, ''is almost the only part of the system, of any consequence, which has escaped without severe censure.'' This may have been true when Hamilton wrote in 1788; it was definitely not true thereafter. According to the Congressional Research Service, legislators since the First Congress have offered more than a thousand proposals to alter the mode of choosing presidents.

No legislator has advocated the election of the president by Congress. Some have advocated modifications in the electoral college—to change the electoral units from states to congressional districts, for example, or to require a proportional division of electoral votes. In the 1950s, the latter approach received considerable congressional favor in a plan proposed by Senator Henry Cabot Lodge, Jr., and Representative Ed Gossett. The Lodge-Gossett amendment would have ended the winner-take-all electoral system and divided each state's electoral vote according to the popular vote. In 1950 the Senate endorsed the amendment, but the House turned it down. Five years later, Senator Estes Kefauver revived the Lodge-Gossett plan and won the backing of the Senate Judiciary Committee. A thoughtful debate ensued, with Senators John F. Kennedy and Paul H. Douglas leading the opposition and defeating the amendment.

Neither the district plan nor the proportionate plan would prevent a popular-vote loser from winning the White House. To correct this great anomaly of the Constitution, many have advocated the abolition of the electoral college and its replacement by direct popular elections. The first ''minority'' president was John Quincy Adams. In the 1824 election, Andrew Jackson led in both popular and electoral votes; but with four candidates dividing the electoral vote, he failed to win an electoral-college majority. The Constitution provides that if no candidate has a majority, the House of Representatives must choose among the top three. Speaker of the House Henry Clay, who came in fourth, threw his support to Adams, thereby making him president. When Adams then made Clay his secretary of state, Jacksonian cries of ''corrupt bargain'' filled the air for the next four years and helped Jackson win the electoral majority in 1828.

''To the people belongs the right of electing their Chief Magistrate,'' Jackson told Congress in 1829. ''The first principle of our system,'' he said, is ''that the majority is to govern.'' He asked for the removal of all ''intermediate'' agencies preventing a ''fair expression of the will of the majority.'' And in a tacit verdict on Adams's failed administration, Jackson added: ''A President elected by a minority can not enjoy the confidence necessary to the successful discharge of his duties.''

History bears out Jackson's point. The next two minority presidents—Rutherford B. Hayes in 1877 and Benjamin Harrison in 1889—had, like Adams, ineffectual administrations. All suffered setbacks in their midterm congressional elections. None won a second term in the White House.

The most recent president to propose a direct-election amendment was Jimmy Carter in 1997. The amendment, he said, would ''ensure that the candidate chosen by the votes actually becomes President. Under the Electoral College, it is always possible that the winner of the popular vote will not be elected.'' This had already happened, Carter said, in 1824, 1876, and 1888.

Actually, Carter placed too much blame on the electoral system. Neither J.Q. Adams in 1824 nor Hayes in 1876 owed his elevation to the electoral college. The House of Representatives, as noted, elected Adams. Hayes's anointment was more complicated.

In 1876, Samuel J. Tilden, the Democratic candidate, won the popular vote, and it appeared that he had won the electoral vote too. But the Confederate states were still under military occupation, and electoral boards in Florida, Louisiana, and South Carolina disqualified enough Democratic ballots to give Hayes, the Republican candidate, the electoral majority.

The Republicans controlled the Senate; the Democrats, the House. Which body would count the electoral votes? To resolve the deadlock, Congress appointed an electoral commission. By an 8–7 party-line vote, the commission gave all the disputed votes to Hayes. This was a supreme election swindle. But it was the rigged electoral commission, not the electoral college, that denied the popular-vote winner the presidency.

In 1888 the electoral college did deprive the popular-vote winner, Democrat Grover Cleveland, of victory. But 1888 was a clouded election. Neither candidate received a majority, and Cleveland's margin was only 100,000 votes. Moreover, the claim was made, and was widely accepted at the time and by scholars since, that white election officials in the South banned perhaps 300,000 black Republicans from the polls. The installation of a minority president in 1889 took place without serious protest.

The Republic later went through several other elections in which a small shift of votes would have given the popular-vote loser an electoral-college victory. In 1916, if Charles Evans Hughes had gained 4,000 votes in California, he would have won the electoral-college majority, though he lost the popular vote to Woodrow Wilson by more than half a million. In 1948, a shift of fewer than 30,000 votes in three states would have given Thomas E. Dewey the electoral-college majority, though he ran more than two million votes behind Harry Truman. In 1976, a shift of 8,000 votes in two states would have kept President Gerald Ford in office, though he ran more than a million and a half votes behind Jimmy Carter.

Over the last half-century, many other eminent politicos and organizations have also advocated direct popular elections: Presidents Richard Nixon and Gerald Ford; Vice Presidents Alben Barkley and Hubert Humphrey; Senators Robert A. Taft, Mike Mansfield, Edward Kennedy, Henry Jackson, Robert Dole, Howard Baker, and Everett Dirksen; the American Bar Association, the League of Women Voters, the AFL–CIO, and the U.S. Chamber of Commerce. Polls have shown overwhelming public support for direct elections.

In the late 1960s, the drive for a direct-election amendment achieved a certain momentum. Led by Senator Birch Bayh of Indiana, an inveterate and persuasive constitutional reformer, the campaign was fueled by the fear that Governor George Wallace of Alabama might win enough electoral votes in 1968 to throw the election into the House of Representatives. In May 1968, a Gallup poll recorded 66 percent of the U.S. public in favor of direct election—and in November of that year, an astonishing 80 percent. But Wallace's 46 electoral votes in 1968 were not enough to deny Nixon a majority, and complacency soon took over. ''The decline in one-party states,'' a Brookings Institution study concluded in 1970, ''has made it far less likely today that the runner-up in popular votes will be elected President.''

Because the danger of electoral-college misfire seemed academic, abolition of the electoral college again became a low-priority issue. Each state retained the constitutional right to appoint its electors ''in such manner as the legislature thereof directs.'' And all but two states, Maine and Nebraska, kept the unit rule.

Then came the election of 2000. For the fourth time in American history, the winner of the popular vote was refused the presidency. And Albert Gore, Jr., had won the popular vote not by Grover Cleveland's dubious 100,000 but by more than half a million. Another nearly three million votes had gone to the third-party candidate Ralph Nader, making the victor, George W. Bush, more than ever a minority president.

Nor was Bush's victory in the electoral college unclouded by doubt. The electoral vote turned on a single state, Florida. Five members of the Supreme Court, forsaking their usual deference to state sovereignty, stopped the Florida recount and thereby made Bush president. Critics wondered: if the facts had been the same but the candidates reversed, with Bush winning the popular vote (as indeed observers had rather expected) and Gore hoping to win the electoral vote, would the gang of five have found the same legal arguments to elect Gore that they used to elect Bush?

I expected an explosion of public outrage over the rejection of the people's choice. But there was surprisingly little in the way of outcry. It is hard to image such acquiescence in a popular-vote-loser presidency if the popular-vote winner had been, say, Adlai Stevenson or John F. Kennedy or Ronald Reagan. Such leaders attracted do-or-die supporters, voters who cared intensely about them and who not only would have questioned the result but would have been ardent in pursuit of fundamental reform. After a disappointing campaign, Vice President Gore simply did not excite the same impassioned commitment.

Yet surely the 2000 election put the Republic in an intolerable predicament—intolerable because the result contravened the theory of democracy. Many expected that the election would resurrect the movement for direct election of presidents. Since direct elections have obvious democratic plausibility and since few Americans understand the electoral college anyway, its abolition seems a logical remedy.

The resurrection has not taken place. Constitutional reformers seem intimidated by the argument that a direct-election amendment would antagonize small-population states and therefore could not be ratified. It would necessarily eliminate the special advantage conferred on small states by the two electoral votes handed to all states regardless of population. Small-state opposition, it is claimed, would make it impossible to collect the two-thirds of Congress and the three-fourths of the states required for ratification.

This is an odd argument, because most political analysts are convinced that the electoral college in fact benefits large states, not small ones. Far from being hurt by direct elections, small states, they say, would benefit from them. The idea that ''the present electoral-college preserves the power of the small states,'' write Lawrence D. Longley and Alan G. Braun in The Politics of Electoral Reform, ''. . . simply is not the case.'' The electoral-college system ''benefits large states, urban interests, white minorities, and/or black voters.'' So, too, a Brookings Institution report: ''For several decades liberal, urban Democrats and progressive, urban-suburban Republicans have tended to dominate presidential politics; they would lose influence under the direct-vote plan.''

Racial minorities holding the balance of power in large states agree. ''Take away the electoral college,'' said Vernon Jordan as president of the Urban League, ''and the importance of being black melts away. Blacks, instead of being crucial to victory in major states, simply become 10 percent of the electorate, with reduced impact.''

The debate over whom direct elections would benefit has been long, wearisome, contradictory, and inconclusive. Even computer calculations are of limited use, since they assume a static political culture. They do not take into account, nor can they predict, the changes wrought in voter dynamics by candidates, issues, and events.

As Senator John Kennedy said during the Lodge-Gossett debate: ''It is not only the unit vote for the Presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the solar system,'' Kennedy observed, ''it is necessary to consider all the others. . . . What the effects of these various changes will be on the Federal system, the two-party system, the popular plurality system and the large-State-small-State checks and balances system, no one knows.''

Direct elections do, however, have the merit of correcting the great anomaly of the Constitution and providing an escape from the intolerable predicament. ''The electoral college method of electing a President of the United States,'' said the American Bar Association when an amendment was last seriously considered, ''is archaic, undemocratic, complex, ambiguous, indirect, and dangerous.'' In contrast, as Birch Bayh put it, ''direct popular election of the president is the only system that is truly democratic, truly equitable, and can truly reflect the will of the people.''

The direct-election plan meets the moral criteria of a democracy. It would elect the people's choice. It would ensure equal treatment of all votes. It would reduce the power of sectionalism in politics. It would reinvigorate party competition and combat voter apathy by giving parties the incentive to get out their votes in states that they have no hope of carrying.

The arguments for abolishing the electoral college are indeed powerful. But direct elections raise troubling problems of their own—especially their impact on the two-party system and on JFK's ''solar system of governmental power.''

In the nineteenth century, American parties inspired visiting Europeans with awe. Alexis de Tocqueville, in the 1830s, thought politics ''the only pleasure which an American knows.'' James Bryce, half a century later, was impressed by the ''military discipline'' of the parties. Voting statistics justified transtlantic admiration. In no presidential election between the Civil War and the end of the century did turnout fall below 70 percent of eligible voters.

The dutiful citizens of these high-turnout years did not rush to the polls out of uncontrollable excitement over the choices they were about to make. The dreary procession of presidential candidates moved Bryce to write his famous chapter in The American Commonwealth titled ''Why Great Men Are Not Chosen President.'' But the party was supremely effective as an agency of voter mobilization. Party loyalty was intense. People were as likely to switch parties as they were to switch churches. The great difference between then and now is the decay of the party as the organizing unit of American politics.

The modern history of parties has been the steady loss of the functions that gave them their classical role. Civil-service reform largely dried up the reservoir of patronage. Social legislation reduced the need for parties to succor the poor and helpless. Mass entertainment gave people more agreeable diversions than listening to political harangues. Party loyalty became tenuous; party identification, casual. Franklin D. Roosevelt observed in 1940: ''The growing independence of voters, after all, has been proved by the votes in every presidential election since my childhood—and the tendency, frankly, is on the increase.''

Since FDR's day, a fundamental transformation in the political environment has further undermined the shaky structure of American politics. Two electronic technologies—television and computerized polling—have had a devastating impact on the party system. The old system had three

tiers: the politican at one end, the voter at the other, and the party in between. The party's function was to negotiate between the politician and the voter, interpreting each to the other and providing the links that held the political process together.

The electronic revolution has substantially abolished this mediating role. Television presents politicians directly to the voters, who judge candidates far more on what the box shows them than on what the party organization tells them. Computerized polls present voters directly to the politicians, who judge the electorate far more on what the polls show them than on what the party organization tells them. The political party is left to wither on the vine.

The last half-century has been notable for the decrease in party identification, for the increase in independent voting, and for the number of independent presidential candidacies by fugitives from the major parties: Henry Wallace and Strom Thurmond in 1948, George Wallace in 1968, Eugene McCarthy in 1976, John Anderson in 1980, Ross Perot in 1992 and 1996, and Ralph Nader and Pat Buchanan in 2000.

The two-party system has been a source of stability; FDR called it ''one of the greatest methods of unification and of teaching people to think in common terms.'' The alternative is a slow, agonized descent into an era of what Walter Dean Burnham has termed ''politics without parties.'' Political adventurers might roam the countryside like Chinese warlords, building personal armies equipped with electronic technologies, conducting hostilities against various rival warlords, forming alliances with others, and, if they win elections, striving to govern through ad hoc coalitions. Accountability would fade away. Without the stabilizing influences of parties, American politics would grow angrier, wilder, and more irresponsible.

There are compelling reasons to believe that the abolition of state-by-state, winner-take-all electoral votes would hasten the disintegration of the party system. Minor parties have a dim future in the electoral college. Unless third parties have a solid regional base, like the Populists of 1892 or the Dixiecrats of 1948, they cannot hope to win electoral votes. Millard Fillmore, the Know-Nothing candidate in 1856, won 21.6 percent of the popular vote and only 2 percent of the electoral vote. In 1912, when Theodore Roosevelt's candidacy turned the Republicans into a third party, William Howard Taft carried 23 percent of the popular vote and only 1.5 percent of the electoral votes.

But direct elections, by enabling minor parties to accumulate votes from state to state—impossible in the electoral-college system—would give them a new role and a new influence. Direct-election advocates recognize that the proliferation of minor candidates and parties would drain votes away from the major parties. Most direct-election amendments therefore provide that if no candidate receives 40 percent of the vote the two top candidates would fight it out in a runoff election.

This procedure would offer potent incentives for radical zealots (Ralph Nader, for example), freelance media adventures (Pat Buchanan), eccentric billionaires (Ross Perot), and flamboyant characters (Jesse Ventura) to jump into presidential contests; incentives, too, to ''green'' parties, senior-citizen parties, nativist parties, right-to-life parties, pro-choice parties, anti-gun-control parties, homosexual parties, prohibition parties, and so on down the single-issue line.

Splinter parties would multiply not because they expected to win elections but because their accumulated vote would increase their bargaining power in the runoff. Their multiplication might well make runoffs the rule rather than the exception. And think of the finagling that would take place between the first and second rounds of a presidential election! Like J.Q. Adams in 1824, the victors would very likely find that they are a new target for ''corrupt bargains.''

Direct election would very likely bring to the White House candidates who do not get anywhere near a majority of the popular votes. The prospect would be a succession of 41 percent presidents or else a succession of double national elections. Moreover, the winner in the first round might often be beaten in the second round, depending on the deals the runoff candidates made with the splinter parties. This result would hardly strengthen the sense of legitimacy that the presidential election is supposed to provide. And I have yet to mention the problem, in close elections, of organizing a nationwide recount.

In short, direct elections promise a murky political future. They would further weaken the party system and further destabilize American politics. They would cure the intolerable predicament—but the cure might be worse than the disease.

Are we therefore stuck with the great anomaly of the Constitution? Is no remedy possible?

There is a simple and effective way to avoid the troubles promised by the direct-election plan and at the same time to prevent the popular-vote loser from being the electoral-vote winner: Keep the electoral college but award the popular vote winner a bonus of electoral votes. This is the ''national bonus'' plan proposed in 1978 by the Twentieth Century Fund Task Force on Reform of the Presidential Election Process. The task force included, among others, Richard Rovere and Jeanne Kirkpatrick. (And I must declare an interest: I was a member, too, and first proposed the bonus plan in The Wall Street Journal in 1977.)

Under the bonus plan, a national pool of 102 new electoral votes—two for each state and the District of Columbia—would be awarded to the winner of the popular vote. This national bonus would balance the existing state bonus—the two electoral votes already conferred by the Constitution on each state regardless of population. This reform would virtually guarantee that the popular-vote winner would also be the electoral-vote winner.

At the same time, by retaining state electoral votes and the unit rule, the plan would preserve both the constitutional and the practical role of the states in presidential elections. By insulating recounts, it would simplify the consequences of close elections. By discouraging multiplication of parties and candidates, the plan would protect the two-party system. By encouraging parties to maximize their vote in states that they have no chance of winning, it would reinvigorate state parties, stimulate turnout, and enhance voter equality. The national-bonus plan combines the advantages in the historic system with the assurance that the winner of the popular vote will win the election, and it would thus contribute to the vitality of federalism.

The national-bonus plan is a basic but contained reform. It would fit comfortably into the historic structure. It would vindicate ''the fundamental maxim of republican government . . . that the sense of the majority should prevail.'' It would make the American democracy live up to its democratic pretensions.

How many popular vote losers will we have to send to the White House before we finally democratize American democracy?

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2001

• Mr. SMITH of Oregon. Mr. President, I speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

A terrible crime occurred September 14, 1998 in Hayward, CA. A woman in a gay and lesbian bar was verbally assaulted and threatened by two men. Donald R. Santos, 40, and Lance E. Alves, 45, were charged with making terrorist threats and interference of civil rights because of sexual orientation, in connection with the incident.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.•

TAKE OUR DAUGHTERS TO WORK DAY

• Ms. LANDRIEU. Mr. President, as you walk the halls of the Senate today, you might have noticed many young and bright faces. Today we are celebrating the 10th anniversary of ''Take Our Daughters to Work Day.'' Senate HUTCHINSON and I have been pleased to oversee today's activities with our colleagues.

Over 11-million girls ages 9–15 are spending today with their parents, relatives, friends, neighbors and other mentors experiencing the wide range of careers the world has to offer.

Since 1993, 71-million young women—and yes, some young men, too—have participated in this outstanding program. According to a recent poll commissioned by the Ms. Foundation for Women, girls believe the program increased their interest in education, broadened their thinking about the future, and strengthened their relationship with their parents and other caring adults.

This morning's Senate activities began with a breakfast and a tour of the Senate floor for approximately 200 girls and their sponsors, many of them Senate staff members and assistants who wanted to share with their girls the excitement and challenges of working in our Nation's Capitol, and in particular, here in the Senate.

This year I am happy to host ten young ladies, all with very promising futures, most from my home State of Louisiana. Please welcome: Miss Lily Cowles of Shreveport, LA; Miss Caroline Pullen and Miss Claire Pullen of Houston, TX; Miss Keely Childress of Monroe, LA; Miss Elisabeth Whitehead

of Baton Rouge, LA; Miss Megan Haverstock and Miss Lauren Haverstock; Miss Kathleen Warner of Lynn Haven, FL; Miss Ashley Bageant of Spotsylvania, VA; Miss Annie Ballard of Baton Rouge, LA; Miss Erin Douget of Opelousas, LA.

In closing, I would like to thank the Ms. Foundation—the founder and organizer of this outstanding program that has impacted in a very positive way the lives of millions of girls and has become a tradition for thousands of workplaces across the country.●

IN RECOGNITION OF 1976 BROWN UNIVERSITY IVY LEAGUE CHAMPIONSHIP FOOTBALL TEAM

● Mr. CHAFEE. Mr. President, I rise today to recognize Brown University's 1976 Ivy League Championship Football Team, which recently was inducted into the Brown University Athletic Hall of Fame. In particular, I want to salute Joe Wirth, an assistant coach of that team, who was inducted into the Brown Hall of Fame in his own right in 1995, and who was an important influence on my own collegiate athletic career.

Joe coached at Brown from 1973 to 1979, and during his tenure, the Brown University Bears compiled an impressive 42–18–1 record. Joe Wirth was a defensive genius, and it certainly showed out on the field—the Brown defense was nationally ranked in five of those seven seasons. In the 1976 championship year, when the Bears led the way with an 8–1 record, they allowed the second-fewest points in the Ivy League. And that stingy defense translated into victories over the traditional league powers: Princeton, Harvard, and Yale. It was the first time in the school's history that they beat all three in the same season.

As if his responsibilities to the football team were not enough, Joe also was the coach of the wrestling team during that time and he helped keep the program alive. He produced a New England Champion in 1976. As one of Joe's co-captains on the 1975–76 wrestling team, I can attest that he had the respect and admiration of all of his wrestlers. We were all so grateful for his leadership and for his encouragement.

Despite the time commitments associated with his football and wrestling teams, Joe remained a family man. With his wife, Carol, he raised a wonderful family of six children.

To this day, Joe Wirth is a popular figure in Brown athletic circles. His players still recall his admonition to never give up ''until the last white line is crossed.'' In honor of his accomplishments as a Brown coach, I will conclude with a toast first offered to the 1976 Ivy League Champions by my classics professor, John Rowe Workman:

To your continued good health
To your continued prosperity
And to the maintenance of the great tradition●

NATIONAL PECAN MONTH

● Mr. DOMENICI. Mr. President, I rise today to recognize National Pecan Month. Each April the nation celebrates the pecan. Used in recipes ranging from pies and candy to soups and salads, the pecan is an important part of New Mexico's diet and economy.

New Mexico is the third largest pecan producing State following Georgia and Texas. The Pecan tree is uniquely native to North America. Pecans were first introduced to New Mexico in the early 1900's at the New Mexico State University and then in the Mesilla Valley. In 1932, the late Dean Stahmann Sr. planted the first commercial Pecan orchard, and pecans quickly became an important product of our State. In 2001, the State of New Mexico produced over 50 million pounds of pecans and had approximately 30,000 acres of pecan trees.

I am proud of the 15 New Mexico counties which produce pecans. Seven of the leading counties in pecan production include Chavez, Dona Ana, Eddy, Lea, Luna, Otero, and Sierra. Dona Ana county has more than 20,000 acres of pecan trees. Eight others including Bernalillo, Curry, De Baca, Grant, Hidalgo, Lincoln, Quay, and Roosevelt are all growing as valuable pecan producing counties.

Pecans not only taste great, but also may provide a way to help American's live healthier lives. A recently released study printed in the Journal of Nutrition reported regular consumption of pecans lowers cholesterol in conjunction with a step I diet of the American Heart Association. I encourage all American's to celebrate National Pecan Month with the people of New Mexico.●

TRIBUTE TO 2002 TEACHER OF THE YEAR: CALIFORNIAN CHAUNCEY VEATCH

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to a great Californian, Chauncey Veatch, whom I am very proud to know. Chauncey Veatch has been bestowed the highest honor available to teachers; he has been named the 2002 ''Teacher of the Year.''

I have had the honor of meeting Chauncey Veatch on two occasions. First when he became California's Teacher of the Year, and then again today. I could tell from my first meeting with Mr. Veatch that California was lucky to have a teacher like him in the State. His love for teaching and genuine concern for his students was apparent from the way he spoke about his classroom, students, and community.

Mr. Veatch did not always know he wanted to be a teacher. He came to teaching later in his career. He first spent 22 years in the Army infantry and medical services corps, working as a medical administrator.

After retiring in 1995, Mr. Veatch decided to follow in his siblings footsteps and become a teacher. He currently teaches social studies at Coachella Valley High in Thermal, California. The overwhelming number of his students come from migrant families, and nearly all of his students are Spanish-speaking. Mr. Veatch speaks Spanish to communicate with many of his students and to show respect for their culture.

His students and colleagues know Mr. Veatch as a courteous, tireless worker. He goes the extra mile for his students and his community. It is not uncommon for Mr. Veatch to spend hours after school helping students get caught up on their course work or to get ahead. One of his migrant students had to work with his family until November. A place was saved for him in the classroom, and Mr. Veatch worked with him everyday after school to make sure he caught up with the rest of the class. This is just one example of the many students he has helped.

Mr. Veatch's former principal, Rick Alvarez, said of his colleague: ''Believing our students can succeed is not a desire or a facade, but is actually something Chauncey lives. This caring can be seen in his eyes and heard in his voice and felt in his presence, and mostly seen in his actions.''

Chauncey Veatch said in the Rose Garden yesterday as President Bush presented him with his award, ''If you'd like to be a part of America's tomorrows become a teacher today.'' Mr. Veatch is a living example of the difference each person can make in the life of a child. Along side him at the ceremony were two of his students whose lives he has touched and undoubtedly changed. His students are his legacy, as he commonly refers to them as his ''kids.'' Through his actions, it is apparent to me that the terms ''kids'' is not only used a word to describe his classroom, but really how he thinks of his students. They are like family.

From Army Colonel to ''Teacher of the Year,'' I am proud to know you Chauncey Veatch and to call you a Californian. In Mr. Veatch's words, ''There is nothing more rewarding, nothing more patriotic than teaching. It is truly a joy and honor to be a teacher. This award belongs to my students.''●

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention an exceptional person—Chauncey Veatch, a teacher from Coachella Valley High School in Thermal, California.

He teaches world history, government and ninth-grade career preparation at Coachella Valley High School. He also does much more. He has taught English as a Second Language and citizenship classes in evening adult school. He revived the high school's cadet program, which has grown to 170 students. And he is often found with his students and their families outside of school in the community. Although he has only been teaching since 1995, after 22 years of service in the U.S. Army, Mr. Veatch

has become a mentor and an inspiration not only to his students, but to other teachers as well.

While he has never sought recognition, Chauncey Veatch was selected last year as California Teacher of the Year. More significantly he was recently honored at the White House as the 2002 National Teacher of the year.

Chauncey Veatch believes in his students and demonstrates that belief to them every day. The result is they believe in themselves. Their success in school, and in life, is remarkable.

California is extremely proud of Chauncey Veatch. I am honored to pay tribute to him. As National Teacher of the Year he will travel for a year as an education ambassador. I encourage my colleagues to join me in wishing Chauncey Veatch continued success as he spreads his positive message across our nation and beyond and as he continues his exceptional teaching.●

NUCLEAR SECURITY OFFICERS

● Mr. SMITH of New Hampshire. Mr. President, I rise to recognize the brave and patriotic security officers who protect the Seabrook Nuclear Power Station in my State of New Hampshire. Recently, allegations have been made that have caused great concern to these highly trained professions. The Local 501 Security, Police and Fire Professionals of America have written a letter to me and provided a position paper representing their views of security at Seabrook Station and responding to the issues raised by others. One particular part of the position paper caught my attention as it exemplifies the character of the brave men and women who serve and protect our nuclear power plants. It reads,

> The last thing that you should know about us is that we are your family, your friends and your neighbors. Most of us live within 20 miles of the plant. We have families and children of our own. Everything that we have worked so hard for and love is in close proximity to this plant. We are not cowards and will not run. God forbid the day ever comes, but if it does, we will stay and fight for you and for our friends and families.

I want to thank the President of Local 501, Clifford Bullock, and all of the professionals who are members of Local 501 for providing their well-informed perspective on security at Seabrook Station. Most importantly, Mr. President, I want to thank them for their bravery and commitment to protecting all of us—they are true patriots. I ask that the letter and position paper of Local 501 be printed in the CONGRESSIONAL RECORD.

APRIL 24, 2002.

The Hon. ROBERT SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: We understand from news media reports that two former security officers from Seabrook Station are planning to meet with various Congressional staff members to discuss concerns they have about their service at Seabrook.

As the Senator from New Hampshire and the ranking member of the Environment and Public Works Committee, we believe you would be interested in our position on the issues raised by the former officers. The attached paper represents the position of Local 501 of the Security, Police and Fire Professionals of America. We feel that it is especially important for you and your colleagues to have a full perspective on these issues.

We would be pleased to provide any additional information or respond to any other questions you may have.

Thank you for your consideration.

Sincerely,

CLIFFORD BULLOCK,
President, Local 501, Security, Police and Fire Professionals of America.

STATEMENT ON SECURITY AT SEABROOK STATION FROM SECURITY, POLICE AND FIRE PROFESSIONALS OF AMERICA—LOCAL 501—APRIL 23, 2002

Since the tragic events of September 11, the nation has been focused on its security like never before. The public and media have been quick to both praise and criticize the men and women tasked with keeping us safe from harm. Recently, light has been shed on a relatively unknown part of America's critical infrastructure; the protection of our nation's commercial nuclear power reactors. It seems that since September 11, hardly a week goes by that there is not a story in the news regarding the possibility of attacks against a nuclear power plant. This increased media attention has produced two results. It has shown us that prior to September 11, most people in this country were unaware of the importance of homeland security. It has also shown us that in this time of national uncertainty, anyone appearing on television, regardless of his or her background, education or experience, may be considered a ''security expert''.

In recent weeks, former newly hired security officers have expressed their perception that the security at the Seabrook Nuclear Power Station is inadequate. We would like the public to know that the concerns expressed by these individuals had been bought to the attention of management, and that they were being evaluated and any discrepancies addressed. The former officers' main area of concern centered on the initial training they received when they were hired in November 2001. They expressed discontent with the quality and quantity of tactical and weapons training they received during the six weeks of initial classroom and practical instruction. In an open letter to the public, one of the former officers stated that he fired only 96 rounds at the range before being declared ''proficient'' with his weapon. What he failed to disclose was that after firing 96 practice rounds, he then fired 120 rounds in order to qualify with his weapon using a state of New Hampshire and U.S. Nuclear Regulatory Commission-certified course of fire. After qualification came familiarization training on a stress-fire course and low-light firing. Only after successful completion of this training (300–350 rounds) is any officer declared ''proficient'' with his or her weapon. Admittedly, we would all like more time to practice with our weapons, not only because we want to hone our skills, but also because we enjoy it and are very good at it.

The strategic doctrine of nuclear power facilities is not designed to be as extensive as that of a SWAT team or a Special Forces branch of the military. We are by our very nature, defensive, not offensive. During our initial training we spend approximately four days learning general and site-specific tactics. This training, coupled with an intimate knowledge of the plant, ongoing training and drills and a fair measure of common sense prepares an individual to protect this plant in the event of an attack.

Although for obvious reasons we cannot disclose the specifics of our tactical strategy, we want the public to know that it has been validated numerous times by both industry and military experts and that, as the people who will employ it into actual use, we are confident that it is sound.

On September 11, due to our heightened state of alert, we stopped conducting tactical training drills on shift. Drills, though, are an essential part of the training process, and in January of this year, we began to once again practice our defensive strategy. The resumption of drills coincided with the few weeks that the former officers actually worked on shift. In their statements, they criticized our ability to perform our jobs of protecting this plant and the public from a terrorist attack based upon what they saw. Drills are performed as ''force on force'' exercises, meaning that a mock adversary team actually ''attacks'' the on-shift security officers. Explosions, gunfire and ''kills'' are simulated, and after the drills are complete, a critique is completed and feedback given not only to those involved, but also to the officers who did not participate in the drills. A mistake or failure during a drill may serve to save that person's life during an actual attack on the plant. It should be noted that sometimes the defending officers do not win the the drills. This is not a reflection of our abilities or aptitude, but rather of the difficulty of the exercises that are conducted. Adversary teams consist of well-trained officers and supervisors who are not only familiar with every square inch of the facility, but are also experts on our tactical and defensive strategy and can predict every movement of the defenders. Drills are meant to be difficult in order to reinforce the skills of the officers involved. With the odds stacked so far in favor of the adversaries, the public should take solace in the fact that we actually win many more drills than we lose. Initial training is only one step in the ongoing development of the skills and experience required to protect the public from the danger of a terrorist attack on our facility.

There was one last concern brought forth by these individuals that we wish to address as being not only erroneous, but also as nothing short of a personal attack on the hard-working men and women of the security staff at Seabrook Station. Our former co-workers have stated that in the event of an actual attack, the majority of officers would use their weapons to flee the plant. We want to state for the record that the dedication and integrity of the security force at Seabrook is unimpeachable.

Since September 11, despite long hours and few days off, no officer who was here prior to the terrorist attacks, has resigned or been terminated. Those of us who were here before have stayed, not because we cannot find other jobs, but because we are dedicated to what we do.

For those of you who do not know us, please allow us to introduce ourselves. We are educated, experienced and hard-working individuals. Thirty percent of us have college degrees. Eighty percent have prior military, law enforcement or security experience. On average we are 38 years old, and have worked as security officers at Seabrook Station for over eight years. Since September 11, we have worked roughly 60 hours per week. We know the dangers inherent in our work; we know the possibility of a terrorist attack on a U.S. nuclear power plant. Every day that we drive through the gate, we know that we are putting our lives at risk to protect the public, yet we continue to come.

The last thing that you should know about us is that we are your family, your friends and your neighbors. Most of us live within 20 miles of the plant. We have families and children of our own. Everything that we have

worked so hard for and love is in close proximity to this plant. We are not cowards and we will not run. God forbid the day ever comes, but if it does, we will stay and fight for you and for our friends and families.

Members of the public should be confident that the security of Seabrook Station is tight, and will get tighter in the months ahead. We will be the first to admit that we are not perfect. As in any organization, we have areas in need of improvement. We have been addressing these areas and together with management, continue to strive towards making these improvements a reality. In the meantime, we will continue to be here to protect the public from the threat of radiological sabotage, just as we have been since well before September 11, 2001.

CLIFFORD BULLOCK,
President, Local 501—Security, Police and Fire Professionals of America.●

TRIBUTE TO MICHAEL JACOBS

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to Michael J. Jacobs as he leaves the National Security Agency. Mr. Jacobs has served our nation for more than 38 years. He has distinguished himself and the National Security Agency in positions of increasing responsibility. Mr. Jacobs capped his illustrious career as the Information Assurance Director of the National Security Agency.

Mr. Jacobs is an outstanding example of the many dedicated public servants who fulfill critical needs, often without public recognition. When Mr. Jacobs joined the NSA, the agency's existence was a secret. While the American people now know and appreciate more about the NSA, most of the attention goes to signals intelligence.

Mr. Jacobs made his mark fulfilling the NSA's other core mission: information assurance. He has led and shaped the essential effort to develop secure information systems. Our Presidents, our Armed Forces, our diplomats, our intelligence agencies, and other Government leaders depend on secure communications every day. During his tenure, Mr. Jacobs has shaped every part of how our government addresses the Information Assurance needs.

Mr. Jacobs demonstrated a real commitment to the long-range needs of America. His initiatives in research and education are key examples. He worked to sustain the Information Assurance Awareness and Training and Education Research Program. He also broke new ground in establishing NSA Centers of Excellence in Information Assurance Education at institutions of higher learning in Maryland and across the country.

Mr. Jacobs was stayed ahead of the curve in protecting America's critical information infrastructure. The White House recognized the Information Assurance System Security Education and Training Program (NIEPT) he developed as a model in Government.

Mr. Jacobs' embodies the best traditions of our civil service. That's why he has been recognized with the NSA Exceptional Civilian Service Award and the National Intelligence Medal of Achievement.

As the Senator from Maryland and a member of the Senate Select Committee on Intelligence, I want to thank Mr. Jacobs for his dedication to the United States of America. He has served our nation with honor. I wish Mike well as he enters a new phase of his life.●

THE INTERNATIONAL TRADE COMMISSION: LOOKING TO THE FUTURE

● Mr. GRASSLEY. Mr. President, this year marks the 76th year of operations for the U.S. International Trade Commission, ITC. Throughout that time, the Commission has played an essential role in the administration of U.S. trade remedy laws.

Today, I would like to emphasize two aspects of the ITC that I believe are critical to their ability to effectively administer U.S. trade remedy laws in the future.

First, it is important to remember that the ITC is an independent, impartial arbiter in international trade disputes under U.S. trade law. This independent stature was established and is guaranteed by the Congress. Inevitably, by deciding the cases on the merits, the Commission has made decisions that may be unpopular with certain industry sectors or individual Senators and Representatives—including me—and will doubtless to so again. But, despite disagreements the Congress continues to defend the Commission's independence. The fact that the Commission and Commissioners can rule on the merits, without fear of political pressure or retribution, is crucial to America's economy at home and our trade negotiations abroad.

As other nations begin to implement their own trade remedy laws, they often look to U.S. law and institutions for guidance. It is important the U.S. institutions serve as good models for other nations. One way to do that is for Congress to ensure that the independent nature of the ITC is preserved, regardless of the outcome of any particular case, just as we would any other quasi-judicial agency. It is our duty as elected representatives.

There is one other issue related to the ITC I would like to highlight, and that is the importance of having ITC Commissioners with an agriculture background. As the number of agricultural cases before the ITC increases, the appointment of a Commissioner with a substantive agricultural background is crucial to American agriculture. There are currently a number of antidumping orders and pending investigations affecting agricultural products. The ITC's commissioners must determine whether U.S. producers have suffered injury from unfairly traded products. A background in agriculture would assist the Commission in deciding these cases on the merits. I hope that the Administration will consider nominees with a background in agriculture, as current Commissioners' terms expire.●

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

● Ms. STABENOW. Mr. President, I rise today to honor National Organ and Tissue Donor Awareness Week, April 21 through April 27, 2002. I want to commend the thousands of families each year whose selfless generosity helps save the lives of others. Since January, 115 people in my State of Michigan have received organ or tissue transplants. Unfortunately, in that same time, 40 people in Michigan have died waiting for needed organs.

Each day in America, about 63 people receive an organ transplant, but 16 die waiting. Over 79,000 Americans are on waiting lists for organs and tissues. For many of them, this issue is about their very survival. Right now, we have almost everything we need to save these lives. We have skilled doctors and medical professionals and we have hospitals with transplant facilities. All we need now are people who are willing to share the gift of life with others.

I would like to share the story of Maria Compagner, a 5-year-old girl who lives in Holland, MI. When Maria was 2 months old, she was diagnosed with hepatic hemangioendotheliomas on her liver, which caused her liver to grow at such a rapid pace that it pushed her other vital organs out of place. She was hospitalized, received chemotherapy and Alpha Inferon treatment, followed by steroid treatments. The treatments permanently damaged Maria's thyroid gland and inhibited growth hormone production. She will have to take synthetic hormones for the rest of her life.

Maria suffered from congestive heart failure, severe respiratory distress which led to many intubations, a pulmonary hemorrhage in her lung, several serious infections, hypothyroid condition, a collapsed lung, pneumonia, chronic emesis, aspiration, and severe reflux, all before her first birthday.

Just before her first birthday, Maria finally received a precious gift of life, a new liver. She spent the next year in and out of the hospital. After a little catching up, Maria is a happy and well-adjusted 5-year-old.

But she's not out of the woods yet. In November 2000, doctors discovered that Maria's portal vein and inferior vena cava are blocked and her hepatic artery is narrowed. She is now waiting for a second liver transplant to correct those problems.

This week, I urge all Americans to consider becoming an organ donor. I urge them to think about filling out a donor card. And most importantly, I urge them to talk to their families about their decision.

When you become an organ donor, you guarantee that you will live on not just in the memories of your loved ones. You will live on in the heart and soul of the fellow human beings you save, and in the heart and soul of every loved one that person gets to touch.●

60TH ANNIVERSARY OF THE UNITED WAY OF CHITTENDEN COUNTY

• Mr. JEFFORDS. Mr. President, I would like to take this opportunity to recognize and celebrate the United Way of Chittenden County on the occasion of their 60th Anniversary. Many Vermonters have worked tirelessly for this organization throughout the years and I take great pride in what they have accomplished.

Since Henry Way founded the organization under the name of the Burlington Community Chest in 1942, the United Way has brought vital services to generations of Vermonters and earned its reputation as a cornerstone of Chittenden County's collaborative community development.

Vermonters must never take for granted the key role the United Way plays in the well-being of our local communities. Sustainable, grassroots solutions to complex problems do not come easily. In partnership with citizens, businesses, services, State and Federal Government, the United Way helps to fund such worthy organizations as the Girl Scouts, YMCA, Red Cross, Salvation Army, and many more.

Communities throughout the United States are served well by their local United Way chapters. If founders Henry Way, C.P. Hasbrook, and I. Munn Boardman were alive today they would be proud of the organizational strength the United Way has built through the years. I commend the board, staff, contributors, and volunteers for their generous efforts in securing crucial resources for their communities. The legacy of these groundbreaking Vermonters is honored by sixty years of tenacious work. This proud history continues today under the apt leadership of Gretchen Morse. I am sure the United Way of Chittenden County will continue to be an example for other charitable organizations throughout the country.

The United Way is sure to meet their community's challenges in the next 60 years with the vision, leadership and perseverance demonstrated today.

I extend my hearty congratulations.•

DRAWING THE LINE ON GUN VIOLENCE

• Mr. LEVIN. Mr. President, I am pleased to call to the attention of my Senate colleagues, Mr. Hasani Tyus, a junior at Cass Technical High School in Detroit, MI. He has been drawing for years and has won several Motor City Comic Book Convention art awards. Hasani, along with his father, have been honored in a book of outstanding African-Americans for their artwork. Hasani is also a member of several academic societies, is a straight A student and recently earned his black belt in karate. More importantly, Hasani has done what so many young people across the Nation have done in the years following the Columbine tragedy. He has put his talents to use. He did so by urging us to ''Draw the Line on Gun Violence.''

Hasani is 1 of 13 national poster contest winners selected from more than 1,000 entries by the Alliance for Justice's Co/Motion Program, a national program that helps community organizations teach youth leaders to become advocates for a cause in their community. Co/motion partners with youth organizations, national service and service learning programs, schools and other community-based organizations to provide training to young adults in advocacy and organizing skills. Further, it empowers young people to take action to effect social change. Co/motion's Drawing the line on Gun Violence Poster Contest, the first of its kind, provided young people the opportunity to express their feelings about the issue of gun violence in a rewarding and artistic way. Hasani's award-winning poster is currently posted on my website (http://levin.senate.gov).

I had the pleasure of meeting Hasani earlier this week and I commended him on his hard work and honest depiction of the results of gun violence. I am sure that I speak for many of my Senate colleagues in congratulating Hasani Tyus on a job well done.•

ESSAY BY LELAND MILLER

• Mr. BIDEN. Mr. President, recently I was asked by a constituent of mine, Mr. Marshall Miller, if I would seek to have an essay on Central Asia that was written by his son, Leland, reprinted in the CONGRESSIONAL RECORD. Leland Miller is a second year law student at the University of Virginia. I ask that Mr. Miller's essay be printed in the RECORD.

The essay follows:

KEEPING CENTRAL ASIA'S KLEPTOCRATS AT ARM'S LENGTH

(By Leland R. Miller)

As American planes take off from Uzbek airstrips to provide support for the war against the Taliban, another conflict is occurring nearby, underneath the radar of the American media. Kazakhstan, the largest territory in Central Asia, is undergoing a palace coup. Yet few in Washington seem to know or care.

As the only major area on earth that is still ''up for grabs,'' Central Asia may very well become a key geopolitical battleground of the 21st century. This is nothing new. In the early 20th century, British strategist Sir Halford J. Mackinder proclaimed that whoever controls Central Asia has the key to world domination. Yet a century later, it is almost an afterthought in American strategic thinking.

This is a major mistake, the result of two phenomena. First, the war in Afghanistan has convinced U.S. policy makers that the need for support—both rhetorical and substantive—from Central Asian regimes trumps all other considerations.

Second, the promise of the Caspian oil basin and other large business opportunities in the lucrative Central Asian energy markets have seduced Washington into turning a blind eye towards whom we are dealing with.

As a result of these dual factors, America is walking into a dangerous trap. As we open our arms to these unstable and authoritarian Central Asian regimes, they are gradually gaining the status not just of America's temporary allies but as our friends. This is a disastrous betrayal of U.S. interests. Granted, the promise of quick rewards is enticing. However, like all Faustian bargains, the sacrifice could be considerable.

Perhaps no country sings this siren song more effectively than Kazakhstan. Although it is one of the world's poorest countries, its president, Nursultan Nazarbayev, is ranked as the eighth richest man in the world. The reason? He and his two venal sons-in-law have run Kazakhstan as a family business. The family has sustained itself through gross corruption and the ruthless exploitation of would-be foreign investors.

The Kazakh leaders entice investments or loans, take over the investments under some pretext, then ''sell the same horse'' again to someone else. With abundant oil, uranium, and other resources, the country always seems able to find another group of gullible suitors. If that fails, pseudo-investments can be induced to cover up money laundering from the Russian mafia.

The recent crisis in Kazakhstan only reinforces this image. It began when Rakhat Aliyev, son-in-law to President Nursultan Nazabayev, was forced to resign his position as deputy chairman of the National Security Committee after reportedly making an Absalom-like run at his father-in-law's authority. He re-emerged just days later as the new head of the presidential guard, seemingly unscathed, but he had driven the first big split in the ruling family. His detractors used this opening to form a new party, Democratic Choice.

While some insiders have suggested that this new group may be nothing less than a second tier of crooks fighting Aliyev for a bigger piece of the pie, the government reacted swiftly. Prime Minister Kasymzhomart Tokayev, a Nazarbayev crony, angrily demanded (and received) the resignations of four top cabinet members, all of whom were founding members of the new party. Tokayev's justification?: ''All those disagreeing with our policy and wishing to participate in political movements should resign.''

Perhaps no one outside of the palace in Astana knows what's really going on. But in the world of Kazakh politics, it matters little whether this battle was an intrafamily fight for power or simply a battle amongst politicians unhappy with the current division of spoils. Either way, this is clearly not a regime that America should be too identified with.

True, Kazakhstan does draw some favorable comparisons, but only when contrasted with its neighbors. The fact is, Central Asian governments are among the most corrupt and repressive regimes in the world. Most inherited the apparatuses of their communist predecessors and many have been just as ruthless in wielding it. Most, like Nazarbayev's and Turkmenbashi's of Turkmenistan, are even extensions of the same communist party structure that they allegedly replaced.

Autocratic and corrupt governance is the rule, not the exception, in Central Asia. The lack of available political channels is so endemic in these countries that frustrated citizens are offered but two choices: attempt to mobilize politically, despite the obvious barriers, or else turn to extra-political means of empowerment.

It is this second possibility that so desperately deserves U.S. attention. Across Central Asia, ethnic and religious differences among the populations constitute a

sizable obstacle to stability and democratic governance. Unlike the Balkans, however, it is not an insurmountable one.

Despite the pervasive following of Islam in the region, religious extremism does not have the same roots in Central Asia that it does in other parts of the world. Radical groups, such as the Islamic Movement of Uzbekistan (whose leader, Jumaboi Khojiev Namangani, was reportedly killed fighting in Afghanistan—some sources say he has merely gone into hiding) are fortunately still the exception.

However, this could certainly change if repressive regimes continue to kindle the flames of religious extremism by stifling virtually all other opportunities for political voice. The horrors of Algeria should not be replicated in Uzbekistan or Tajikistan.

Situated in the middle of Russia, China, and India, and with virtually untapped energy potential, Central Asia would be an area of importance to the United States even under the best of circumstances. However, the War on Terror has now considerably upped the ante. Support for the cause of Muslim fundamentalism in Central Asia not only threatens the region's stability, but is sure to mean more fuel for a global jihad. As the events of 9/11 have made clear, America has as much reason to fear that development as any of the regimes themselves.

The next generation of America's leaders must not be made apologists for today's policies aimed at the short-term and short-sighted advancement of U.S. interests. This means avoiding marriages of convenience with repressive Central Asian regimes that will inevitably prove harmful to the nation's future.

The New Great Game in Central Asia is very much a battle of good against evil. Democracy, not Islamic extremism, must fill the political void. While the U.S. has no role in fomenting or aiding these ''coups of the apparatchiks,'' Americans are still beholden to one obligation: We need to at least make sure we are not rooting for the wrong side.●

TAKE OUR DAUGHTERS TO WORK DAY

● Ms. LANDRIEU. Mr. President, I have had the privilege of hosting some of the future leaders of America in my office as part of Ms. Magazine's Take Our Daughters to Work Day. As part of the day's activities I asked them to write a speech on what they would do if elected to serve as a United States Senator. I am proud to submit for the record some of their responses.

If I were a United States Senator by Annie Ballard, 5th Grade, Future US Senator 2021. As a Senator of the United States I will find equality for all peoples of the Nation. For every man, woman and child of all races and types. Every man and woman should have equal pay and treatment. In some places of the country, women and people of color are not payed or treated equally to whites and men. Hispanics might be payed $2.29 for 13 hours of work each day. Some women are qualified for jobs and have to give them up because of a less qualified man. Teams of sports will choose males over females in football, baseball and other sports. In this bill, I plan to equalize all jobs, sports and pay for all people of the United States of America.

What I would do if I were Senator, by Ashley Bageant. I would increase security at big buildings and airports so our environment can be more safe. I would do that by hiring more police officers. I would try to treat everybody the same. I would do what I would think would be right for our country. I would pay my people more money so they would have enough money to build homeless shelters to get homeless people off the street.

What I would do if I were Senator? By Kathleen Warner, 9th Grade, Future US Senator 2018. As a high school student and a Catholic, I am pro-life and feel that my opinion should be strongly considered. My reasoning on the abortion issue is that a child is a life from the point of conception and therefore should by the state just like any other citizen. Also, if a child is conceived unexpectedly the mother can put the child up for adoption where he or she has the same opportunity as other children to live a strong, successful life. Finally, let me say, I am proud to live in a country where I can express my opinion like this.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.

MESSAGE FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

ENROLLED BILL SIGNED

At 3:19 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

MEASURERS REFERRED

The following bill was read the first and the second times by uunanimous consent, and referred as indicated:

H.R. 3763. An act to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6572. A communication from the Deputy General Counsel, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Director for State and Local Affairs, received on April 17, 2002; to the Committee on the Judiciary.

EC–6573. A communication from the Deputy Assistant Director, Fish and Wildlife Service, Office of Law Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Conferring Designated Port Status on Anchorage, Alaska'' (RIN1018–AH75) received on April 22, 2002; to the Committee on Environment and Public Works.

EC–6574. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting jointly, the Fiscal Year 2003 Budget Request Amendment; to the Committee on Rules and Administration.

EC–6575. A communication from the Acting Chairman of the Merit Systems Protection Board, transmitting, a report relative to the Merit Systems Protection Board Reauthorization Act of 2002; to the Committee on Governmental Affairs.

EC–6576. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''National Defense Authorization Act for Fiscal Year 2003''; to the Committee on Armed Services.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–229. A resolution adopted by the Senate of the Legislature of the State of Michigan to support Federal assistance, through the Transportation Efficiency Act, for the Village of Holly/Rose Township Michigan Highway-Rail Life Safety Access Project; to the Committee on Appropriations.

SENATE RESOLUTION NO. 172

Whereas, Blockage of the Cogshall Road crossing creates a life-threatening danger to residents in Holly Shores, a mobile home subdivision, when emergency vehicles cannot gain access; and

Whereas, Proximity of wetland limits the areas that can be used to address the problem; and

Whereas, Local, state, and railroad matching contributions will be used in conjunction with the Transportation Efficiency Act (TEA–21) grant to extend a passing siding to ensure no extended blockage and thus access for emergency vehicles; and

Whereas, A permanent resolution is necessary to address this significant safety problem; now, therefore, be it

Resolved by the Senate, That the members of this legislative body memorialize the Congress of the United States to approve federal assistance, through the TEA–21 grant program, for the Village of Holly/Rose Township Michigan Highway-Rail Life Safety Access Project; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–230. A resolution adopted by the House of the General Assembly of the Commonwealth of Pennsylvania relative to economic stimulus legislation; to the Committee on Finance.

HOUSE RESOLUTION NO. 348

Whereas, The attack on America of September 11, 2001, was a shock to the Commonwealth of Pennsylvania and the nation; and

Whereas, There is an ongoing military and multidimensional response to terrorism that we strongly support; and

Whereas, The United States faces the potential of a serious recession, having already lost 50,000 manufacturing jobs in Pennsylvania since the beginning of the year, and the attack on America may cause the loss of an estimated additional 15,000 jobs; and

Whereas, The Congress of the United States has already taken critical action to support affected industries and is proposing additional aid to business; and

Whereas, The Congress is considering an economic stimulus package; and

Whereas, The core goal of an economic stimulus package is the stabilization of communities; and

Whereas, Supporting business to stabilize employment must be a critical part of any economic stimulus package to be adopted by the Congress; and

Whereas, Supporting workers must be included as part of any economic stimulus package to stabilize the economy; and

Whereas, Supporting State and local governments to avoid or lessen state or local tax revenues is a critical part of any economic stimulus package; and

Whereas, The economic stimulus package should include the following provisions: extending federally funded unemployment compensation, where needed, by 26 weeks; aiding workers by improving health care access by at least paying 75% of the COBRA health care costs and other health care assistance; aiding workers by fully funding targeted training and worker reemployment programs and taking such other actions to save personal homes and stabilize credit transactions; and

Whereas, If the Congress does not address the critical areas of economic stimulus, business workers and State and local government, these costs will have to be borne by State and local governments, workers and business; and

Whereas, The economic stimulus package adopted by the Congress on October 24, 2001, fails to adequately address the needs of workers in state and local government; therefore be it

Whereas, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to address each of the three critical areas that will create economic stability and allow full growth; and be it further

Resolved, That the House of Representatives ask the Congress to help workers by considering the following provisions: extending federally funded unemployment compensation, where needed, by 26 weeks; aiding workers by improving health care access by at least paying 75% of the COBRA health care costs and other health care assistance; aiding workers by fully funding targeted training and worker reemployment programs and taking such other actions to save personal homes and stabilize credit transactions; and be it further

Resolved, That the House of Representatives respectfully request that the Congress provide aid to affected states to offset revenue deficits; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officer of each house of Congress and to each member of Congress from Pennsylvania.

POM–231. A resolution adopted by the Town Board of New Castle, New York relative to nuclear power plants; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 864: A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings , or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad. (Rept. No. 107–144).

By Mr. JEFFORDS, from the Committee on Environment and Public Works, without amendment:

H.R. 495: A bill to designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the ''Ron de Lugo Federal Building.''

H.R. 819: A bill to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building.''

H.R. 3093: A bill to designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the ''William L. Beatty Federal Building and United States Courthouse.''

H.R. 3282: A bill to designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the ''Mike Mansfield Federal Building and United States Courthouse.''

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment and an amendment to the title and with a preamble:

S. Res. 109: A resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 245: A resolution designating the week of May 5 through May 11, 2002, as ''National Occupational Safety and Health Week.''

S. Res. 249: A resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 410: A bill to amend the Violence Against Women Act of 2000 by expanding legal assistance for victims of violence grant program to include assistance for victims of dating violence.

By Mr. JEFFORDS, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 1721: A bill to designate the building located at 1 Federal Plaza in New York, New York, as the ''James L. Watson United States Court of International Trade Building.''

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1974: A bill to make needed reforms in the Federal Bureau of Investigation, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 102: A concurrent resolution proclaiming the week of May 4 through May 11, 2002, as ''National Safe Kids Week.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

John Edward Quinn, of Iowa, to be United States Marshal for the Northern District of Iowa for the term of four years.

David Phillip Gonzales, of Arizona, to be United States Marshal for the District of Arizona for the term of four years.

Edward Zahren, of Colorado, to be United States Marshal for the District of Colorado for the term of four years.

Charles M. Sheer, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years.

Gorden Edward Eden, Jr., of New Mexico, to be United States Marshal for the District of New Mexico for the term of four years.

John Lee Moore, of Texas, to be United States Marshal for the Eastern District of Texas for the term of four years.

Ronald Henderson, of Missouri, to be United States Marshal for the Eastern District of Missouri for the term of four years.

By Mr. GRAHAM for the Select Committee on Intelligence.

*John Leonard Helgerson, of Virginia, to be Inspector General, Central Intelligence Agency.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendations that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORZINE:

S. 2250. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55; to the Committee on Armed Services.

By Mr. SPECTER:

S. 2251. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2252. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2253. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2254. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2255. A bill to suspend temporarily the duty on copper 8-quinolinolate; to the Committee on Finance.

By Mr. SPECTER:

S. 2256. A bill to suspend temporarily the duty on a certain chemical; to the Committee on Finance.

By Mr. SPECTER:

S. 2257. A bill to include shoulder pads as a finding or trimming for the purposes of the African Growth and Opportunity Act, and the Caribbean Basin Economic Recovery Act, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 2258. A bill to suspend temporarily the duty on 2-Amino-5-sulfobenzoic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2259. A bill to suspend temporarily the duty on 2-Amino-6-nitro phnol-4-sulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2260. A bill to suspend temporarily the duty on p-Aminoazobenzene-4-sulfonic acid and its monosodium salt; to the Committee on Finance.

By Mr. SANTORUM:

S. 2261. A bill to suspend temporarily the duty on 2,5-bis-[(1,3-Dioxobutyl)amino] benzene sulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2262. A bill to suspend temporarily the duty on 2-Mthyl-5-nitrobenzenesulfonic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2263. A bill to suspend temporarily the duty on 3-[(4 Amino-3-methoxyphenyl) Azo] benzene sulfonic acid and its salts; to the Committee on Finance.

By Mr. SANTORUM:

S. 2264. A bill to extend the suspension of the duty on 11-Aminoundecanoic acid; to the Committee on Finance.

By Mr. SANTORUM:

S. 2265. A bill to provide for the elimination of duty on TOPSPIN; to the Committee on Finance.

By Mr. SANTORUM:

S. 2266. A bill to provide for the elimination of duty on Thiophanate-Methyl; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2267. A bill to extend the temporary suspension of duty on a certain polymer; to the Committee on Finance.

By Mr. MILLER (for himself and Mr. CRAIG):

S. 2268. A bill to amend the Act establishing the Department of Commerce to protect manufacturers and sellers in the firearms and ammunition industry from restrictions on interstate or foreign commerce; to the Committee on Commerce, Science, and Transportation.

By Mr. CLELAND:

S. 2269. A bill to suspend temporarily the duty on certain textile machinery; to the Committee on Finance.

By Mr. CLELAND:

S. 2270. A bill to suspend temporarily the duty on certain textile machinery; to the Committee on Finance.

By Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. ENSIGN):

S. 2271. A bill to provide for research on, and services for, individuals with post-abortion depression and psychosis; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2272. A bill to clarify certain provisions of the Tariff Suspension and Trade Act of 2000; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2273. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2274. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2275. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2276. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2277. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2278. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2279. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2280. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2281. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2282. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2283. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2284. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2285. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2286. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2287. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2288. A bill to reliquidate certain entries of tomato sauce preparation; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2289. A bill to suspend temporarily the duty on benzoic acid, 2-amino-4[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2290. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2291. A bill to extend the temporary suspension of duty on Pigment Yellow 175; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2292. A bill to extend the temporary suspension of duty on Pigment Red 187; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2293. A bill to extend the temporary suspension of duty on Pigment Red 185; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2294. A bill to suspend temporarily the duty on p-amino benzamide; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2295. A bill to extend the temporary suspension of duty on Solvent Blue 124; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2296. A bill to extend the temporary suspension of duty on 4-Amino-2,5-dimethoxy-N-phenylbenzene sulfonamide; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2297. A bill to extend the temporary suspension of duty on Solvent Blue 104; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2298. A bill to extend the temporary suspension of duty on Pigment Yellow 154; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2299. A bill to extend the temporary suspension of duty on Pigment Red 176; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2300. A bill to extend the temporary suspension of duty on Pigment Yellow 214; to the Committee on Finance.

By Mr. REED (for himself and Mr. CHAFEE):

S. 2301. A bill to extend the temporary suspension of duty on Pigment Yellow 180; to the Committee on Finance.

By Mr. KERRY:

S. 2302. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Finance.

By Mr. KERRY:

S. 2303. A bill to suspend temporarily the duty on certain filament yarns; to the Committee on Finance.

By Mr. KERRY:

S. 2304. A bill to suspend temporarily the duty on certain high-performance loudspeakers; to the Committee on Finance.

By Mr. KERRY:

S. 2305. A bill to suspend temporarily the duty on parts for use in the manufacture of

high-performance loudspeakers; to the Committee on Finance.

By Mr. KERRY:

S. 2306. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2307. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2308. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2309. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2310. A bill to suspend temporarily the duty on a certain chemical used in industrial coatings formulation; to the Committee on Finance.

By Mr. KERRY:

S. 2311. A bill to suspend temporarily the duty on a certain chemical used on industrial coatings formulation; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2312. A bill to amend the Harmonized Tariff Schedule of the United States to provide for duty free treatment on certain manufacturing equipment; to the Committee on Finance.

By Mr. CORZINE:

S. 2313. A bill to suspend temporarily the duty on europium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2314. A bill to suspend temporarily the duty on yttrium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2315. A bill to suspend temporarily the duty on 3-sulfinobenzoic acid; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2316. A bill to make technical and conforming changes to provide for the enactment of the Independence of the Chief Financial Officer Establishment Act of 2001, to establish a reporting event notification system to assist Congress and the District of Columbia in maintaining the financial stability of the District government and avoiding the initiation of a control period, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. KERRY):

S. 2317. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON:

S. 2318. A bill to provide additional resources to States to eliminate the backlog of unanalyzed rape kits and to ensure timely analysis of rape kits in the future; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2319. A bill to provide for the liquidation of reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2320. A bill to provide for the liquidation for reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2321. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. THURMOND):

S. 2322. A bill to provide for the liquidation or reliquidation of certain entries of certain manufacturing equipment; to the Committee on Finance.

By Mr. GRAHAM:

S. 2323. A bill to amend the Harmonized Tariff Schedule of the United States to provide a tariff-rate quota for certified organic sugar; to the Committee on Finance.

By Mr. GRAHAM:

S. 2324. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2325. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2326. A bill to provide for the reliquidation of a certain drawback claim relating to juices; to the Committee on Finance.

By Mr. GRAHAM:

S. 2327. A bill to amend the Tariff Act of 1930 to permit duty drawback for articles shipped to the insular possessions of the United States; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. DODD):

S. 2328. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BREAUX (for himself, Mr. SMITH of Oregon, Mr. HOLLINGS, and Mr. MCCAIN):

S. 2329. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 2330. A bill to suspend temporarily the duty on certain telescopes; to the Committee on Finance.

By Mrs. BOXER:

S. 2331. A bill to provide for the reliquidation of certain entries involving machines used to replicate optical discs; to the Committee on Finance.

By Mr. VOINOVICH:

S. 2332. A bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the ''Nathaniel R. Jones Federal Building And United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. REID:

S. 2333. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 2334. A bill to authorize the Secretary of Agriculture to accept the donation of certain land in the Mineral Hill-Crevice Mountain Mining District in the State of Montana, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself, Mr. KERRY, Ms. CANTWELL, Mr. WELLSTONE, Mr. DASCHLE, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Ms. STABENOW, and Mrs. CLINTON):

S. 2335. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WELLSTONE:

S. Res. 252. A resolution expressing the sense of the Senate regarding human rights violations in Tibet, the Panchen Lama, and the need for dialogue between the Chinese leadership and the Dalai Lama or his representatives; to the Committee on Foreign Relations.

By Mr. SMITH of Oregon (for himself, Mrs. CLINTON, Mr. SCHUMER, and Mr. HATCH):

S. Res. 253. A resolution reiterating the sense of the Senate regarding the rise of Anti-Semitic violence in Europe; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. GREGG, Mr. CARPER, Mr. HUTCHINSON, and Mr. BAYH):

S. Res. 254. A resolution designating April 29, 2002, through May 3, 2002, as ''National Charter Schools Week,'' and for other purposes; considered and agreed to.

ADDITIONAL COSPONSORS

S. 677

At the request of Mr. HATCH, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 830

At the request of Mr. HATCH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1054

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1054, a bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs.

S. 1258

At the request of Mr. DORGAN, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 1258, a bill to improve academic and social outcomes for teenage youth.

S. 1346

At the request of Mr. SESSIONS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1346, a bill to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, and for other purposes.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1742

At the request of Ms. CANTWELL, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1742, a bill to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 2038

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2038, a bill to provide for homeland security block grants.

S. 2039

At the request of Mr. DURBIN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2051

At the request of Mr. REID, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2055

At the request of Ms. CANTWELL, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2084

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to clarify the exemption from tax for small property and casualty insurance companies.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. 2216

At the request of Mr. KOHL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2216, a bill to suspend temporarily the duty on fixed-ratio gear changers for truck-mounted concrete mixer drums.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2242

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2242, a bill to amend title 23, United States Code, to prohibit the collection of tolls from vehicles or military equipment under the actual physical control of a uniformed member of the Armed Forces, and for other purposes.

S. 2244

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2244, a bill to permit commercial importation of prescription drugs from Canada, and for other purposes.

S. RES. 249

At the request of Mr. HATCH, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Missouri (Mrs. CARNAHAN), and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 249, a resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans,'' and for other purposes.

AMENDMENT NO. 3230

At the request of Mr. WYDEN, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of amendment No. 3230 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

At the request of Mr. BURNS, his name was added as a cosponsor of amendment No. 3230 proposed to S. 517, supra.

AMENDMENT NO. 3239

At the request of Ms. SNOWE, her name was added as a cosponsor of amendment No. 3239 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3256

At the request of Mr. VOINOVICH, his name was added as a cosponsor of amendment No. 3256 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3311

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 3311 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3355

At the request of Mr. TORRICELLI, his name was added as a cosponsor of amendment No. 3355 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3360

At the request of Mr. TORRICELLI, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of amendment No. 3360 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE:

S. 2250. A bill to amend title 10, United States Code, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55; to the Committee on Armed Services.

• Mr. CORZINE. Mr. President, I rise today to introduce a bill that would reduce the retirement age for members of the National Guard and Reserve from 60 to 55. This change would allow 93,000 reservists currently aged 55 to 59 to retire with full benefits and would restore parity between the retirement systems for Federal civilian employees and reservists.

In the interests of fairness, the United States must act quickly to restore parity between the retirement age for civilian Federal employees and their reserve counterparts. When the reserve retirement system was created

in 1947, the retirement age for reservists was identical to the age for civilian employees. At age 60, reservists and Government employees could hang up their uniforms and retire with full benefits. However, since 1947, the retirement age for civilian retirees has been lowered by 5 years, while the reserve retirement age has not changed.

The disparate treatment of Federal employees and reservists would have been serious enough had the nature of the work performed by the reserves not changed substantially over the past five decades. But America has never placed greater demands on its ready reserve than it does now. Today, some 80,000 reservists are serving their country in the war on terrorism, both at home and abroad. America's dependence on our ready reserve has never been more obvious, as reservists are now providing security at our nation's airports and air patrols over our major cities.

With call-ups that last several months and take reservists far from home, serving the Nation as a reservist has taken on more of the trappings of active duty service than ever before. Before the war on terrorism began, reservists were performing about 13 million man-days each year, more than a 10-fold increase over the 1 million man-days per year the reserves averaged just 10 years ago. These statistics, the latest numbers available, do not even reflect the thousands of reservists who have been deployed since September 11. There is little doubt there will be a dramatic increase in the number of man-days for 2001 and 2002. In my view, with additional responsibility should come additional benefits.

The Department of Defense typically has not supported initiatives like this. The Department has expressed concern over the proposal's cost, which is estimated to be approximately $20 billion over 10 years, although CBO figures are not yet available. However, I am concerned that the Department's position may be shortsighted.

At a time when there is a patriotic fervor and a renewed enthusiasm for national service, it is easy to forget that not long ago, the U.S. military was struggling to meet its recruitment and retention goals. In the aftermath of September 11, defense-wide recruitment and retention rates have improved. However, there is no guarantee that this trend will continue. Unless the overall package of incentives is enhanced, there is little reason to believe that we will be able to attract and retain highly-trained personnel.

Active duty military personnel have often looked to the reserves as a way of continuing to serve their country while being closer to family. With thousands of dollars invested in training active duty officers and enlisted soldiers, the United States benefits tremendously when personnel decide to continue with the reserves. But with reserve deployments increasing in frequency and duration, pulling reservists away from their families and civilian life for longer periods, the benefit of joining the reserves instead of active duty has been severely reduced. The more we depend on the reserves, the greater chance we have of losing highly trained former active duty servicemen and women. The added incentive of full retirement at 55 might provide an important inducement for some of them to stay on despite the surge in deployments.

Enacting this legislation will send the clear message that the United States values the increased sacrifice of our reservists during these trying times. The legislation has been endorsed by key members of the Military Coalition, including the Veterans of Foreign Wars, the Air Force Sergeants Association, the Air Force Association, the Retired Enlisted Association, the Fleet Reserve Association, the Naval Reserve Association, and the National Guard Association. The bill would restore parity between the reserve retirement system and the civilian retirement system, acknowledge the increased workload of reserve service, and provide essential personnel with an inducement to join and stay in the reserves until retirement.●

By Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, and Mr. ENSIGN):

S. 2271. A bill to provide for research on, and services for, individuals with post-abortion depression and psychosis; to the Committee on Health, Education, Labor and Pensions.

● Mr. SMITH of New Hampshire. Mr. President, I rise today, along with Senators INHOFE and ENSIGN, to introduce the Post-Abortion Support and Services Act.

On November 1, 2001, the Senate unanimously passed an amendment I introduced to the Labor-HHS Appropriations bill recognizing the existence of post-abortion syndrome. The amendment encouraged the National Institute of Mental Health (NIMH) to ''expand and intensify research and related activities'' regarding this issue, and it is the first time that the United States Senate is on record acknowledging that post-abortion syndrome is a serious problem for American women.

This bill is an extension of what has already passed the Senate, and provides the National Institutes of Health with Federal resources to research the emotional impact of abortion on women. The bill also creates a $1.5 million grant program to fund the development of treatment programs for women who suffer from post-abortion syndrome.

What is post-abortion syndrome? Many people have never heard of it. Many others deny its existence.

Post-abortion syndrome is characterized by one or more of the following symptoms: severe depression, guilt, eating disorders, anxiety and panic attacks, addictions, anniversary grief, nightmares, lower self-esteem, intense anger, suicidal urges, sexual problems or promiscuity, difficulty with relationships, and unexplained sadness.

A new study from the prestigious British Medical Journal reports that women who abort a first pregnancy are at greater risk of subsequent long-term clinical depression compared to women who carry an unintended first pregnancy to term.

Among the key findings: the association between abortion and subsequent depression persists over at least 8 years. Many other studies show similar findings, and more.

Post-abortion syndrome is a treatable disorder if promptly diagnosed by a trained provider and attended to with a personalized regimen of care including social support, counseling, therapy, medication, and if necessary, hospitalization.

A number of women who have undergone abortions also experience debilitating physical health problems such as infection, cervical tearing, infertility, excess bleeding, and death. Thus, the bill also seeks to study the physical repercussions of abortion as well.

After 29 years of legalized abortion, it is time that we recognize the suffering that so many women have undergone by carefully examining the women's emotional and physical health following her abortion decision. We have a responsibility to understand what they are going through and how we can appropriately diagnose and treat them.

It is my sincere hope that we can pass this bill and give our support to potentially millions of women across the country who suffer alone with their private and profound guilt and depression. Many women who choose abortion have previously aborted. If we are ever going to end abortion in America, we must reach out with love and compassion to women who deeply regret their decision to abort their children, not only to encourage them through their present struggles, but also to help them so they will not choose abortion for themselves again in the future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Post-Abortion Support and Services Act''.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) About 3,000,000 women per year in the United States have an unplanned or unwanted pregnancy, and approximately 1,186,000 of these pregnancies end in elective abortion.

(2) Abortion can have severe and long-term effects on the mental and emotional well-being of women. Women often experience sadness and guilt following abortions with

no one to console them. They may have difficulty in bonding with new babies, become overprotective parents, or develop problems in their relationships with their spouses. Problems such as eating disorders, depression, and suicide attempts have also been traced to past abortions.

(3) Negative emotional reactions associated with abortion include, depression, bouts of crying, guilt, intense grief or sadness, emotional numbness, eating disorders, drug and alcohol abuse, suicidal urges, anxiety and panic attacks, anger, rage, sexual problems or promiscuity, lowered self esteem, nightmares and sleep disturbances, flashbacks, and difficulty with relationships.

(4) Women who aborted a first pregnancy are four times more likely to report substance abuse compared to those who suffered a natural loss of their first pregnancy, and are five times more likely to report subsequent substance abuse than women who carried to term.

(5) Research shows that the more women attempt to cope with abortion using means of avoidance, mental disengagement, or denial, the more likely the women are to report post-abortion distress, intrusive thoughts, and dissatisfaction.

(6) Women who experience a lack of social support and strong feelings of ambivalence are statistically more likely to suffer severe negative emotional reactions to an abortion.

(7) Depression and other maladjustments to abortion can be prolonged by the failure of the medical community, loved ones, and society to recognize the complexity of post-abortion reactions.

(8) Many women submit to an abortion in violation of their own moral beliefs or maternal desires in order to satisfy the demands of others.

(9) Women who submit to an abortion because of social pressure are more likely to suffer from psychological distress in subsequent years.

(10) Post-abortion depression is a treatable disorder if promptly diagnosed by a trained provider and attended to with a personalized regimen of care including social support, therapy, medication, and when necessary, hospitalization.

(11) While there have been many studies regarding the emotional aftermath of abortion, very little research has been sponsored by the National Institutes of Health.

TITLE I—RESEARCH ON POST-ABORTION DEPRESSION AND PSYCHOSIS

SEC. 101. EXPANSION AND INTENSIFICATION OF ACTIVITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) IN GENERAL.—

(1) POST-ABORTION CONDITIONS.—The Secretary of Health and Human Services, acting through the Director of NIH and the Director of the National Institute of Mental Health (in this section referred to as the ''Institute''), shall expand and intensify research and related activities of the Institute with respect to post-abortion depression and post-abortion psychosis (in this section referred to as ''post-abortion conditions'').

(2) ADDITIONAL CONDITIONS.—In addition to the post-abortion conditions under paragraph (1), the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall expand and intensify research and related activities of the National Institutes of Health with respect to the physical side effects of having an abortion, including infertility, excessive bleeding, cervical tearing, infection, and death.

(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Directors under subsection (a) with similar activities conducted by the other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to post-abortion conditions.

(c) PROGRAMS FOR POST-ABORTION CONDITIONS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the causes of, and to find a cure for, post-abortion conditions. Activities under such subsection shall include conducting and supporting the following:

(1) Basic research concerning the etiology of the conditions.

(2) Epidemiological studies to address the frequency and natural history of the conditions and the differences among racial and ethnic groups with respect to the conditions.

(3) The development of improved diagnostic techniques.

(4) Clinical research for the development and evaluation of new treatments, including new biological agents.

(5) Information and education programs for health care professionals and the public.

(d) LONGITUDINAL STUDY.—

(1) IN GENERAL.—The Director of the Institute shall conduct a national longitudinal study to determine the incidence and prevalence of cases of post-abortion conditions, and the symptoms, severity, and duration of such cases, toward the goal of more fully identifying the characteristics of such cases and developing diagnostic techniques.

(2) REPORT.—Beginning not later than 3 years after the date of the enactment of this Act, and periodically thereafter for the duration of the study under paragraph (1), the Director of the Institute shall prepare and submit to the Congress reports on the findings of the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $3,000,000 for each of the fiscal years 2002 through 2006.

TITLE II—DELIVERY OF SERVICES REGARDING POST-ABORTION DEPRESSION AND PSYCHOSIS

SEC. 201. ESTABLISHMENT OF PROGRAM OF GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this title referred to as the ''Secretary'') shall, in accordance with this title, make grants to provide for projects for the establishment, operation, and coordination of effective and cost-efficient systems for the delivery of essential services to individuals with post-abortion depression or post-abortion psychosis (referred to in this section as a ''post-abortion condition'') and their families.

(b) RECIPIENTS OF GRANTS.—A grant under subsection (a) may be made to an entity only if the entity—

(1) is a public or nonprofit private entity that may include a State or local government, a public or nonprofit private hospital, a community-based organization, a hospice, an ambulatory care facility, a community health center, a migrant health center, a homeless health center, or another appropriate public or nonprofit private entity; and

(2) had experience in providing the services described in subsection (a) before the date of the enactment of this Act.

(c) CERTAIN ACTIVITIES.—To the extent practicable and appropriate, the Secretary shall ensure that projects under subsection (a) provide services for the diagnosis and management of post-abortion conditions. Activities that the Secretary may authorize for such projects may also include the following:

(1) Delivering or enhancing outpatient and home-based health and support services, including case management, screening and comprehensive treatment services for individuals with or at risk for post-abortion conditions, and delivering or enhancing support services for their families.

(2) Improving the quality, availability, and organization of health care and support services (including transportation services, attendant care, day or respite care, and providing counseling on financial assistance and insurance) for individuals with post-abortion conditions and support services for their families.

(d) INTEGRATION WITH OTHER PROGRAMS.—To the extent practicable and appropriate, the Secretary shall integrate the program under this title with other grant programs carried out by the Secretary, including the program under section 330 of the Public Health Service Act.

(e) LIMITATION ON AMOUNT OF GRANTS.—A grant under subsection (a) for any fiscal year may not be made in an amount exceeding $100,000.

SEC. 202. CERTAIN REQUIREMENTS.

A grant may be made under section 201 only if the applicant involved makes the following agreements:

(1) Not more than 5 percent of the grant will be used for administration, accounting, reporting, and program oversight functions.

(2) The grant will be used to supplement and not supplant funds from other sources related to the treatment of post-abortion conditions.

(3) The applicant will abide by any limitations deemed appropriate by the Secretary on any charges to individuals receiving services pursuant to the grant. As deemed appropriate by the Secretary, such limitations on charges may vary based on the financial circumstances of the individual receiving services.

(4) The grant will not be expended to make payment for services authorized under section 201(a) to the extent that payment has been made, or can reasonably be expected to be made, with respect to such services—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(5) The applicant will, at each site at which the applicant provides services under section 201(a), post a conspicuous notice informing individuals who receive the services of any Federal policies that apply to the applicant with respect to the imposition of charges on such individuals.

SEC. 203. TECHNICAL ASSISTANCE.

The Secretary may provide technical assistance to assist entities in complying with the requirements of this title in order to make such entities eligible to receive grants under section 201.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there is authorized to be appropriated $300,000 for each of fiscal years 2002 through 2006.●

By Mr. CORZINE:

S. 2313. A bill to suspend temporarily the duty on europium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2314. A bill to suspend temporarily the duty on yttrium oxide; to the Committee on Finance.

By Mr. CORZINE:

S. 2315. A bill to suspend temporarily the duty on 3-sulfinobenzoic acid; to the Committee on Finance.

• Mr. CORZINE. Mr. President, I rise today to introduce three bills to temporarily suspend duties on the importation of certain chemicals used by manufacturers in my State.

According to informational provided to my office, none of these chemicals are produced in the United States. Therefore, the suspension of the duties will not hurt any domestic chemical companies. In addition, suspension of these duties will not cost the US government more than $500,000 in revenue annually. It is my understanding that the Commerce Department and the International Trade Commission will verify that each of the chemicals for which I am requesting duty suspension meets these standards.

Mr. President, it makes little sense to impose duties on chemicals that are needed by American producers and that are not available from domestic sources. Such duties only hurt American businesses and consumers. In the case of these chemicals, companies in my State of New Jersey rely on these chemicals, and employ many New Jerseyans. The suspension of duties should strengthen these New Jersey businesses and the State's economy, and reduce costs to consumers.

I hope my colleagues will support the legislation.•

By Ms. LANDRIEU:

S. 2316. A bill to make technical and conforming changes to provide for the enactment of the Independence of the Chief Financial Officer Establishment Act of 2001, to establish a reporting event notification system to assist Congress and the District of Columbia in maintaining the financial stability of the District government and avoiding the initiation of a control period, to provide the District of Columbia with autonomy over its budgets, and for other purposes; to the Committee on Governmental Affairs.

• Ms. LANDRIEU. Mr. President, today I am introducing legislation to help continue the District of Columbia's fiscal resurgence. The District of Columbia Fiscal Integrity Act will give the District's Chief Financial Officer, CFO, authority to manage personnel, procurement practices, and to maintain independent control over the budget of the Office of the Chief Financial Officer. This bill was introduced in the House by Congresswoman ELEANOR HOLMES NORTON and Congresswoman CONNIE MORELLA. I appreciate their leadership on this issue and I am pleased to join with them in introducing this legislation here in the Senate.

As my colleagues know, from 1995 to 2000, a Control Board oversaw management of the District of Columbia in an attempt to reform the city's finances and administration. One of the key features of that reform was the establishment of a strong Chief Financial Officer for the District with wide-ranging authority over the fiscal management of the city. That model worked. The city balanced its budget, restored its investment bond rating, and improved many city services. As a result, the District met the requirements set forth by the Control Board Act and today the elected representatives of the District of Columbia are in charge and doing a great job. They do not want the Control Board to come back on their watch and neither do I.

It is critical that the Senate work its will by marking up and passing this legislation as quickly as possible. When the Control Board went out of business, some of the Chief Financial Officer's authorities lapsed, but his responsibility for the District's financial management was not put on hold. The Congress provided temporary authority for the CFO in the FY 2002 District of Columbia Appropriations Act to continue the smooth operation of the City, but this temporary authority will expire at the end of June this year. Congress must fulfill its responsibility to the District of Columbia by ensuring that local leaders have the authority and resources to maintain and promote the city's growth. I encourage the Government Affairs Committee to begin their work right away.

In addition to restoring some of the authorities the CFO previously exercised during the Control Board era, this bill establishes an early warning system, implemented by the CFO, to examine the city's financial management and the surrounding economic environment and determine whether the city's fiscal integrity is at risk. Should the CFO determine that trouble is on the horizon, the Mayor must develop an action plan to respond to the problem. This unique fiscal management tool will ensure accountability in how the District manages its finances.

Mr. President, in the past the congressional schedule has often interfered with the smooth operations of the District. Like the Federal Government, the District Government's fiscal year begins on October 1. We, the Congress, have the authority to approve the District's budget—a budget derived from locally-generated tax dollars. We rarely do that before the start of the fiscal year, in fact one or two months often go by before we pass the District's budget. This delay creates a great deal of uncertainty for District officials in their programming and financial planning.

To remedy this situation, this legislation establishes budget autonomy for the District of Columbia beginning with fiscal year 2004. The local budget would become effective once it has been approved by the City Council and signed by the Mayor. The Congress will retain the authority to approve the Federal funding now contained in the D.C. Appropriations bill and will continue its general oversight of the District. We can still pass general provisions governing city operations and we can still hold hearings, but this bill will ensure that Congress' schedule will not hamstring the smooth operation of the District.

Mr. President, the Mayor and the City Council have worked very hard to restore fiscal integrity to the District Government, as well as the people's faith in that government. The District is enjoying a renaissance. Once a fiscal and management nightmare, the city has turned its economic ship around. When once the city was ruled by the Control Board, today the accountable authority is vested in officials elected by the District's citizens. A rampant crime rate chased citizens from District neighborhoods into the suburbs, now people are coming back. Property values are rising, new businesses are opening, and the city is working to beautify the Anacostia waterfront. This legislation will continue this transformation by maintaining the strong independence of the Chief Financial Officer and will demonstrate Congress's confidence in he District's elected leadership and its citizens by giving them greater control over their local budget. I urge my colleagues to support this legislation. The Congress has a Constitutional responsibility to the District of Columbia, now is the time to support the city and ensure that locally-elected leaders have the necessary tools for success.•

By Mr. DURBIN (for himself, Mr. BROWNBACK, Mr. KENNEDY, and Mr. KERRY):

S. 2317. A bill to provide for fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

• Mr. DURBIN. Mr. President, I am honored to rise today to introduce the Joseph Moakley Memorial Fire Safe Cigarette Act of 2002. Joe Moakley started his effort to require less fire-prone cigarettes in 1979 and championed this issue until his death this past May. It is time to finish what he started. My colleagues Senators BROWNBACK, KENNEDY, and KERRY join me in introducing this legislation to solve a serious fire safety problem, namely, fires that are caused by cigarettes.

The statistics regarding cigarette-related fires are startling. Cigarette-ignited fires accounted for an estimated 140,800 fires in the United States. Such fires cause more than 900 deaths and 2,400 injuries each year. More than $400 million in property damage reported is due to a fire caused by a cigarette. According to the National Fire Protection Association, one out of every four fire deaths in the United States are attributed to tobacco products—by far the leading cause of civilian deaths in fires. Overall, the Consumer Product Safety Commission estimates that the cost of the loss of human life and personal property from not having a fire-safe cigarette standard is approximately $4.6 billion per year.

In my State of Illinois, cigarette-related fires have also caused too many senseless tragedies. In 1998 alone, the most recent year for which we have

data, there were more than 1,700 cigarette-related fires, of which more than 900 were in people's homes. These fires led to 109 injuries and 8 deaths. Property losses resulting from those fires were estimated at $10.4 million.

Tobacco companies spend billions on marketing and learning how to make cigarettes appealing to kids. It is not unreasonable to ask those same companies to invest in safer cigarette paper to make their products less likely to burn down a house.

A Technical Study Group, TSG, was created by the Federal Cigarette Safety Act in 1984 to investigate the technological and commercial feasibility of creating a self-extinguishing cigarette. This group was made up of representatives of government agencies, the cigarette industry, the furniture industry, public health organizations and fire safety organizations. The TSG produced two reports that concluded that it is technically feasible to reduce the ignition propensity of cigarettes.

The technology is in place now to begin developing a performance standard for less fire prone cigarettes. The manufacture of less fire-prone cigarettes may require some advances in cigarette design and manufacturing technology, but the cigarette companies have demonstrated their capability to make cigarettes of reduced ignition propensity with no increase in tar, nicotine or carbon monoxide in the smoke. For example, six current commercial cigarettes have been tested which already have reduced ignition propensity. Furthermore, the overall impact on other aspects of the United States Society and economy will be minimal. Thus, it may be possible to solve this problem at costs that are much less than the potential benefits, which are saving lives and avoiding injuries and property damage.

The Joseph Moakley Memorial Fire Safe Cigarette Act requires Consumer Product Safety Commission to promulgate a fire safety standard, specified in the legislation, for cigarettes. Eighteen months after the legislation is enacted, the Consumer Product Safety Commission, CPSC, would issue a rule creating a safety standard for cigarettes. Thirty months after the legislation is enacted, the standards would become effective for the manufacture and importation of cigarettes. The CPSC would also have the authority to regulate the ignition propensity of cigarette paper for roll-your-own tobacco products.

The standard may be modified if new testing methodology enhances the fire-safety standard. It may also be modified for cigarettes with unique characteristics that cannot be tested using the specified methodology if the Commission determines that the proposed testing methodology and acceptance criterion predict an ignition strength for such cigarettes.

The Act gives the Consumer Product Safety Commission authority over cigarettes only for purposes of implementing and enforcing compliance with this Act and with the standard promulgated under the Act. It also allows states to pass more stringent fire-safety standards for cigarettes.

The Joseph Moakley Memorial Fire Safe Cigarette Act is supported by more than 25 public health groups including the American Cancer Society, the Campaign for Tobacco Free Kids and the American Academy of Pediatrics. It has been endorsed by the Congressional Fire Services Institute and its 42 member organizations. Tobacco giant Phillip Morris is also supporting the bill.

While the number of people killed each year by fires is dropping because of safety improvements and other factors, too many Americans are dying because of a product that could be less likely to catch fire if simple changes were made. Cigarettes may be less likely to cause fire if they were thinner, more porous or the tobacco were less dense. These common-sense changes could help prevent an all-too-common cause of fires.

When Joe Moakley set out more than two decades ago to ensure that the tragic cigarette-caused fire that killed five children and their parents in Westwood, Massachusetts was not repeated, he made a difference. He introduced three bills and passed two of them. One commissioned a study that concluded it was technically feasible to produce a cigarette with a reduced propensity to start fires. The second required that the National institute of Standards and Technology develop a test method for cigarette fire safety, and the last and final bill, the Fire-Safe Cigarette Act of 1999, mandates that the Consumer Product Safety Commission use this knowledge to regulate cigarettes with regard to fire safety.

Today we are here to reintroduce Moakley's bill and to accomplish what he set out to do. I hope that the Commerce Committee will consider this legislation expeditiously and that my colleagues will join me in supporting this effort. Joe waited long enough. He didn't have more time. Let's get this done for him.●

By Mr. HARKIN (for himself, Mr. KENNEDY, Ms. MIKULSKI, and Mr. DODD):

S. 2328. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection, related to maternal morbidity and mortality; to the Committee on Health, Education, Labor, and Pensions.

● Mr. HARKIN. Mr. President, over the last decade there has been a significant recognition of the importance and increase in funding of women's health research, including the establishment of Offices of Women's Health throughout various government agencies. Women's health issues and women, as participants, are now routinely included in research studies.

Despite this progress, many gaps still exist. In particular, there is a troubling lack of research on pregnancy-related health issues. Too often we take pregnancy for granted; we do not view pregnancy as a woman's health issue with short and long term health consequences.

Safe motherhood is a woman's ability to have a safe and healthy pregnancy and delivery. Of the 4 million women who give birth in the U.S. each year, over one-third—or one out of every 3—have a pregnancy-related complication before, during, or after delivery. These complications may cause long-term health problems or even death. Unfortunately, the causes and treatments of pregnancy-related complications are largely unknown and understudied.

If fact, the United States ranks only 20th in maternal mortality rates out of 49 developed countries—that is barely better than the 50th percentile, behind Cyprus, Singapore and Malta. Every day, two to there women die from pregnancy related complications. And despite the fact that maternal mortality was targeted in 1987 as part of Healthy People 2000, the maternal mortality rate in this country has not decreased in twenty years.

The scariest part of this problem is we can't answer the most basic questions—what causes the complications, what can we do to prevent them, and how can we treat them?

One example of this problem is preeclampsia, or high blood pressure. Yes, we know some indicators that place some women at greater risk than others for this complication. And yes, we know some steps that can be taken to reduce a women's risk. But we know shamefully little, with the exception of inducing labor, of how to really prevent or treat this problem. Yet 5 percent of all pregnancies are affected by this complication, which can cause blindness or even death and there has been a 40% increase in the incidence of preeclampsia over the last 10 years.

Likewise, we know almost nothing about which prescription drugs are safe for the fetus and effective for the mother. Most prescription drugs women take during pregnancy are necessary to maintain health. But only 1% of FDA approved drugs have been shown in controlled studies to show no risk to pregnant women and their babies. And 80% of FDA approved drugs lack adequate scientific evidence about use in pregnancy. That means that pregnant women are essentially forced

to take these medications with little or no knowledge about their impact on the fetus.

Of course, we don't want pregnant women placed at risk by putting them in early stage clinical trials. But the fact is that pregnant women with chronic diseases, such as diabetes, asthma, or epilepsy, need to take medication to maintain their health and support the growth of the fetus. And even pregnant women who don't have chronic health conditions need across to safe and effective prescription drugs.

And while people in Washington tend to throw around statistics to make a point, it is important to remember that behind each of these statistics is a real person and family. And yesterday, I had the opportunity to talk to a group of moms from my State of Iowa.

Without exception, these moms talked about their frustration with a health care system that continues to fail to meet some of the most basic needs of pregnant women. They all rely on a group call Sidelines, that provides support and guidance to pregnant women on bed rest. While it is great that a group like Sidelines is there for our mom's, sisters, and daughters, it is shameful that there isn't more accurate and more widely available information to women and their providers.

That is why earlier today, I, along with some of my colleagues, introduced the Safe Motherhood Act for Research and Treatment, or, SMART Mom Act. The SMART Mom Act will address these concerns by: Increasing research and data collection to learn how to prevent, treat, and cure pregnancy related complications; providing comprehensive information to pregnant women, practitioners, and the public; and, improving information about medication and medical device for pregnant women.

Pregnancy is a natural and wonderful occurrence in a woman's life. The SMART Mom Act takes a critical step towards ensuring pregnancies and healthy outcomes for America's women.●

By Mr. BREAUX (for himself, Mr. SMITH of Oregon, Mr. HOLLINGS, and Mr. MCCAIN):

S. 2329. A bill to improve seaport security; to the Committee on Commerce, Science, and Transportation.

● Mr. BREAUX. Mr. President, I am pleased to rise today to introduce the Ship, Seafarer and Container Security Act, along with my ranking subcommittee member, Senator GORDON, Senators HOLLINGS and MCCAIN. This legislation will be crucial in providing the type of information and analysis that we need to protect the United States from potential acts of terrorism against our Nation through international trade at our seaports. This legislation is the product of field hearings that my Surface Transportation and Merchant Marine Subcommittee held at various seaports around the Nation. This legislation augments the Senate-passed seaport security bill, S. 1214, the Port and Maritime Security Act, and I intend to push for the inclusion of the provisions of this bill in the context of a House-Senate conference on seaport security legislation

The United States has more than 1,000 harbor channels and 25,000 miles of inland, intercoastal, and coastal waterways. These waterways serve 361 ports, and have more than 3,700 terminals handling passengers and cargo. The U.S. marine transportation system each year moves more than 2 billion tons of domestic and international freight, imports 3 billion tons of oil, transports 134 million passengers by ferry, and hosts more than 7 million cruise ship passengers. Of the more than 2 billion tons of freight, the majority of cargo is shipped in huge containers from ships directly onto trucks and railcars that immediately head onto our highways and rail systems. Oceangoing sea containers are a vital artery of the U.S. economy. Indeed, 46 percent of all goods imported into the United States, by value, arrive at our Nation's seaports, mostly in containers, and currently, we are able to physically inspect less than 2 percent of those containers.

Since September 11, we have faced up to the task of securing our seaport and affiliated transportation systems. We are now faced with the need to adapt the most efficient transportation system, with the most secure and efficient system of transportation. To do so, given the complexities of the task, we need to rely on all parties in the transportation chain, not just Federal agencies such as the Coast Guard, Customs and INS, but State law enforcement and the private sector. The enormity of the task we face, and the potential catastrophe we face if we do not strengthen our systems of security, mandates we work on this issue together.

In the aftermath of the terrorist attacks on the World Trade Center and the Pentagon, all U.S. airports were closed. Fortunately, we have a good degree of control of our aviation system and were able to re-exert a degree of normalcy 4 days after the September 11 attacks. If similar attacks had occurred at a U.S. port, I am not sure whether we would be comfortable opening our borders in 4 months.

We obviously have a huge stake in ensuring the protection of our maritime transportation system and respective arteries of business. To this end, I was disappointed the President's budget request did not include any funds to help our State port authorities and private ports secure the type of infrastructure and security equipment necessary to protect this Nation. Not providing funding to our seaports is clearly an unfunded mandate for States that have seaports, such as my home State of Louisiana, and it is our duty as a nation to secure all of our borders, including our maritime borders. This issue simply has to be addressed, and a Federal commitment is required to help secure our maritime boundaries, and secure our international trade.

As I mentioned seaport security is simply too important to disregard. While visiting the Port Everglades in Florida, the Ports of New Orleans, Houston and Charleston, SC, during my subcommittee hearings, I became aware of the incredible role that information plays in security strategy at our seaports. Given the scope of trade and security, it is necessary that we know more about ships, the seafarers on those ships that enter the United States, the systems that we use to secure cargo so it is not tampered with or used for illegal purposes, and also the system we uses to analyze the risks of shipping and to secure our marine environment.

The Ship, Seafarer, and Container Security Act requires certain vessels to carry transponders to allow their positions to be transmitted and tracked and ensure the Coast Guard can track United States and foreign vessels. When an aircraft leaves a U.S. airport we track it wherever it goes, however, when huge oil tankers and hazardous material ships carrying tons and tons of explosive cargoes enter U.S. waters, we do not. This is not right, and not prudent.

My bill will also require the Department of Transportation, DOT, to negotiate an international agreement in 2 years, or if the agreement has not been negotiated within 2 years to submit legislation to Congress, to: One, identify foreign seafarers; two, to provide greater transparency of the ownership of ship registration, so that we can track vessel ownership; and, three, mandate stronger standards for marine containers, and for anti-tampering and locking systems for marine containers. Importantly, the bill would also require DOT to better assess the risks posed by certain vessels, and areas they designate as secure zones, and require recommendations to better secure them.

Last year, the U.S. Coast Guard, identifed over 1,000 Panamanian seamen operating with licenses they fraudulently obtained for a couple of hundred dollars. At the time, it did not create that much of a ruckus, although perhaps it should have, because the primary focus was on the safe operation of the vessel. In the aftermath of September 11, it gives rise to the potential use of the system of maritime licensing to disguise entry into the United States. The system of registration and identification of vessels is equally obtuse. In the aftermath of the bombings of the U.S. Embassies in Mombassa and Dar-El-Salem, we attempted to track the shipping assets of Asama Bin Laden that were used to convey explosives. NATO experts reportedly indicated that tracking banking assets was far easier than identifying the shipping assets owned by the terrorists. I would also mention that, a recent report in Lloyd's List, a business publication

specializing in ocean shipping and international trade, indicated that the Coast Guard interdicted at sea a container ship, with an improperly sealed container filled with nuclear warheads. According to the article, the cargo manifest, indicated that it was carrying explosives, and the master of the vessel was a citizen of Yemen, while the materials turned out to be without fissile materials, it still raises considerable concern about our shipping practices.

This legislation is another critical step in addressing some of the many crucial requirements to ensure our nation has a secure system of international trade, allow us to protect and foster our transportation chain, and provide public safety.

The issues facing our Nation in seaport security are very serious issues. The consequences of relying on our current systems of openness, and with our focus on efficiency could be disastrous. However, at the other end of the spectrum, is being so excessively obsessed with security that we cause the suffocation of trade and business. The system we had in place prior to 9–11 was insufficient. I believe that S. 1214 coupled with the legislation I am introducing will help remedy the flaws of pre- 9–11 security and enhance seaport security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Ship, Seafarer, and Container Security Act''.

SEC. 2. AUTOMATIC IDENTIFICATION SYSTEM.

(a) IN GENERAL.—When operating in navigable waters of the United States (as defined in section 2101(17a) of title 46, United States Code), the following vessels shall be equipped with an automatic identification system:

(1) Any vessel subject to the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201 et seq.).

(2) Any small passenger vessel carrying more than a number of passengers determined by the Secretary of Transportation.

(3) Any commercial towing vessel while towing astern or pushing ahead or alongside, except commercial assistance towing vessels rendering assistance to disabled small vessels.

(4) Any other vessel for which the Secretary of Transportation determines that an automatic identification system is necessary for the safe navigation of the vessel.

(b) REGULATIONS; EFFECTIVE DATE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall initiate a rulemaking to implement subsection (a).

(2) CONTENT.—Regulations promulgated pursuant to that rulemaking—

(A) may, subject to subparagraph (B), include effective dates for the application of subsection (a) to different vessels at different times;

(B) shall require all vessels to which subsection (a) applies to comply with the requirements of subsection (a) no later than December 31, 2004; and

(C) shall be issued in final form before December 31, 2004.

(3) EFFECTIVE DATE NOT DEPENDENT UPON FINAL RULE.—If regulations have not been promulgated in final form under this subsection before December 31, 2004, then subsection (a) shall apply to—

(A) any vessel described in paragraph (1) or (3) of that subsection on and after that date; and

(B) other vessels described in subsection (a) as may be provided in regulations promulgated thereafter.

SEC. 3. UNIQUE SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or amendments to an international agreement that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and other countries to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement negotiation or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.

SEC. 4. GREATER TRANSPARENCY OF SHIP REGISTRATION.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or the amendment of an international agreement, to provide greater transparency with respect to the registration and ownership of vessels entering or operating in the territorial waters of the United States.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would provide for greater transparency with respect to the registration and ownership of vessels operating in international waters.

SEC. 5. INTERNATIONAL AGREEMENT ON CONTAINER INTEGRITY.

(a) TREATY INITIATIVE.—The Secretary of Transportation should undertake the negotiation of an international agreement, or amendments to an international agreement, to establish marine container integrity and anti-tampering standards for marine containers.

(b) LEGISLATIVE ALTERNATIVE.—If the Secretary fails to complete the international agreement negotiation or amendment process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a draft of legislation that, if enacted, would establish marine container integrity and anti-tampering standards.

SEC. 6. COAST GUARD TO DEVELOP RISK-BASED ANALYSIS AND SECURITY ZONE SYSTEM FOR VESSELS.

(a) IN GENERAL.—The Commandant of the Coast Guard shall establish—

(1) a risk-based system for use in evaluating the potential threat to the national security of the United States of vessels entering the territorial waters of the United States; and

(2) a system of security zones for ports, territorial waters, and waterways of the United States.

(b) MECHANISMS AND SYSTEMS CONSIDERATIONS.—In carrying out subsection (a), the Commandant shall consider—

(1) the use of public/private partnerships to implement and enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives within the security zones; and

(2) technological means of enhancing the security within the security zones of ports, territorial waters, and waterways of the United States.

(c) GRANTS.—The Commandant of the Coast Guard may make grants to applicants for research and development of alternative means of providing the protection and security required by this section.

(d) REPORTS.—

(1) INITIAL REPORT.—Within 12 months after the date of enactment of this Act, the Commandant of the Coast Guard shall transmit, in a form that does not compromise security, to the Senate Committee on Commerce, Science, and Transportation and the House of Representative Committee on Transportation and Infrastructure a report that includes—

(A) a description of the methodology employed in evaluating risks to security;

(B) a list of security zones; and

(C) recommendations as to how protection of such vessels and security zones might be further improved.

(2) REPORT ON ALTERNATIVES.—Within 12 months after the Commandant has awarded grants under subsection (c), the Commandant shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representative Committee on Transportation and Infrastructure a report on the results of testing and research carried out with those grants.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Department in which the Coast Guard is operating for the use of the Coast Guard, $1,000,000 for fiscal year 2003 to make grants under subsection (c).●

By Mr. REID:

S. 2333. A bill to convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to introduce this bill, which will convey land to the University of Nevada at Las Vegas Research Foundation for a research park and technology center adjacent to McCarran International Airport.

This bill transfers a 115-acre parcel from the Clark County Department of Aviation to the University of Nevada at Las Vegas Research Foundation. The Foundation, in turn, will build a research and technology park on the parcel, which has been identified as the best location in the area for this kind of facility.

Nevada will benefit significantly from this bill. As you may know, Las Vegas is the fastest-growing city in the United States. The University of Nevada at Las Vegas needs space to grow. Building this type of research park will also further develop the high-tech industry in the State of Nevada. This is just the kind of thoughtful land planning and development that the Las Vegas Valley needs to ensure that Nevadans are able to maintain the high quality of life that they deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(2) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State of Nevada; and

(3) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346) is the best location for the research park and technology center.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(2) to provide the public with opportunities for education and research in the field of high technology; and

(3) to provide the State of Nevada with opportunities for competition and economic development in the field of high technology.

SEC. 2. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS RESEARCH FOUNDATION.

(a) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in subsection (b) to the University of Nevada at Las Vegas Research Foundation for the development of a technology research center.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Clark County Department of Aviation land—

(1) consisting of approximately 115 acres;

(2) located in the SW ¼ of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian; and

(3) identified in the agreement entitled ''Interim Cooperative Management Agreement Between the United States Department of the Interior-Bureau of Land Management and Clark County'', dated November 4, 1992.

By Mr. BURNS:

S. 2334. A bill to authorize the Secretary of Agriculture to accept the donation of certain land in the Mineral Hill-Crevice Mountain Mining District in the State of Montana, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

• Mr. BURNS. I am pleased to announce the introduction of the Mineral Hill Historic Mining District Preservation Act of 2002. The purpose of this Act is for the Forest Service to accept a donation from TVX Mineral Hill, Inc., an inholding of approximately 570 acres of private land in the Gallatin National Forest. This inholding overlooks the Northern entrance of Yellowstone National Park and is within well known elk habitat. The donation also includes 194 acres of mineral right underlying federal lands.

This bill provides a win-win situation with benefits for the community, for wildlife, for the company, and for the environment. After a rich and storied history, the Mineral Hill mine is played out and the opportunity to extract minerals has passed.

The property is in very good condition and is being reclaimed in accordance with a reclamation plan approved by the Montana Department of Environmental Quality. The Forest Service has been closely involved during the reclamation planning and implementation processes to make certain that the property will remain in the excellent environmental state it is in today.

As an added guarantee, the United States will also be the beneficiary of a $10 million insurance policy provided by TVX to clean up the site in the unlikely event that hazardous materials are discovered in the future.

The Mineral Hill Mine is located in the historic Jardine Mining District which was established during the 1860s. Many of the buildings at the site go back to that time period. Some of the buildings will be preserved for interpretation purposes and will be available to the public. In addition, the site will be used in cooperation with Montana Tech of the University of Montana for mining and geologic education.

The Mineral Hill property is being donated by TVX to the government without the necessity of a payment. There will be ongoing permits issued by the State of Montana and by EPA for monitoring of water discharge. This bill allows for those permits to be upheld and for the water processes to be maintained. In a letter to my office dated June 25, 2001, the Greater Yellowstone Coalition observed that ''we believe that there would be no adverse impact to the agency and indeed would be a benefit to the public that this donated land is conveyed with the obligation to maintain the NPDES permit already in force.'' This is exactly what the bill provides in Section 11.

I am pleased to say that this is a bill with the support of all key parties. The Forest Service has agreed to the transfer and management of the land and has been actively involved in this process. The Gardiner Chamber of Commerce supports the project, as do the Commissioners of Park County. The Greater Yellowstone Coalition also supports the donation.

Simply put, this legislation is in the public interest. On behalf of the people of Montana, I look forward to its passage.•

By Mr. JOHNSON (for himself, Mr. KERRY, Ms. CANTWELL, Mr. WELLSTONE, Mr. DASCHLE, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Ms. STABENOW, and Mrs. CLINTON):

S. 2335. A bill to establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

• Mr. JOHNSON. Mr. President, today, I proudly join with Senator KERRY to introduce the Native American Small Business Development Act of 2002. This important legislation is designed to help American Indians, Alaska Natives, and Native Hawaiians to overcome barriers which inhibit business development and job creation. We greatly appreciate the support of the distinguished Senators who join us in sponsoring the legislation including Senators CANTWELL, WELLSTONE, DASCHLE, BAUCUS, INOUYE, BINGAMAN, STABENOW, and CLINTON. I encourage my colleagues to support this critical legislation.

The communities served by this initiative represent some of the most traditionally isolated, disadvantaged, and underserved populations in our country. Despite the unique and persistent challenges to business development in these areas, many of the supportive services the Federal Government provides to entrepreneurs are not available in these distressed regions. The Native American Small Business Development Act endeavors to develop and disseminate culturally tailored business assistance to assure Native American businesses may secure and sustain long-term success.

Among the achievements included in the bill is the establishment of a statutory office within the U.S. Small Business Administration to focus on concerns specific to Native American populations. The Office of Native American Affairs will serve as an advocate in the SBA for the interests of Native Americans. In addition to administering the Native American Development Program, the Assistant Administrator will consult with Tribal Colleges, Tribal Governments, Alaska Native Corporations and Native Hawaiian Organizations to enhance the development and implementation of culturally specific approaches to support the growth and prosperity of Native American small businesses.

Furthermore, the Act creates the Native American Development Program to provide necessary business development assistance. These services are vital to establish and support small businesses. The Federal Government currently invests to provide these services in communities throughout the

country. It is past time for these services to be integrated into our efforts to promote self-sufficiency and economic development in Indian Country.

In addition, we recognize that in order to remain competitive, businesses and entrepreneurs must be innovative and flexible to change. This legislation reflects the needs of businesses, tribes, and regional interests to pursue unique approaches that will complement local needs and improve the overall quality of services. Two pilot programs are integrated in this approach to promote new and creative solutions to assist American Indians to awaken economic opportunities in their communities.

We must strive to eliminate the impediments that stifle Native American entrepreneurs. By providing business planning services and technical assistance to potential and existing small businesses, we can unlock the capacity for individuals and families to pursue their dreams of business ownership. Not only will these efforts combat poverty and unemployment, but they will bring new services and opportunities to communities that enhance the quality of life for local families.

We must also work to improve access to investment capital to support economic and community development for Native Americans. As the chairman of the Senate Banking Financial Institutions Subcommittee, I am conducting hearings to identify opportunities and techniques which may foster greater access to capital markets for Tribal and Native American entities.

Together, these initiatives will help to turn an important corner as we endeavor to enhance the livelihood of the first Americans.

I would like to thank Congressman UDALL for his leadership in the U.S. House of Representatives in bringing these issues to the forefront and for his cooperation on this historic legislation. I would like to thank Senator JOHN KERRY, chairman of the Senate Small Business and Entrepreneurship Committee, for his hard work on this legislation and his serious commitment to these critical issues. In addition, I would like to express my sincere appreciation for the strong support of the many cosponsors who join us in introducing the bill today.

I encourage the Senate to fully consider this historic legislation and to work expeditiously to enact it into law. The Native American Small Business Development Act will forge a more hopeful and prosperous future for Native American families and communities. By investing in adequate infrastructure and by making the appropriate tools available, we can empower individuals to pursue, achieve, and sustain economic opportunities that enrich their lives and their communities. The American dream will never be fully realized until it becomes a reality for all Americans. This legislation is critical to ensuring that economic growth and economic opportunity permeate the lives of Native American families.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Native American Small Business Development Act''.

SEC. 2. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following:

"SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Alaska Native' has the same meaning as the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

''(2) the term 'Alaska Native corporation' has the same meaning as the term 'Native Corporation' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m));

''(3) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Native American Affairs established under subsection (b);

''(4) the terms 'center' and 'Native American business center' mean a center established under subsection (c);

''(5) the term 'Native American business development center' means an entity providing business development assistance to federally recognized tribes and Native Americans under a grant from the Minority Business Development Agency of the Department of Commerce;

''(6) the term 'Native American small business concern' means a small business concern that is owned and controlled by—

''(A) a member of an Indian tribe or tribal government;

''(B) an Alaska Native or Alaska Native corporation; or

''(C) a Native Hawaiian or Native Hawaiian organization;

''(7) the term 'Native Hawaiian' has the same meaning as in section 625 of the Older Americans Act of 1965 (42 U.S.C. 3057k);

''(8) the term 'Native Hawaiian organization' has the same meaning as in section 8(a)(15) of this Act;

''(9) the term 'tribal college' has the same meaning as the term 'tribally controlled college or university' has in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

''(10) the term 'tribal government' has the same meaning as the term 'Indian tribe' has in section 7501(a)(9) of title 31, United States Code; and

''(11) the term 'tribal lands' means—

''(A) all lands within the exterior boundaries of any Indian reservation; and

''(B) all dependent Indian communities.

''(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

''(1) ESTABLISHMENT.—There is established within the Administration the Office of Native American Affairs, which, under the direction of the Assistant Administrator, shall implement the Administration's programs for the development of business enterprises by Native Americans.

''(2) PURPOSE.—The purpose of the Office of Native American Affairs is to assist Native American entrepreneurs to—

''(A) start, operate, and grow small business concerns;

''(B) develop management and technical skills;

''(C) seek Federal procurement opportunities;

''(D) increase employment opportunities for Native Americans through the start and expansion of small business concerns; and

''(E) increase the access of Native Americans to capital markets.

''(3) ASSISTANT ADMINISTRATOR.—

''(A) APPOINTMENT.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

''(B) QUALIFICATIONS.—The Assistant Administrator appointed under subparagraph (A) shall have—

''(i) knowledge of the Native American culture; and

''(ii) experience providing culturally tailored small business development assistance to Native Americans.

''(C) EMPLOYMENT STATUS.—The Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code, and shall serve as a noncareer appointee, as defined in section 3132(a)(7) of title 5, United States Code.

''(D) RESPONSIBILITIES AND DUTIES.—The Assistant Administrator shall—

''(i) administer and manage the Native American Small Business Development program established under this section;

''(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

''(iii) establish appropriate funding levels;

''(iv) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

''(v) select applicants to participate in the program under this section;

''(vi) implement this section; and

''(vii) maintain a clearinghouse to provide for the dissemination and exchange of information between Native American business centers.

''(E) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of—

''(i) Administration officials working in areas served by Native American business centers and Native American business development centers;

''(ii) the Bureau of Indian Affairs of the Department of the Interior;

''(iii) tribal governments;

''(iv) tribal colleges;

''(v) Alaska Native corporations; and

''(vi) Native Hawaiian organizations.

''(c) NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.—

''(1) AUTHORIZATION.—

''(A) IN GENERAL.—The Administration, through the Office of Native American Affairs, shall provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers in accordance with this section.

''(B) RESOURCE ASSISTANCE.—The Administration may also provide in-kind resource assistance to Native American business centers located on tribal lands. Such assistance may include—

''(i) personal computers;

''(ii) graphic workstations;

''(iii) CD–ROM technology and interactive videos;

''(iv) distance learning business-related training courses;

''(v) computer software; and

''(vi) reference materials.

''(C) USE OF FUNDS.—The financial and resource assistance provided under this subsection shall be used to overcome obstacles impeding the creation, development, and expansion of small business concerns, in accordance with this section, by—

''(i) reservation-based American Indians;

''(ii) Alaska Natives; and

''(iii) Native Hawaiians.

''(2) 5-YEAR PROJECTS.—

''(A) IN GENERAL.—Each Native American business center that receives assistance under paragraph (1)(A) shall conduct 5-year projects that offer culturally tailored business development assistance in the form of—

''(i) financial education, including training and counseling in—

''(I) applying for and securing business credit and investment capital;

''(II) preparing and presenting financial statements; and

''(III) managing cash flow and other financial operations of a business concern;

''(ii) management education, including training and counseling in planning, organizing, staffing, directing, and controlling each major activity and function of a small business concern; and

''(iii) marketing education, including training and counseling in—

''(I) identifying and segmenting domestic and international market opportunities;

''(II) preparing and executing marketing plans;

''(III) developing pricing strategies;

''(IV) locating contract opportunities;

''(V) negotiating contracts; and

''(VI) utilizing varying public relations and advertising techniques.

''(B) BUSINESS DEVELOPMENT ASSISTANCE RECIPIENTS.—The business development assistance under subparagraph (A) shall be offered to prospective and current owners of small business concerns that are owned by—

''(i) American Indians or tribal governments, and located on or near tribal lands;

''(ii) Alaska Natives or Alaska Native corporations; or

''(iii) Native Hawaiians or Native Hawaiian organizations.

''(3) FORM OF FEDERAL FINANCIAL ASSISTANCE.—

''(A) DOCUMENTATION.—

''(i) IN GENERAL.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.

''(ii) EXCEPTION.—Financial assistance under this subsection to Alaska Native corporations or Native Hawaiian organizations may only be made by grant.

''(B) PAYMENTS.—

''(i) TIMING.—Payments made under this subsection may be disbursed—

''(I) in a single lump sum or in periodic installments; and

''(II) in advance or after costs are incurred.

''(ii) ADVANCE.—The Administration may disburse not more than 25 percent of the annual amount of Federal financial assistance awarded to a Native American small business center after notice of the award has been issued.

''(iii) NO MATCHING REQUIREMENT.—The Administration shall not require a grant recipient to match grant funding received under this subsection with non-Federal resources as a condition of receiving the grant.

''(4) CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any assistance received by the Native American business center from the Administration.

''(5) APPLICATION PROCESS.—

''(A) SUBMISSION OF A 5-YEAR PLAN.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

''(B) CRITERIA.—

''(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance.

''(ii) PUBLIC NOTICE.—The criteria required by this paragraph and their relative importance shall be made publicly available, within a reasonable time, and stated in each solicitation for applications made by the Administration.

''(iii) CONSIDERATIONS.—The criteria required by this paragraph shall include—

''(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of current or potential owners of Native American small business concerns;

''(II) the ability of the applicant to commence a project within a minimum amount of time;

''(III) the ability of the applicant to provide training and services to a representative number of Native Americans;

''(IV) previous assistance from the Small Business Administration to provide services in Native American communities; and

''(V) the proposed location for the Native American business center site, with priority given based on the proximity of the center to the population being served and to achieve a broad geographic dispersion of the centers.

''(6) PROGRAM EXAMINATION.—

''(A) IN GENERAL.—Each Native American business center established pursuant to this subsection shall annually provide the Administration with an itemized cost breakdown of actual expenditures incurred during the preceding year.

''(B) ADMINISTRATION ACTION.—Based on information received under subparagraph (A), the Administration shall—

''(i) develop and implement an annual programmatic and financial examination of each Native American business center assisted pursuant to this subsection; and

''(ii) analyze the results of each examination conducted under clause (i) to determine the programmatic and financial viability of each Native American business center.

''(C) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to renew a grant, contract, or cooperative agreement with a Native American business center, the Administration—

''(i) shall consider the results of the most recent examination of the center under subparagraph (B), and, to a lesser extent, previous examinations; and

''(ii) may withhold such renewal, if the Administration determines that—

''(I) the center has failed to provide any information required to be provided under subparagraph (A), or the information provided by the center is inadequate;

''(II) the center has failed to provide any information required to be provided by the center for purposes of the report of the Administration under subparagraph (E); or

''(III) the information required to be provided by the center is incomplete.

''(D) CONTINUING CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—

''(i) IN GENERAL.—The authority of the Administrator to enter into contracts or cooperative agreements in accordance with this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

''(ii) RENEWAL.—After the Administrator has entered into a contract or cooperative agreement with any Native American business center under this subsection, it shall not suspend, terminate, or fail to renew or extend any such contract or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefore and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

''(E) MANAGEMENT REPORT.—

''(i) IN GENERAL.—The Administration shall prepare and submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate an annual report on the effectiveness of all projects conducted by Native American business centers under this subsection and any pilot programs administered by the Office of Native American Affairs.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include, with respect to each Native American business center receiving financial assistance under this subsection—

''(I) the number of individuals receiving assistance from the Native American business center;

''(II) the number of startup business concerns formed;

''(III) the gross receipts of assisted concerns;

''(IV) the employment increases or decreases of Native American small business concerns assisted by the center since receiving funding under this Act;

''(V) to the maximum extent practicable, increases or decreases in profits of Native American small business concerns assisted by the center since receiving funding under this Act; and

''(VI) the most recent examination, as required under subparagraph (B), and the subsequent determination made by the Administration under that subparagraph.

''(7) ANNUAL REPORT.—Each entity receiving financial assistance under this subsection shall annually report to the Administration on the services provided with such financial assistance, including—

''(A) the number of individuals assisted, categorized by ethnicity;

''(B) the number of hours spent providing counseling and training for those individuals;

''(C) the number of startup small business concerns formed, maintained, and lost;

''(D) the gross receipts of assisted small business concerns;

''(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

''(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

''(8) RECORD RETENTION.—

''(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

''(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (6)(A) indefinitely.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2003 through 2007, to carry out the Native American Small Business Development Program, authorized under subsection (c).''.

SEC. 3. PILOT PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) INCORPORATION BY REFERENCE.—The terms defined in section 36(a) of the Small Business Act (as added by this Act) have the same meanings as in that section 36(a) when used in this section.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Small Business Administration.

(3) JOINT PROJECT.—The term 'joint project' means the combined resources and expertise of 2 or more distinct entities at a physical location dedicated to assisting the Native American community;

(b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award Native American development grants to provide culturally-tailored business development training and related services to Native Americans and Native American small business concerns.

(B) ELIGIBLE ORGANIZATIONS.—The grants authorized under subparagraph (A) may be awarded to—

(i) any small business development center; or

(ii) any private, nonprofit organization that—

(I) has tribal government members, or their designees, comprising a majority of its board of directors;

(II) is a Native Hawaiian organization; or

(III) is an Alaska Native corporation.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $100,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for not less than a 2-year period and not more than a 4-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit an application to the Administration that contains—

(A) a certification that the applicant—

(i) is a small business development center or a private, nonprofit organization under paragraph (1)(B)(i);

(ii) employs a full-time executive director or program manager to manage the facility; and

(iii) agrees—

(I) to a site visit as part of the final selection process;

(II) to an annual programmatic and financial examination; and

(III) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

(B) information demonstrating that the applicant has the ability and resources to meet the needs, including cultural needs, of the Native Americans to be served by the grant;

(C) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(D) information demonstrating the effective experience of the applicant in—

(i) conducting financial, management, and marketing assistance programs designed to impart or upgrade the business skills of current or prospective Native American business owners;

(ii) providing training and services to a representative number of Native Americans;

(iii) using resource partners of the Administration and other entities, including universities, tribal governments, or tribal colleges; and

(iv) the prudent management of finances and staffing;

(E) the location where the applicant will provide training and services to Native Americans; and

(F) a multiyear plan, corresponding to the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant;

(ii) in the continental United States, the number of Native Americans to be served by the grant; and

(iii) the training and services to be provided to a representative number of Native Americans.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each completed application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of a Native American development grant under this subsection shall annually report to the Administration on the impact of the grant funding, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours spent providing counseling and training for those individuals;

(C) the number of startup small business concerns formed, maintained, and lost;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program, under which the Administration shall award not less than 3 American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands.

(B) ELIGIBLE ORGANIZATIONS.—

(i) CLASS 1.—Not fewer than 1 grant shall be awarded to a joint project performed by a Native American business center, a Native American business development center, and a small business development center.

(ii) CLASS 2.—Not fewer than 2 grants shall be awarded to joint projects performed by a Native American business center and a Native American business development center.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds $200,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for a 3-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit to the Administration a joint application that contains—

(A) a certification that each participant of the joint application—

(i) is either a Native American Business Center, a Native American Business Development Center, or a Small Business Development Center;

(ii) employs a full-time executive director or program manager to manage the center; and

(iii) as a condition of receiving the American Indian Tribal Assistance Center grant, agrees—

(I) to an annual programmatic and financial examination; and

(II) to the maximum extent practicable, to remedy any problems identified pursuant to that examination;

(B) information demonstrating a historic commitment to providing assistance to Native Americans—

(i) residing on or near tribal lands; or

(ii) operating a small business concern on or near tribal lands;

(C) information demonstrating that each participant of the joint application has the ability and resources to meet the needs, including the cultural needs of the Native Americans to be served by the grant;

(D) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described above, designed to impart or upgrade the business skills of current or prospective Native American business owners; and

(ii) the prudent management of finances and staffing; and

(F) a plan for the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant; and

(ii) the training and services to be provided.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of an American Indian tribal assistance center grant under this subsection shall annually report to the Administration on the impact of the grant funding received during the reporting year, and the cumulative impact of the grant funding received since the initiation of the grant, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours of counseling and training provided and workshops conducted;

(C) the number of startup business concerns formed, maintained, and lost;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $1,000,000 for each of the fiscal years 2003 through 2006, to carry out the Native American Development Grant Pilot Program, authorized under subsection (b); and

(2) $1,000,000 for each of the fiscal years 2003 through 2006, to carry out the American Indian Tribal Assistance Center Grant Pilot Program, authorized under subsection (c).●

● Mr. KERRY. Mr. President, I am pleased today to join with my colleague, Senator JOHNSON, as well as the cosponsors of our legislation, Senators, CANTWELL, WELLSTONE, DASCHLE, BAUCUS, INOUYE, BINGAMAN, STABENOW, and CLINTON in introducing the Native American Small Business Development Act.

This legislation bears the same name as legislation that passed the House last year, H.R. 2538, which was introduced by Congressman TOM UDALL, a recognized leader in promoting the interests of American Indians. I would like to thank Congressman UDALL for his work in stewarding H.R. 2538 through the House and for his assistance in working with Senator JOHNSON and me in drafting the Senate version of our legislation.

I would also like to thank the National Indian Business Association, the National Center for American Indian Enterprise Development, the Association of Small Business Development Centers, ONABEN, Native American Management Services, Inc., and all of the tribes that met with us or provided information to help in the crafting of this legislation.

The Senate version of the Native American Small Business Development Act, while incorporating the heart of the Udall legislation, is more comprehensive and provides greater assistance to Native American communities. Senator JOHNSON, who serves on the Indian Affairs Committee, and I, as Chairman of the Senate Committee on Small Business and Entrepreneurship, were able to combine our resources in crafting this legislation.

Our desire to fashion a comprehensive assistance package for Native American small businesses stems in no small part from an apparent lack of commitment the Small Business Administration (SBA) has shown to our Native American communities under the Bush Administration.

While I applaud the Bush Administration for responding to congressional requests and including $1 million in the Administration's fiscal year 2003 budget request for Native American outreach, I was disappointed that it did not seek the full level of $2.5 million requested in a letter I sent with my colleagues Senators DASCHLE, WELLSTONE, JOHNSON, BINGAMAN and BAUCUS. Our request specifically sought funding for the SBA's Tribal Business Information Center (TBIC) program, started under the Clinton Administration and designed to address the unique conditions faced by American Indians when they seek to start or expand small businesses.

I do not believe that anyone in this Congress would dispute that economic development in Indian Country has often been difficult to achieve and that one important way to help American Indians who live on reservations is to provide them with assistance to open and run their own small businesses. Helping Native Americans open and run small businesses not only instills a sense of pride in the owner and his or her community, it also provides much-needed job opportunities, as well as other economic benefits.

Although underfunded, the TBIC program has provided assistance to a number of small businesses on Indian reservations. TBICs have the support of the American Indian communities they serve because they provide desperately needed, culturally tailored business development assistance in those communities. The administration should be seeking to strengthen its commitment to programs that assist Native American communities. Unfortunately, the SBA cut off TBIC funding on March 31, 2002, and has not met a request by a bipartisan group of Senators to begin the reprogramming process in order to keep the TBICs open for the remainder of the fiscal year.

The Native American Small Business Development Act will ensure that the SBA's programs to assist Native American Affairs (ONAA) a permanent office, create a statutory grant program, known as the Native American Development grant program, to assist Native Americans, establish two pilot programs to try new means of assisting Native American communities and require Native American communities to be consulted regarding the future of SBA programs designed to assist them. In short, our legislation will ensure that our Native American communities will receive the assistance they need to help start and grow small businesses.

The ONAA, to be headed by an Assistant Administrator, will be responsible for assisting Native Americans and Native American communities to start, operate, and grow small business concerns; develop management and technical skills; seek Federal procurement opportunities; increase employment opportunities through the start and expansion of small business concerns; and increase their access to capital markets.

To be selected to serve as the Assistant Administrator for ONAA, a candidate must have knowledge of Native American cultures and experience providing culturally tailored small business development assistance to Native Americans. Under our legislation, the Assistant Administrator would be statutorily required to consult with Tribal Colleges and Tribal Governments, Alaska Native Corporations (ANC) and Native Hawaiian Organizations (NHO) when carrying out responsibilities under this legislation. The Assistant Administrator for ONAA would be responsible for administering the Native American Development program and the pilot programs created by the Native American Small Business Development Act.

The Native American Development program is designed to be the SBA's primary program for providing business development assistance to Native American communities. To offer this support, the SBA will provide financial and resource assistance to establish and keep Native American Business Centers (NABC) in operation. Financial assistance under the Native American Development program would be available to Tribal Governments and Tribal Colleges. Unlike the SBA's TBIC program, however, ANCs and NHOs would also be eligible for the grants.

NABCs would address the unique conditions faced by reservation-based American Indians, as well as Native Hawaiians and Native Alaskans, in their efforts to create, develop and expand small business concerns. Grant funding would be used by the NABCs to provide culturally tailored financial education assistance, management education assistance, and marketing education assistance.

The first pilot program under the legislation establishes a Native American development grant. This grant is modeled after the Udall legislation and designed to bring the expertise of SBA's Small Business Development Centers (SBDC) to Native American communities. Additionally, any private nonprofit organization, whose board of directors consists of a majority of Tribal Government members or their designees, is an NHO or an ANC, may also apply for the grant. Nonprofits were included in the Senate version thanks to the thoughtful input of Senator Cantwell. Many American Indian communities in Washington State are served by an organization called ONABEN, which provides SBDC-like services to Native American communities in Washington, Oregon, Idaho, and California. Organizations like ONABEN should be encouraged to provide resources to Native American communities, and including them in the grant program available to SBDCs was an important addition to the legislation.

Finally, our legislation establishes a second pilot program to try a unique experiment in Indian County. Grant funding would be made available to establish American Indian Tribal Assistance Centers. These centers will consist of joint entities, such as a partnership between an NABC, a Native American development center (which receive grants from the Department of Commerce) and possibly an SBDC. The purpose of this grant is to bring together experts from various entities to provide culturally tailored business development assistance to prospective and

current owners of small business concerns on or near Tribal Lands.

I would again like to thank Senator JOHNSON and all of the cosponsors of this important legislation to assist our Native American communities. I would also, again, like to thank Congressman UDALL for taking the lead in the House on providing critical assistance for small businesses in Native American communities. I would urge all of my colleagues to cosponsor this legislation to help us fulfill our commitment to Native American communities.●

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 252—EXPRESSING THE SENSE OF THE SENATE REGARDING HUMAN RIGHTS VIOLATIONS IN TIBET, THE PANCHEN LAMA, AND THE NEED FOR DIALOGUE BETWEEN THE CHINESE LEADERSHIP AND THE DALAI LAMA OR HIS REPRESENTATIVES

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 252

Whereas Hu Jintao, Vice President of the People's Republic of China and former Party Secretary of the Tibet Autonomous Region, will visit the United States in April and May of 2002;

Whereas Gedhun Choekyi Nyima was taken from his home by Chinese authorities on May 17, 1995, at the age of 6, shortly after being recognized as the 11th incarnation of the Panchen Lama by the Dalai Lama;

Whereas the forced disappearance of the Panchen Lama violates fundamental freedoms enshrined in international human rights covenants to which the People's Republic of China is a party, including the Convention on the Rights of the Child;

Whereas the use of religious belief as the primary criteria for repression against Tibetans reflects a continuing pattern of grave human rights violations that have occurred since the invasion of Tibet in 1949–50;

Whereas the State Department Country Reports on Human Rights Practices for 2001 states that repressive social and political controls continue to limit the fundamental freedoms of Tibetans and risk undermining Tibet's unique cultural, religious, and linguistic heritage, and that repeated requests for access to the Panchen Lama to confirm his well-being and whereabouts have been denied; and

Whereas the Government of the People's Republic of China has failed to respond positively to efforts by the Dalai Lama to enter into dialogue based on his proposal for genuine autonomy within the People's Republic of China with a view to safeguarding the distinct identity of Tibet and protecting the human rights of the Tibetan people: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Vice President Hu Jintao should be made aware of congressional concern for the Panchen Lama and the need to resolve the situation in Tibet through dialogue with the Dalai Lama or his representatives; and

(2) the Government of the People's Republic of China should—

(A) release the Panchen Lama and allow him to pursue his traditional role at Tashi Lhunpo monastery in Tibet; and

(B) enter into dialogue with the Dalai Lama or his representatives in order to find a negotiated solution for genuine autonomy that respects the rights of all Tibetans.

● Mr. WELLSTONE. Mr. President, I rise today to acknowledge and celebrate the 13th birthday of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama in 1995 as the 11th reincarnation of the Panchen Lama, Tibet's second highest spiritual leader.

As you may know, shortly after the Dalai Lama recognized Gedhun Choekyi Nyima as the Panchen Lama in 1995, the Chinese government abducted him with his family. He was 6 years old at the time. Today, the Panchen Lama remains in detention, and his whereabouts are unknown. For the past 7 years repeated requests from both governments and private humanitarian organizations to meet with the boy have been denied. It is intolerable that the Chinese leadership is using this young child in their efforts to tighten their grip on Tibet. On his 13th birthday, he remains one of the world's youngest political and religious prisoners.

Tibetans are persecuted for their religious beliefs. Prior to the Chinese invasion of 1950, Tibet was a deeply religious society. Religion remains an integral part of the daily lives of Tibetans, and it forms the social fabric connecting them to the land. Since the Chinese take over, religious practice and belief have come at a great cost. Over 6,000 monasteries and sacred places have been destroyed by the Chinese. Religious leaders are incarcerated with great frequency. They are forced to perform ''reeducation labor,'' and often subjected to torture, including electric shock, rape, and other serious forms of abuse.

The Chinese Government continues to exert power over Tibetans by requiring monks to sign a declaration rejecting independence for Tibet, rejecting the Panchen Lama, rejecting and denouncing the Dalai Lama, recognizing the unity of China and Tibet, and ignoring the voice of America. Monks who refuse to accept these terms risk expulsion from their monasteries, or possible incarceration. Fleeing is the only other option for Tibetans who refuse to accept these terms. Historically, up to 3,000 Tibetans enter Nepal each year to escape the conditions.

Religious persecution is not the only type of persecution in Tibet. Tibetans are also subject to political imprisonment. A few months ago, I had the honor of meeting with Ngawang Choephel, a former Fulbright scholar who taught at Middlebury College in Vermont, who was imprisoned in 1995. What was his crime, the crime for which his brave mother labored intensively to have him freed? He was arrested and jailed for espionage while filming a documentary on performing arts in Tibet. After serving more than 6 years, he was released on a medical parole. Regrettably, his story is emblematic of the daily struggles faced by Tibetans.

China has consistently used excessive military force to stifle dissent, which has resulted in untold cases of arbitrary arrests, imprisonment, torture, and execution. Moreover, the Tibetan people are denied the rights to self determination, freedom of speech, assembly, movement, expression and travel, rights enshrined in the Universal Declaration of Human Rights. Population transfers, environmental degradation, forced abortions and sterilizations, and the systematic destruction of the Tibetan language and culture continue unabated.

The problems in Tibet go beyond continuing human rights violations. As long as the Tibetan people are denied the right to self determination, human rights violations and political unrest will continue. For almost 40 years Chinese oppression in Tibet has been met by resistance. However, despite over four decades of force and intimidation, the Tibetan people have proven again and again that they will not succumb. Until a negotiated settlement is reached, Tibet will remain a contentious and potentially destabilizing issue for China. The only way to settle the question of Tibet is for the Chinese leadership to enter into negotiations with the Dalai Lama or his representatives.

Both publicly and privately, the Dalai Lama has stated his willingness to negotiate with the Chinese in his own words, ''anywhere, anytime, and with no pre-conditions.'' Thus far, Beijing has refused to even consider talking to him. Despite the fact that the Dalai Lama is respected worldwide as a spiritual leader and was awarded the Nobel Peace Prize, Chinese Communist party leaders continue to eschew dialogue.

Next week, Chinese President Hu Jintao will visit the United States for the first time. Many believe that he will be the next Premier of China. As you may know, Hu Jintao was the Party Secretary in the Tibet Autonomous Region, TAR, from 1988 to 1992. During his tenure as Party Secretary, Hu Jintao made a name for himself as a tough administrator of Beijing's control mechanisms in Tibet, including the use of deadly force against unarmed Tibetan protestors.

Despite Hu Jintao's record as TAR Party Secretary, I, like some Tibetans, remain hopeful that he can play a positive role in the future. Because Hu has direct experience with the sentiments of Tibetans, he could be more responsive to Tibetan interests than past Chinese leaders. On November 9, 2001, Hu told journalists in Berlin, ''I have been in Tibet for almost 4 years and I am very familiar with the situation.'' It is a positive factor that Hu Jintao knows conditions in Tibet from first-hand experience.

In light of his visit, I am introducing a resolution in the Senate calling for

the release of the Panchen Lama. With this action, I am also hoping to see a serious and substantive discussion of the continued human rights violations in China and Tibet. I will continue to communicate these objectives directly to the administration and the Chinese leadership. Specifically, I strongly believe we should urge the Chinese leadership: To release the Panchen Lama and allow him to pursue his traditional role at Tashi Lhunpo monastery in Tibet; and to enter into dialogue with the Dalai Lama or his representatives in order to find a negotiated solution for genuine autonomy that respects the rights of all Tibetans.

Today, across America Tibetans and their supporters are staging events to draw international attention and support for Tibet. This includes five Tibetan men who are biking from the state capitol in St. Paul, MN, to the Chinese Embassy in Chicago. There, they are calling for the release of the Panchen Lama, the second highest leader in Tibetan Buddhism. Today, I ask that the Senate join their cause. Free the Panchen Lama.

I offer my deepest respect and prayers to them and to the countless brave men and women who have lost their lives in the struggle to bring freedom and democracy to Tibet. It is my hope that the United States will be ''on the right side of history'' by pressing hard for negotiations and a peaceful solution to the Tibetan situation, in accordance with U.N. resolutions.

Finally, I would like to commend the Tibetan people, who under the leadership of the Dalai Lama, have remained steadfast in their commitment to nonviolence. While in other parts of the world individuals seeking freedom have employed any means available, including violence and terrorism, the Tibetans have not altered from the path of nonviolence, even while their homeland, their families, their religion, and their culture are decimated. To turn away from the Tibetan people in their hour of need, would send a message to the world that the international community does not care about what is just. I urge Tibetans to stay the course of nonviolence.●

SENATE RESOLUTION 253—REITERATING THE SENSE OF THE SENATE REGARDING THE RISE OF ANTI-SEMITIC VIOLENCE IN EUROPE

Mr. SMITH of Oregon (for himself, Mrs. CLINTON, Mr. SCHUMER, and Mr. HATCH) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 253

Whereas many countries in Europe are protectors of human rights and have stood as shining examples of freedom and liberty to the world;

Whereas freedom of religion is guaranteed by all Organization for Security and Cooperation in Europe (OSCE) participating states;

Whereas the 1990 Copenhagen Concluding Document declares all participating OSCE States will ''unequivocally condemn'' anti-Semitism and take effective measures to protect individuals from anti-Semitic violence;

Whereas anti-Semitism was one of the most destructive forces unleashed during the last century;

Whereas there has been a startling rise in attacks on Jewish community institutions in cities across Europe in the last 18 months;

Whereas these violent incidents have targeted youth such as an assault on a Jewish teen soccer team in Bondy, France on 4/11/02 and the brutal beating of two Jewish students in Berlin, Germany, the burning of Jewish schools in Creteil and Marseille, France and even the stoning of a bus carrying Jewish schoolchildren;

Whereas attacks on Jewish houses of worship have been reported in many cities including Antwerp, Brussels, and Marseille and as recently as April 22nd an automatic weapon attack on a synagogue in Charleroi, Belgium;

Whereas the statue in Paris of Captain Alfred Dreyfus, who was the victim of anti-Semitic accusations and became a symbol of this prejudice in the last century, was defaced with anti-Jewish emblems;

Whereas the French Ministry of Interior documented hundreds of crimes against Jews and Jewish institutions in France in just the first two weeks of April 2002;

Whereas the revitalization of European right wing movements, such as the strong showing of the National Front party in France's presidential election, reaffirm the urgency for governments to assert a strong public stance against anti-Semitism, as well as other forms of xenophobia and intolerance;

Whereas some government leaders have repeatedly dismissed the significance of these attacks and attributed them to hooliganism and Muslim immigrant youth expressing solidarity with Palestinians;

Whereas the legitimization of armed struggle against Israeli civilians by some governments voting in the UN Commission on Human Rights has emboldened some individuals and organizations to lash out against Jews and Jewish institutions;

Whereas hostility frustration and disaffection over violence in the Middle East must never be permitted to justify personal attacks on Jewish citizens;

Whereas when governments have raised a strong moral voice against anti-Semitism and worked to promote and implement educational initiatives which foster tolerance, we have seen success; and

Whereas, Congress recognizes the vital historical alliance between nations of Europe and the United States and has high regard for the commitment of our allies to fighting discrimination, hatred, and violence on racial, ethnic or religious grounds,

Resolved, (a) That it is the sense of the Senate that Congress calls upon European governments to—

(1) acknowledge publicly and without reservation the anti-Semitic character of the attacks as violations of human rights; and to utilize the full power of its law enforcement tools to investigate the crimes and punish the perpetrators;

(2) decry the rationalizing of anti-Jewish attitudes and even violent attacks against Jews as merely a result of justified popular frustration with the conflict in the Middle East; and

(3) take measures to protect and ensure the security of Jewish citizens and their institutions, many of whom suffered so grievously in Europe in the past century.

(b) Further, it is the sense of the Senate that—

(1) both Congress and the Administration must raise this issue in its bilateral contacts;

(2) the State Department's Annual Country Reports on Human Rights should thoroughly document this phenomenon, not just in Europe but worldwide; and

(3) the Commission on International Religious Freedom should continue to document and report on this phenomenon in Europe and worldwide.

SENATE RESOLUTION 254—DESIGNATING APRIL 29, 2002, THROUGH MAY 3, 2002, AS ''NATIONAL CHARTER SCHOOLS WEEK,'' AND FOR OTHER PURPOSES

Mr. LIEBERMAN (for himself, Mr. GREGG, Mr. CARPER, Mr. HUTCHINSON, and Mr. BAYH) submitted the following resolution; which was considered and agreed to:

S. RES. 254

Whereas charter schools are public schools authorized by a designated public body and operating on the principles of accountability, parental involvement, choice, and autonomy;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico will have received substantial assistance from the Federal Government by the end of the current fiscal year for planning, startup, and implementation of charter schools since their authorization in 1994 under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

Whereas 34 States, the District of Columbia, and the Commonwealth of Puerto Rico are serving more than 500,000 students in more than 2,431 charter schools during the 2001–2002 school year;

Whereas charter schools can be vehicles for improving student academic achievement for the students who attend them, for stimulating change and improvement in all public schools, and for benefiting all public school students;

Whereas charter schools must meet the same Federal student academic achievement accountability requirements as all public schools, and often set higher and additional goals, to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools assess and evaluate students annually and often more frequently, and charter school student academic achievement is directly linked to charter school existence;

Whereas charter schools give parents new freedom to choose their public school, charter schools routinely measure parental approval, and charter schools must prove their ongoing and increasing success to parents, policymakers, and their communities;

Whereas two-thirds of charter schools report having a waiting list, the average size of such a waiting list is nearly one-half of the school's enrollment, and the total number of students on all such waiting lists is enough to fill another 1,000 average-sized charter schools;

Whereas students in charter schools nationwide have similar demographic characteristics as students in all public schools;

Whereas charter schools in many States serve significant numbers of students from families with lower income, minority students, and students with disabilities, and in a majority of charter schools almost half of the students are considered at risk or are former dropouts;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the Nation; and

Whereas charter schools are laboratories of reform and serve as models of how to educate children as effectively as possible: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 29, 2002, through May 3, 2002, as ''National Charter Schools Week'';

(1) honors the 10th anniversary of the opening of the Nation's first charter school;

(2) acknowledges and commends the charter school movement and charter schools, teachers, parents, and students across the Nation for their ongoing contributions to education and improving and strengthening the Nation's public school system;

(3) supports the goals of National Charter Schools Week, an event sponsored by charter schools and charter school organizations across the Nation and established to recognize the significant impacts, achievements, and innovations of the Nation's charter schools; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools in communities throughout the Nation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3376. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3377. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3378. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3379. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3380. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

TEXT OF AMENDMENTS

SA 3376. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2007''.

SA 3377. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2007'' and

On page 11, line 9, strike ''2006'' and insert ''2008''.

SA 3378. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; was which ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2006''.

SA 3379. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 3352 proposed by Mr. BAUCUS (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 10, strike ''2005'' and insert ''2006'' and

On page 11, line 9, strike ''2006'' and insert ''2007''.

SA 3380. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, which was ordered to lie on the table; as follows:

On page 307, after line 3, insert the following:

Subtitle E—Rural and Remote Communities

SEC. 941. SHORT TITLE.

This subtitle may be cited as the ''Rural and Remote Community Fairness Act''.

SEC. 942. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a modern infrastructure, including energy-efficient housing, electricity, telecommunications, bulk fuel, waste water and potable water service, is a necessary ingredient of a modern society and development of a prosperous economy;

(2) the Nation's rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;

(3) in the past, Federal assistance has been instrumental in establishing electric and other utility service in many developing regions of the Nation, and that Federal assistance continues to be appropriate to ensure that electric and other utility systems in rural areas conform with modern standards of safety, reliability, efficiency and environmental protection; and

(4) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural and remote communities as social, economic and political entities.

(b) PURPOSE.—The purpose of this subtitle is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, waste water, and bulk fuel, telecommunications and utility services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.

SEC. 943. DEFINITIONS.

As used in this subtitle:

(1) The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify.

(2) The term ''population'' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(3) The Term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(5) The term ''rural and remote community'' means a unit of local general government or Native American group which is served by an electric utility that has 10,000

or less customers with an average retail cost per kilowatt hour of electricity that is equal to or greater than 150 percent of the average retail cost per kilowatt hour of electricity for all consumers in the United States, as determined by data provided by the Energy Information Administration of the Department of Energy.

(6) The term ''alternative energy sources'' include non-traditional means of providing electrical energy, including, but not limited to, wind, solar, biomass, municipal solid waste, hydroelectric, geothermal and tidal power.

(7) The term ''average retail cost per kilowatt hour of electricity'' has the same meaning as ''average revenue per kilowatt hour of electricity'' as defined by the Energy Information Administration of the Department of Energy.

SEC. 944. AUTHORIZATION OF APPROPRIATIONS.

The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of the subtitle. For purposes of assistance under section 947, there are authorized to be appropriated $100,000,000 for each of fiscal years 2003 through 2009.

SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.

(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the agency providing funding a final statement of rural and remote community development objectives and projected use of funds.

(b) PUBLIC NOTICE.—In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

(1) furnish citizens information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

(2) publish a proposed statement in such manner to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

(3) provide citizens with reasonable access to records regarding the past use of funds received under section 947 by the grantee; and

(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 947 from one eligible activity to another.

The final statement shall be made available to the public, and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same. Procedures required in this paragraph are for the preparation and submission of such statement.

(c) PERFORMANCE AND EVALUATION REPORT.—Each grantee shall submit to the appropriate Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 947, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b). The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee's program objectives, and indications of how the grantee would change its programs as a result of its experiences.

(d) RETENTION OF INCOME.—

(1) IN GENERAL.—Any rural and remote community may retain any program income that is realized from any grant made by the Secretary under section 947 if—

(A) Such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and

(B) such unit of general local government has agreed that it will utilize program income for eligible rural and remote community development activities in accordance with the provisions of this title.

(2) EXCEPTION.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable administrative burden on the rural and remote community.

SEC. 946. ELIGIBLE ACTIVITIES.

(a) ACTIVITIES INCLUDED.—Eligible activities assisted under this subtitle may include only—

(1) weatherization and other cost-effective energy-related repairs of homes and other buildings;

(2) the acquisition, construction, repair, reconstruction, or installation of reliable and cost-efficient facilities for the generation, transmission or distribution of electricity, and telecommunications, for consumption in a rural and remote community or communities;

(3) the acquisition, construction, repair, reconstruction, remediation or installation of facilities for the safe storage and efficient management of bulk fuel by rural and remote communities, and facilities for the distribution of such fuel to consumers in a rural or remote community;

(4) facilities and training to reduce costs of maintaining and operating generation, distribution or transmission systems to a rural and remote community or communities;

(5) the institution of professional management and maintenance services for electricity generation, transmission or distribution to a rural and remote community or communities;

(6) the investigation of the feasibility of alternate energy sources for a rural and remote community or communities;

(7) acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water or waste water service;

(8) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for eligible rural and remote community development activities; and

(9) activities necessary to develop and implement a comprehensive rural and remote development plan, including payment of reasonable administrative costs related to planning and execution or rural and remote community development activities.

(b) ACTIVITIES UNDERTAKEN THROUGH ELECTRIC UTILITIES.—Eligible activities may be undertaken either directly by the rural and remote community, or by the rural and remote community through local electric utilities.

SEC. 947. ALLOCATION AND DISTRIBUTION OF FUNDS.

For each fiscal year, of they amount approved in an appropriation act under section 903 for grants in any year, the Secretary shall distribute to each rural and remote community which has filed a final statement of rural and remote community development objectives and projected use of funds under section 945, an amount which shall be allocated among the rural and remote communities that filed a final statement of rural and remote community development objectives and projected use of funds under section 945 proportionate to the percentage that the average retail price per kilowatt hour of electricity for all classes of consumers in the rural and remote community exceeds the national average retail price per kilowatt hour for electricity for all consumers in the United States, as determined by data provided by the Department of Energy's Energy Information Administration. In allocating funds under this section, the Secretary shall give special consideration to those rural and remote communities that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.

SEC. 948. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:

(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to—

''(1) a unit of local government of a State or territory; or

''(2) an Indian tribe or Tribal College or University as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).

''(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.

''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.

''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(g) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated to the Secretary $20,000,000 for each of the seven fiscal years following the date of enactment of this subsection.''.

SEC. 949. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $5,000,000 for each of fiscal year 2003 through 2009 to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for the purposes of funding the power cost equalization program.

SEC. 950. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.

(a) FINDINGS; PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low per capital income levels.

(b) DEFINITIONS.—In this section:

(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''eligible unit of general local government'' means a unit of general local government that is the governing body of a rural recovery area.

(2) ELIGIBLE INDIAN TRIBE.—The term ''eligible Indian tribe'' means the governing body of an Indian tribe that is located in a rural recovery area.

(3) GRANTEE.—The term ''grantee'' means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

(4) NATIVE AMERICAN GROUP.—The term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered en eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(5) RURAL RECOVERY AREA.—The term ''rural recovery area'' means any geographic area represented by a unit of general local government or a Native American group—

(A) the borders of which are not adjacent to a metropolitan area;

(B) in which—

(i) the population outmigration level equals or exceeds 1 percent over the most recent five year period, as determined by the Secretary of Housing and Urban Development; and

(ii) the per capita income is less than that of the national nonmetropolitan average; and

(C) that does not include a city with a population of more than 15,000.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

(A) IN GENERAL.—The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia.

(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency, community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.

(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

(d) ELIGIBILITY REQUIREMENTS.—

(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—

(A) shall—

(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government, Native American group or eligible Indian tribe, as applicable, on the proposed statement and the proposed eligible activities, and the overall community development performance of the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable; and

(B) Based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

(i) a final statement of rural development objectives;

(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

(iii) a certification that the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—

(A) a copy of the final statement submitted under paragraph (1)(B);

(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe under this section in any preceding fiscal year; and

(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from one eligible activity to another.

(e) DISTRIBUTION OF GRANTS.—

(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government, Native American groups and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount in paragraph (2).

(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population out migration level (as determined by the Secretary of Housing and Urban Development) and the per capita income for the rural recovery area served by the grantee; or

(B) $200,000.

(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for one or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee:

(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;

(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

(4) activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; or

(5) affordable housing initiatives.

(g) PERFORMANCE AND EVALUATION REPORT.—

(1) IN GENERAL.—Each grantee shall annually submit to the appropriate Secretary a performance and evaluation report, concerning the use of amounts received under this section.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—

(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—

(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

(2) the—

(A) grantee agrees to utilize the income for 1 or more eligible activities; or

(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2009.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 10 a.m., in

closed session to receive a briefing on the administration's request for a waiver in the certifications required for the Cooperative Threat Reduction Program and on a recent report from the Joint Atomic Energy Intelligence Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Thursday, April 25, 2002, at 9:30 a.m., on Online Privacy and Protection Act of 2002.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Thursday, April 25, 2002, at 2:30 p.m., on the nomination of Harold D. Stratton to be Commissioner and chairman of the Consumer Product Safety Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m., to hear testimony on ''Issues in TANF Reauthorization: Helping Hard-to-Employ Families.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENT AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 25, 2002, at approximately 3:30 p.m. (immediately following the first rollcall vote in a series of votes expected to begin at 3:30 p.m.), for a business meeting to consider the nomination of Paul A. Quander, Jr., to be Director of the District of Columbia Court Services and Offender Supervision Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on ''IDEA: Behavioral Supports in Schools'' during the session of the Senate on Thursday, April 25, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Thursday, April 25, 2002, in Dirksen room 226 at 10 a.m. The witness list is attached.

Tentative Witness List

Panel I: The Honorable Phil Gramm; the Honorable Kay Bailey Hutchison; the Honorable Fred Thompson; the Honorable Mike DeWine; the Honorable Bill Frist; the Honorable Ralph M. Hall; the Honorable Dave Hobson; the Honorable Harold E. Ford, Jr.; and the Honorable Max Sandlin.

Panel II: Julia Smith Gibbons to be United States Circuit Court Judge for the Sixth Circuit.

Panel III: Leonard E. Davis to be United States District Court Judge for the Eastern District of Texas; David C. Godbey to be United States District Court Judge for the Northern District of Texas; Andrew S. Hanen to be United States District Court Judge for the Southern District of Texas; Samuel H. Mays, Jr., to be United States District Court Judge for the Western District of Tennessee; and Thomas M. Rose to be United States District Court Judge for the Southern District of Ohio.

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 25, 2002, at 10 a.m., in Dirksen Building room 226. The agenda is attached.

Agenda

I. Nominations

To be United States Marshal: Gordon Edward Eden, Jr. for the District of New Mexico; David Phillip Gonzales for the District of Arizona; Ronald Henderson for the Eastern District of Missouri; John Lee Moore for the Eastern District of Texas; John Edward Quinn for the Northern District of Iowa; Charles M. Sheer for the Western District of Missouri; and Edward Zahren for the District of Colorado.

II. Bills

S. 2031, Intellectual Property Protection Restoration Act of 2002 [Leahy/Brownback].

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002 [Leahy/Daschle/Durbin].

S. 1974, Federal Bureau of Investigation Reform Act of 2002 [Leahy/Grassley].

S. 848, Social Security Number Misuse Prevention Act of 2001 [Feinstein/Gregg].

S. 1742, Restore Your Identity Act of 2001 [Cantwell].

S. 410, a bill to amend the Violence Against Women Act of 2000 by expanding legal assistance for victims of violence grant program to include assistance for victims of dating violence. [Crapo/Craig/Wellstone/Biden].

III. Resolutions

S. Res. 245, designating the Week of May 5 through May 11, 2002 as ''National Occupational Safety and Health Week'' [Durbin/Brownback/Feingold].

S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day'' [Reid/Edwards].

S. Res. 249, a resolution designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans'' [Hatch].

S. Con. Res. 102, a concurrent resolution proclaiming the week of May 4 through May 11, 2002, as ''National Safe Kids Week'' [Dodd].

IV. Committee Business

Committee Resolution to Authorize Antitrust Subpoena.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, April 25, 2002, for a hearing on ''Options to Nursing Homes—Is VA Prepared?''

The hearing will take place in SR–418 of the Russell Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 3:30 p.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m., to conduct an oversight hearing on ''Transit in the 21st Century: Successes and Challenges.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC HEALTH

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on ''Addressing Unmet Needs in Women's Health'' during the session of the Senate on Thursday, April 25, 2002, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent for interns on the floor from the Senate Finance Committee, Darius Marzec, Stephen Seale, and Elliott Langer, be granted floor privileges during the duration of the energy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT—S. 625

Mr. REID. Mr. President, earlier this month, Attorney General Ashcroft announced that the defendant in the case where two women were killed in the Shenandoah National Park will be tried using the Hate Crimes Sentencing Enhancement Act. This is the first time in the history of our country that a Federal murder prosecution will use this provision of the law.

At his press conference announcing the indictments, Attorney General Ashcroft said:

> Criminal acts of hate run counter to what is best in America—our belief in equality and freedom.

He was absolutely right. Americans know that hate crimes injure the victim, the community, and the entire Nation. No one should be attacked simply because of his or her race, religion, gender, physical abilities, or sexual orientation.

As Senator EDWARD KENNEDY has said, until we pass the hate crimes legislation pending before Congress, the promise to aggressively prosecute hate crimes is really an empty promise.

For many years now, we have attempted to pass the hate crimes legislation that Senator KENNEDY and others have introduced. In the fall of 2000, this same bill passed the Senate as an amendment on the Department of Defense authorizations bill. However, despite strong bicameral, bipartisan support, it was stripped out of the conference report, as happens a lot of times.

The need is clear. The support is there. It is time to finish the job we started 2 years ago and pass the Local Law Enforcement Enhancement Act, and pass it quickly.

Therefore, Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of S. 625, the Local Law Enforcement Enhancement Act, and that it be considered under the following limitations: There be 4 hours for debate on the bill, equally divided between the chairman and ranking member of the Judiciary Committee; that each leader, or their designee, be permitted to offer two relevant first-degree amendments; that there be a time limitation of 1 hour for debate on each first-degree amendment; that no second-degree amendments be in order prior to a failed motion to table; that if a second-degree amendment is offered, it be relevant to the first degree and be limited to 30 minutes for debate; that upon the disposition of the amendments, and the use or yielding back of the time on the bill, the bill be read a third time, and the Senate vote on passage of the bill, without any intervening action or debate.

Prior to putting this to the Senate, I simply say, we are going to continually offer this unanimous consent request. This unanimous consent request tonight is not going to be approved tonight, and that is too bad. I wish it could be. We need to move this legislation. It is priority legislation for the Senate and, therefore, for this country.

Now, Mr. President, on behalf of the minority, the Republicans, I object. I explained to them I was going to move this forward. As you know, we have worked very long and hard on a number of different matters, and I indicated that it would not be necessary for a Senator to remain to simply object, as I have. But I do say that I am tremendously disappointed that I have to object on behalf of the minority. It is too bad. But we will revisit this in the near future.

The PRESIDING OFFICER. Objection is heard.

TERRORISM REINSURANCE

Mr. REID. Mr. President, I would like to read into the RECORD a letter that is written to the Honorable TOM DASCHLE, majority leader of the Senate; the Honorable TRENT LOTT, Republican leader of the Senate; the Honorable DENNIS HASTERT, Speaker of the House of Representatives; and the Honorable RICHARD GEPHARDT, House Democratic leader. The letter is dated April 15 of this year.

> DEAR CONGRESSIONAL LEADERS: As a result of the event of September 11th, the nation's property and casualty insurance companies have or will pay out losses that will exceed $35 billion dollars. Since the first of January, many insurance companies, self-insurers and states have been faced with a situation where they are unable to spread the risk that they insure because of the unavailability of reinsurance protection. In the event of another major attack, some companies or perhaps a segment of the industry would face insolvency. While most states have approved a limited exclusion for terrorism with a $25 million deductible, exclusions for workers' compensation coverage are not permitted by statute in any state. The present situation poses a grave risk to the solvency of the insurance industry, state insurance facilities, economic development initiatives, and the ability of our states to recover from impacts of the September 11th attacks.
>
> In the months after the attack on our nation, legislation passed in the House and was introduced in the Senate to create a backstop for the insurance industry so they could continue to provide protection to their customers. The Administration has also supported this concept. Currently, there is broad bi-partisan agreement for providing an insurance backstop. Governors believe this is an important goal that should not be inhibited by other issues.
>
> Since late December, the lack of a financial backstop has started to ripple through the economy and will continue to do so. This will further impact the ability of the economy to recover from the current recession.
>
> As Governors, we are facing many critical issues resulting from the September 11th crisis. The emerging problem in insurance coverage only serves to exacerbate our recovery efforts. In view of this, we the undersigned Governors, respectfully urge the Congress to quickly complete its work on the terrorism reinsurance legislation in order to return stability to U.S. insurance markets.
>
> Sincerely,

The letter is signed by Governor Hodges of the State of South Carolina; Governor Johanns of the State of Nebraska; Governor Patton of the State of Kentucky; Governor Martz of the State of Montana; Governor Siegelman of the State of Alabama; Governor Holden of the State of Missouri; Governor Warner of the State of Virginia; Governor McCallum of the State of Wisconsin; Governor Owens of the State of Colorado; Governor Ryan of the State of Illinois; Governor Geringer of the State of Wyoming; Governor Huckabee of the State of Arkansas; Governor King of the State of Maine; Governor Rowland of the State of Connecticut; Governor Bush of the State of Florida; Governor O'Bannon of the State of Indiana; Governor Taft of the State of Ohio; Governor Swift of the State of Massachusetts.

I have been advised that there are many other Governors who would have signed this letter. But as with all things, sometimes it is difficult to get the signatures from all of those Governors.

I personally have had many conversations regarding this issue. I have had conversations with people in the insurance industry. I have had conversations in my office right across the hall with people in the real estate business. I have had many conversations with people in the financial markets across the country, and people from home, people who want to continue one of the largest construction projects we have had in Nevada. It would be a huge mall. It is already half completed. It is a huge facility that they said they will have to stop construction by the first of June if that is not taken care of.

Senator DODD has worked incredibly hard to put together a bill that resolves this serious problem. The White House wants this bill to get to conference with the House, we are told. As I have indicated, these Governors, Democratic and Republican, have called for this action. I have personally spent a lot of time with the Presiding Officer, junior Senator from Florida, who, prior to coming here, was insurance commissioner of one of the largest States in the Union, and who has a very personal knowledge of the insurance industry. The leader has spoken to the Senator from Florida many times more than I have because we have looked to him for leadership on this issue.

I am prepared to move forward with a unanimous consent request relating to this issue. I will do so. The only question at this time is whether the Republican leader is in the building. I wouldn't want him to come from his residence. If he is not here in a reasonable period of time, I will be notified by staff. I will at that time make the consent request.

UNANIMOUS CONSENT REQUEST—H.R. 3210

Mr. REID. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may turn to the consideration of H.R. 3210, the terrorism insurance bill, and that it be considered under the following limitations: That the Dodd-Sarbanes-Schumer substitute be agreed to for purposes of original text; that there be a time limitation of 3 hours for debate on the bill and 1 hour for debate on each amendment equally divided in the usual form; that the only amendments in order be relevant to terrorism insurance; that in addition to a managers' amendment, the following be the only amendments in order: Senator HOLLINGS, relevant; Senator NELSON of Florida, relevant; Senator WYDEN, relevant; Senator LEAHY, relevant; that Senator LOTT, or his designee, be permitted to offer four first-degree amendments; that relevant second-degree amendments be in order and limited to 30 minutes for debate equally divided in the usual form; that upon the disposition of these amendments and the conclusion or yielding back of debate time, the bill be read a third time and the Senate vote, without any intervening debate, on final passage of the bill.

I would say that I have been advised, and certainly this has been the case in the past, that Senator LOTT, the Republican leader, would offer a counter to this agreement. I would simply say this is how we would like to go forward. This is what we have been asked to have cleared on our side for a long period of time. We have done that. It is cleared on our side.

I think it is a shame that we are not going to be able to get this approved. I believe this is something that is critical to be done. I am disappointed we will not be able to do that.

As I have indicated in relation to the hate crimes unanimous consent request, the Republicans have indicated that if I did offer this tonight, they would object. As I have said, there is absolutely no reason at this late hour that somebody wait because this would have taken an hour or two for them to wait around, and that was not necessary. So on behalf of the minority, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

(Mr. REID assumed the chair.)

TERRORISM REINSURANCE LEGISLATION

Mr. NELSON of Florida. Mr. President, the hour is late, and I am not going to speak but a couple of minutes, just to lay the predicate for the subject that the distinguished Senator from Nevada has just raised, to which the Republican minority has entered an objection—the bill on providing Federal backup for the terrorism risk the insurance industry would assume.

I am assuming that eventually we will get some agreement to bring this legislation to the floor. I want the record to reflect that it is the considered judgment of this Senator, with the experience I have had in my former public service as insurance commissioner of Florida, that there needs to be some considerable tightening of this legislation, and the majority leader and the assistant majority leader have been kind enough to indicate that I will be protected in order to offer one of the amendments.

That amendment would simply be to make sure the rates are frozen on any further rate hike until the actuarial soundness can be determined of what should be the rate with regard to the terrorism risk. The problem for determining that is the fact that there is no data—very little, except for the data we now have from September 11, and that is the only experience we have, save the earlier decade of the nineties and the attempt at bombing the World Trade Center. Therefore, it is very difficult to determine what is an adequate rate. Because it is difficult, it is also easy to jack the rates up sky high.

So that is the burden I will come to the floor to try to address.

If the Republican minority ever releases their objection to this legislation, then we need to perfect this legislation so that the ratepayers, the consumers, are not paying a much higher rate for the terrorism risk than is justified by actuarial soundness.

I thank the assistant majority leader for presiding so I could come down to make this statement. I look forward to working with the leadership on this issue.

I yield the floor.

(Mr. NELSON of Florida assumed the chair).

DESIGNATING APRIL 30, 2002, AS ''DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. Res. 249.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 249) designating April 30, 2002, as ''Dia de los Ninos: Celebrating Young Americans,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, and any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 249

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'' on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and there are, in 2002, approximately 12.3 million Hispanic children in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition of children of the United States will provide an opportunity to children to reflect on their future, to articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as ''Día de los Niños: Celebrating Young Americans''—a day to bring together Latinos and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2002, as ''Día de los Niños: Celebrating Young Americans''; and

(2) requests that the President issue a proclamation calling on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including—

(A) activities that center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) activities that are positive, uplifting, and that help children express their hopes and dreams;

(C) activities that provide opportunities for children of all backgrounds to learn about one another's cultures and share ideas;

(D) activities that include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) activities that provide opportunities for families within a community to get acquainted; and

(F) activities that provide children with the support they need to develop skills and confidence, and find the inner strength—the will and fire of the human spirit—to make their dreams come true.

DESIGNATING THE WEEK OF APRIL 29–MAY 3, 2002, AS ''NATIONAL CHARTER SCHOOLS WEEK''

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 254, submitted earlier today by Senators LIEBERMAN, GREGG, CARPER, and HUTCHINSON of Arkansas.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 254) designating April 29, 2002, through May 3, 2002, as ''National Charter Schools Week,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LIEBERMAN. Mr. President, I am proud to join my colleagues, Senators GREGG, CARPER, HUTCHINSON, and BAYH in introducing this resolution today to salute the success of public charter schools in our country and to designate April 29, 2002 through May 3, 2002, as National Charter Schools Week.

This week also marks the 10th anniversary of the opening of the Nation's first charter school. Since the City Academy in St. Paul, MN, was founded, the idea has been catching on.

From seeing several charter schools up close, I am convinced that they represent one of the most promising engines of education reform in the country today. Charter schools grant educators freedom from top-heavy bureaucracies and their red tape in exchange for a commitment to meet high academic standards. In 1994, I was proud to join my colleague Dave Durenberger of Minnesota as sponsor of the bill authorizing the Federal Charter School Grant Program, which Congress passed with strong bipartisan majorities and which has provided more than $750 million since then for planning, startup and implementation of charter schools.

I also think it's important to note in many cases charter schools are built from the ground up by educational entrepreneurs, teachers, parents and local leaders seeking to reinvent the public school and take it back to the future, reconnecting public education to some of our oldest, most basic values—responsibility, opportunity, community, and refocusing its mission on doing what's best for the child instead of what's best for the system.

The results speak for themselves. Today, over 500,000 students attend more than 2,400 charter schools in 34 States, the District of Columbia, and the Commonwealth of Puerto Rico. And, nationwide charters schools have combined waiting lists long enough to fill another 1,000 schools. Parents and educators in turn have given these programs overwhelmingly very high marks. Growing research shows that charter schools are effectively serving diverse populations, particularly many of the disadvantaged and at-risk children that traditional public schools have struggled to educate.

Despite our achievements to date, we cannot rest on our laurels. We must strive to increase options, and replicate successes. Recently, some skeptics have criticized what they see as a slow down in the growth of charter schools and an increase in the number of schools that have closed. Although the hundreds of families on waiting lists clearly refutes these skeptics, we must rightly maintain our vigilance to ensure that charter schools reach our high academic expectations and demand accountability from those that our failing their students.

Unfortunately in too many cases, charter schools are the victims of poorly drafted charter school laws and inadequate funding. I am pleased that many of the reforms enacted under the recently signed No Child Left Behind Act will further strengthen the academic performance of charter schools and help put them on firmer fiscal footing. Recognizing that greater choice and accountability enhances our public education system, I recently urged all American colleges and universities to create charter schools. Parents are crying out for more high-quality public school options that prepare their children for college, and colleges are perfectly positioned to help.

The most remarkable aspect of the charter movement may be that it has managed to bring together educators, parents, community activists, business leaders and politicians from across the political spectrum in support of a common goal to better educate our children by offering more choice, more grassroots control and more accountability within our public schools. I am proud to salute these growing community efforts throughout our nation, and commend these frontline educational innovations for their commitment to expanding educational options for American families to ensure that all children reach high levels of academic achievement.

Mr. REID. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 254) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 254

Whereas charter schools are public schools authorized by a designated public body and operating on the principles of accountability, parental involvement, choice, and autonomy;

Whereas in exchange for the flexibility and autonomy given to charter schools, they are held accountable by their sponsors for improving student achievement and for their financial and other operations;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico have passed laws authorizing charter schools;

Whereas 37 States, the District of Columbia, and the Commonwealth of Puerto Rico will have received substantial assistance from the Federal Government by the end of the current fiscal year for planning, startup, and implementation of charter schools since their authorization in 1994 under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

Whereas 34 States, the District of Columbia, and the Commonwealth of Puerto Rico are serving more than 500,000 students in more than 2,431 charter schools during the 2001-2002 school year;

Whereas charter schools can be vehicles for improving student academic achievement for the students who attend them, for stimulating change and improvement in all public schools, and for benefiting all public school students;

Whereas charter schools must meet the same Federal student academic achievement accountability requirements as all public schools, and often set higher and additional goals, to ensure that they are of high quality and truly accountable to the public;

Whereas charter schools assess and evaluate students annually and often more frequently, and charter school student academic achievement is directly linked to charter school existence;

Whereas charter schools give parents new freedom to choose their public school, charter schools routinely measure parental approval, and charter schools must prove their ongoing and increasing success to parents, policymakers, and their communities;

Whereas two-thirds of charter schools report having a waiting list, the average size of such a waiting list is nearly one-half of the school's enrollment, and the total number of students on all such waiting lists is enough to fill another 1,000 average-sized charter schools;

Whereas students in charter schools nationwide have similar demographic characteristics as students in all public schools;

Whereas charter schools in many States serve significant numbers of students from families with lower income, minority students, and students with disabilities, and in a majority of charter schools almost half of the students are considered at risk or are former dropouts;

Whereas charter schools have enjoyed broad bipartisan support from the Administration, Congress, State Governors and legislatures, educators, and parents across the Nation; and

Whereas charter schools are laboratories of reform and serve as models of how to educate children as effectively as possible: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 29, 2002, through May 3, 2002, as ''National Charter Schools Week'';

(1) honors the 10th anniversary of the opening of the Nation's first charter school;

(2) acknowledges and commends the charter school movement and charter schools, teachers, parents, and students across the Nation for their ongoing contributions to education and improving and strengthening the Nation's public school system;

(3) supports the goals of National Charter Schools Week, an event sponsored by charter schools and charter school organizations across the Nation and established to recognize the significant impacts, achievements, and innovations of the Nation's charter schools; and

(4) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate programs, ceremonies, and activities to demonstrate support for charter schools in communities throughout the Nation.

ANDEAN TRADE PREFERENCE EXPANSION ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 295, H.R. 3009, the Andean Trade Preference Expansion Act, and send a cloture motion to the desk on the motion to proceed.

The PRESIDING OFFICER. The clerk will report the cloture motion.

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 295, H.R. 3009, the Andean Trade Preference Act:

Max Baucus, Zell Miller, Harry Reid, Tom Carper, Joseph Lieberman, Bob Graham, John Breaux, Blanche L. Lincoln, Ron Wyden, Dianne Feinstein, Ben Nelson, Trent Lott, Charles Grassley, Orrin G. Hatch, Jon Kyl, Rick Santorum, Pat Roberts.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory live quorum under rule XXII be waived and that the vote on cloture on the motion to proceed occur at 6 p.m. on Monday, April 29.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, APRIL 26, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m., Friday, April 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to H.R. 3009, the Andean Trade Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, there will be no rollcall votes tomorrow. The next rollcall vote will occur on Monday at 6 p.m. on the cloture motion on the motion to proceed to the Andean trade bill.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:37 p.m., adjourned until Friday, April 26, 2002, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 25, 2002:

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD M. RUSSELL, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY, VICE ARTHUR BIENENSTOCK.

DEPARTMENT OF STATE

JAMES FRANKLIN JEFFREY, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

MARK SULLIVAN, OF MARYLAND, TO BE UNITED STATES DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE KAREN SHEPHERD, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 25, 2002:

THE JUDICIARY

PERCY ANDERSON, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

JOAN E. LANCASTER, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA.

WILLIAM C. GRIESBACH, OF WISCONSIN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

JOHN F. WALTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

Daily Digest

HIGHLIGHTS

Senate passed H.R. 4, Energy Policy Reform.

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 S3433–35**

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''. **Page S3433**

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. **Page S3397**

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. **Page S3360**

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. **Pages S3360–61**

Bingaman (for Harkin) Amendment No. 3331 (to Amendment No. 2917), to further encourage development of hydrogen refueling infrastructure.

Page S3361

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. **Page S3365**

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. **Page S3361**

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. **Page S3361**

Bingaman (for Baucus) Amendment No. 3350 (to Amendment No. 2917), to modify the credit for the production of electricity to include small irrigation power. **Page S3362**

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.

Page S3362

Bingaman (for Baucus/Grassley) Amendment No. 3352 (to Amendment No. 2917), to modify the incentives for biodiesel. **Page S3362**

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. **Pages S3363–64**

Bingaman (for Hollings) Amendment No. 3356 (to Amendment No. 2917), to apply temporary regulations to certain output contracts. **Page S3364**

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. **Page S3364**

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. **Page S3365**

Murray/Cantwell Amendment No. 3326, to modify the specifications for a fuel cell power plant eligible for the extension of the energy tax credit.

Pages S3381–82

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. **Pages S3342, S3365–71, S3390**

Reid (for Brownback) Modified Amendment No. 3239 (to Amendment No. 2917), to establish a greenhouse gas inventory, reductions registry, and information system. **Pages S3354–57, S3394**

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. **Page S3396**

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. **Page S3396**

Murkowski Amendment No. 3362 (to Amendment No. 2917), to amend the Internal Revenue Code to modify the definition of Rural Airport.

Page S3396

Murkowski Amendment No. 3363 (to Amendment No. 2917), to amend the Internal Revenue Code to exempt small seaplanes from ticket taxes.

Page S3396

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. **Pages S3388, S3396–97**

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. **Page S3390**

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. 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 authorize rural and remote community electrification grants. **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**

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 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. 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.

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. **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, the 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 Immigrations 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. **Page H1667**

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

Committee on Armed Services: Subcommittee on Military Installations and Facilities approved for full Committee action H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Subcommittee on Military Personnel approved for full Committee action H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Subcommittee on Military Readiness approved for full Committee action, as amended, H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

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 — COMMUNITY-BASED LAND MANAGEMENT AND CHARTER FORESTS

Committee on Resources: Subcommittee on Forests and Forest Health held an oversight hearing on Community-Based Land Management and Charter Forests. Testimony was heard from public witnesses.

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.

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.

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1 or more States to waive the renewable fuel content requirement. **Page S3360**

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. **Pages S3360–61**

Bingaman (for Harkin) Amendment No. 3331 (to Amendment No. 2917), to further encourage development of hydrogen refueling infrastructure.

Page S3361

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. **Page S3365**

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. **Page S3361**

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. **Page S3361**

Bingaman (for Baucus) Amendment No. 3350 (to Amendment No. 2917), to modify the credit for the production of electricity to include small irrigation power. **Page S3362**

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.

Page S3362

Bingaman (for Baucus/Grassley) Amendment No. 3352 (to Amendment No. 2917), to modify the incentives for biodiesel. **Page S3362**

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. **Pages S3363–64**

Bingaman (for Hollings) Amendment No. 3356 (to Amendment No. 2917), to apply temporary regulations to certain output contracts. **Page S3364**

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. **Page S3364**

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. **Page S3365**

Murray/Cantwell Amendment No. 3326, to modify the specifications for a fuel cell power plant eligible for the extension of the energy tax credit.

Pages S3381–82

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. **Pages S3342, S3365–71, S3390**

Reid (for Brownback) Modified Amendment No. 3239 (to Amendment No. 2917), to establish a greenhouse gas inventory, reductions registry, and information system. **Pages S3354–57, S3394**

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. **Page S3396**

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. **Page S3396**

Murkowski Amendment No. 3362 (to Amendment No. 2917), to amend the Internal Revenue Code to modify the definition of Rural Airport.

Page S3396

Murkowski Amendment No. 3363 (to Amendment No. 2917), to amend the Internal Revenue Code to exempt small seaplanes from ticket taxes.

Page S3396

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. **Pages S3388, S3396–97**

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. **Page S3390**

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. 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 authorize rural and remote community electrification grants. **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**

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 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. 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.

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. **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, the 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 Immigrations 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. **Page H1667**

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

Committee on Armed Services: Subcommittee on Military Installations and Facilities approved for full Committee action H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Subcommittee on Military Personnel approved for full Committee action H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

NATIONAL DEFENSE AUTHORIZATION ACT

Committee on Armed Services: Subcommittee on Military Readiness approved for full Committee action, as amended, H.R. 4546, National Defense Authorization Act for Fiscal Year 2003.

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 — COMMUNITY-BASED LAND MANAGEMENT AND CHARTER FORESTS

Committee on Resources: Subcommittee on Forests and Forest Health held an oversight hearing on Community-Based Land Management and Charter Forests. Testimony was heard from public witnesses.

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.

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.

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