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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, January 27, 2003, at 2 p.m.

Senate

TUESDAY, JANUARY 21, 2003

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Senate will be led in prayer this morning by the Chaplain of the House of Representatives, Father Daniel Coughlin.

PRAYER

The guest Chaplain, Father Daniel Coughlin, offered the following prayer:

All powerful God and Father of all the living, yesterday's holiday brought to mind the wise words of Rabbi Abraham Heschal:

Martin Luther King Jr. is a voice, a vision and a way. I call upon every Jew to hearken to his voice, to share his vision, to follow in his way. The whole future of America will depend on the impact and influence of Dr. King.

Today in this awesome Chamber I call upon Americans of all faiths to join in praying for the Members of the Senate as they face the future of America. Together let us continue to hearken to his voice, share his vision, and follow in his way. By Your grace may Dr. King's dream for America become a reality.

In these troublesome times, awaken in the soul of this country the lasting political implications of religious beliefs. Encircle us with Your light that we may be unafraid to address the racism, militarism, and materialism etched in routine structures of our day—and so become truly free at last. As Your free children lead us to seek first Your kingdom and justice for all our brothers and sisters, proud to be one Nation under God now and forever. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT PRO TEMPORE 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. CORNYN). The assistant majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. This morning there will be a period for morning business not to extend beyond the hour of 10:30 a.m., with the time equally divided in the usual form. At 10:30, the Senate will then resume consideration of H.J. Res. 2, the appropriations bill. I understand there are several Members on the other side of the aisle who intend to offer their amendments to the appropriations measure during Tuesday's session.

In addition to considering further amendments to the appropriations measure, it is the majority leader's hope that on Tuesday the Senate will consider the nomination of Tom Ridge to be Secretary of Homeland Security. I believe some Members have indicated their desire to speak in regard to that nomination. A rollcall vote is anticipated.

At the hour of 5:15, the Senate will vote on S. 121, the AMBER Alert bill. This will be the first vote of today's session. Additional votes are expected during today.

As a reminder, Senators have until 6 p.m. today to file their first-degree amendments to the appropriations bill.

Finally, I announce to Members that they should expect busy sessions each day this week in the hopes of completing action on the appropriations bill.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, if I could direct a couple of questions to the distinguished Senator from Kentucky, we have a number of people, as on my colleague's side I am sure, who are catching planes and getting back after the Martin Luther King holiday. Does the leader have any idea how late he wants to stay in today?

Mr. MCCONNELL. I have not spoken with him this morning, but my assumption is we would like to make as much progress as we can toward completing the bill. Obviously, the longer we remain on this bill, the less opportunity we have to move ahead with the work of the year in which we find ourselves. As the Senator knows, we are still wrapping up last year's work.

Mr. REID. We have one Senator coming to offer an amendment at 10:30. We have another Senator coming at 11:30 or quarter to 12. We are going to try to move as many amendments as we can today, and hopefully the Senators will agree on both sides that we could have votes on those matters this evening. So

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

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we will do the best we can to keep things moving.

If the Senator can give us some idea as to how late the Senate leader wants to go this evening, it would be appreciated.

Mr. MCCONNELL. I say to my friend from Nevada, I am sure that later in the day we will be able to provide some further information on that matter.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with the time to be equally divided in the usual form.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask that the time be charged equally against both sides.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

The minority whip.

MARTIN LUTHER KING BIRTHDAY AND CIVIL RIGHTS

Mr. REID. Mr. President, last night my wife and I watched the replaying of the speech of Dr. Martin Luther King on CNN. The speech lasted 17 minutes. No matter how many times I watch the speech, I am so impressed with the message this man delivered. That is why I was stunned today, in getting the Congressional News Briefing, to see what the present President, President Bush, has done to undermine the unity and harmony of our society.

I quote:

> Bush Revives House Participation in Confederate Memorial Ceremony. Last Memorial Day, for the second year in a row, Bush's White House sent a floral wreath to the Confederate Memorial. . . . Bush has quietly reinstated a tradition dating back to Woodrow Wilson that his father had halted in 1990. . . . The current Bush White House denies any change in policy. Time adds that one of the organizations connected to the ceremony is the Sons of Confederate Veterans, whose Chief Aide-de-Camp is Richard T. Hines, a politically active lobbyist from South Carolina. In that State's brutal 2000 Republican primary, Hines reportedly helped finance tens of thousands of letters blasting Bush rival Senator John McCain for failing to support the flying of the Confederate flag over the state capitol.

This repayment of political debt that the President has in South Carolina is certainly something that flies in the face of what America is all about. It certainly flies in the face of what leaders of the administration says they are trying to do.

Yesterday we celebrated a national holiday, the birthday of a great American, Dr. King. This year in particular, with controversy over remarks and votes related to issues of race having affected the Senate itself, it is important that we reflect on the life, legacy, and message of Dr. King and that we assess the Nation's progress in achieving the goals he articulated. Dr. King shared with us his dream for American society, that Blacks, Latinos, Native Americans, and other minorities would have equal opportunity to achieve and to contribute.

We are closer to that place in time because of the efforts and accomplishments of Dr. King and others who made sacrifices and confronted enormous obstacles to make life better, not only for African Americans but all Americans.

America has made strides in improving the status of ethnic and racial minorities, but I am concerned that the policies that the current administration is pursuing would set us back.

Dr. King is one of the main reasons that little girls, young ladies, teenagers, and women in college can participate in athletics. Title IX is civil rights legislation and a direct result of the activities of Dr. King. Is Title IX an affirmative action program? Of course it is. Young women should have the opportunity to participate in athletics just as young men have had. Until we passed a Federal law, an affirmative action law, that was not possible. Now, tens of millions of young women participate in athletics. They have opportunities to build their character as young men have had for hundreds of years. Now women can participate in athletics.

I was disappointed we had to work this week because I was looking forward to watching my granddaughter Savannah play basketball this week. She is good. She leads her team in scoring. I have not been able to watch her play. She is 10 years old, and in her first game she scored 12 of the 22 points her team scored. I was looking forward to watching her play. I am told she is really good. In just a couple of years this little girl will be able to participate in high school athletics, which did not happen in my generation. The only athletics my granddaughters could participate in, if they were my age, and even younger than I, would be cheerleadering. Now she can be a basketball player, soccer player, and participate in track events. That is the way it should be.

We have made great strides in improving the status of minorities, as well as women. That is the way it should be. We must continue to move forward to build on the foundation Dr. King helped establish.

But unfortunately the administration is blocking progress by pursuing policies that limit opportunity. One example is this administration's filing a brief in the Supreme Court opposing the ability of the University of Michigan to have a diverse class of students.

The University of Michigan admissions system is not about quotas. It is about improving the educational experience for all students. This takes into account not only race and ethnic background but many other factors. Athletes and others with talents the school finds desirable are given extra points in the admission process. The administration did not oppose Michigan and other university programs where they give bonuses to alumni, where they give bonuses to athletics. No one opposes that. If you are trying to develop and establish a diverse class of students at a university, they oppose it. This is wrong. Diversity is a good thing, and it does not happen automatically but requires progressive policies. The administration is flat-out wrong to oppose this.

The administration is also wrong in continuing to nominate judges whose records reveal a pattern of insensitivity to racial issues. I have encouraged the President, as have many others, to protect the environment. Apparently though, the only recycling he favors is recycling of rejected and flawed judicial nominees.

What about DC statehood? We have young men and women who live in the District of Columbia, who are now in the Persian Gulf getting ready to go to war—people are being called up, being called upon to put their life on the line for their country—but they cannot vote for a Member of Congress, they do not have their own Senators. We should have statehood. If you are part of a sovereign nation—for example, the Pyramid Lake Piute Tribe in Nevada, they can vote for me, against me, but the District of Columbia does not have that opportunity. Residents of the District of Columbia pay taxes, they serve our country, but they do not have representation in Congress by a Member who has a right to vote on a substantive issue. They have a Member of Congress who only can sit in committees. If this administration feels so strongly about affirmative action, about fairness, diversity, let them come forward and support DC statehood.

And consider the quality of education that children receive. Most minority students in America still attend schools that are predominantly minority. On average, they are in large classes, have older books, receive less challenging lessons, and their teachers

have less training. To continue to improve the quality of education for all Americans, we should raise the standards in our schools. We need the administration to step forward on Leave No Child Behind, and do it by helping to fund the program mandated for schools all over America. Not to take care of unfunded mandates is wrong; the administration should fund those mandates.

Our Nation's efforts to recover from September 11 remind us that we become a stronger America by working together. So we must join together and continue fighting to make sure all Americans enjoy equal opportunities for justice, quality education, and economic prosperity.

In 2003, it is not enough to quote Dr. Martin Luther King, or to say the right thing, or avoid saying the wrong thing. Actions speak louder than words, even words as powerful as Dr. King's. We remember him as an articulate speaker. It was his actions, his nonviolent actions of organizing, educating, motivating, and demonstrating, that achieved results. If we are truly to honor Dr. King, and, more importantly, if we are fully motivated to improve race relations in our great country, if we want America to live up to its democratic ideals and all our people to have equal opportunity, freedom, justice, prosperity, and peace, we must pass civil rights legislation and fund programs that help level the playing field and appoint judges whose records show a commitment to tolerance and fairness.

The record of the Democratic Party is one we can be proud of. It shows a longstanding commitment to civil rights, to fairness. Democrats recognize we must take additional steps to advance civil rights for all Americans. That is why we Democrats in the Senate have a package of civil rights, known as Equal Rights and Equal Dignity for Americans. Our comprehensive legislation includes measures to expand hate crimes protections. Let the Republicans come forward and stop barring us from passing that. We have legislation to strengthen enforcement of existing civil rights laws. Let them move across the aisle and help.

We must support legislation giving legal representation to indigent Americans. We must stop racial profiling. That is what our legislation does. It addresses pay inequities between men and women, protecting individuals against discrimination; it prohibits employment discrimination based on sexual orientation; and our legislation prohibits military and civilian personnel from collecting information about U.S. citizens. We must fully fund election reforms that we passed last year. This is an agenda that is important, it is good, and it should pass.

We ask the Republicans to step forward and help repudiate, condemn, and oppose something as racially motivated, obviously, as that reported in Time magazine, the President's reinstatement of something that his father stopped because it was wrong—laying a wreath at the Confederate Memorial. It is wrong. We need to speak out against it because it is wrong.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, Senator EDWARDS is here and has an amendment to offer. We told the majority leader on Friday we would be here at 10:30 to offer the amendment. Senator EDWARDS will not offer the amendment until we have someone who is here from the other side, but he is going to start talking about his amendment. We hope that is OK with everyone.

What is the business now before the Senate?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.J. Res. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 2) making further continuing appropriations for the fiscal year 2003, and for other purposes.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 67

Mr. EDWARDS. Mr. President, this morning I will be offering an amendment, together with Senator LIEBERMAN, Senator JEFFORDS, Senator CLINTON, and Senator REID, all of whom have worked very hard on this amendment.

This amendment is about doing a very simple thing: it is about keeping our air clean so that kids won't have asthma attacks and so seniors won't have heart attacks and so Americans won't lose their lives before their time. For months the administration has talked about massive changes in clean air protections and for months Senators on both sides of the aisle have said to the administration: Before you go through with these changes, would you please tell us in detail how these changes are going to affect our families? In other words, would you please look before you leap?

We have been asking that question for months, and for months the administration has refused to answer. On November 22, they went ahead with their massive changes without telling us how it was going to affect the health of the American people.

I believe the administration does not want to share these facts because they are afraid of what the facts will show. They are afraid people will see what their rule changes will do. When you study these rules, when you listen to the experts, you will see that they will make our air dirtier. These rules will add more soot to our cities and more smog to our national parks. At the end of the day, these rules will allow more kids to get asthma attacks, more seniors to have heart problems which land them in the emergency room, and more people will lose their lives prematurely.

This amendment is a very modest response to these proposed changes. It does not block the rules forever. It does not put them off for years. It just says let's put these rules off for about 6 months and use that time to determine how these changes will affect human health, how they will affect kids with asthma, senior citizens with cardiorespiratory problems. It seems to be a perfectly reasonable thing to do. I hope my colleagues will support the amendment.

We are saying let's get a study from the nonpartisan, completely respected National Academy of Sciences. That is all we are talking about: 6-month delay to look at these changes to see, before they go into effect, what effect they will have on the health of the American people.

The science of pollution is completely clear. Pollution causes heart and lung problems. It aggravates asthma. It causes the smog that ruins the view in our Nation's parks. It causes premature deaths.

According to Abt Associates, a nonpartisan research group, just 51 powerplants are responsible for more than 5,500 deaths every year, for over 106,000 asthma attacks, and for costs to our economy of between $31 billion and $49 billion. That is only 51 powerplants. If you did the same study of other industries, the numbers would go up dramatically.

North Carolina has some of the worst pollution in the country. According to Dr. Clay Ballantine, a physician in Asheville in western North Carolina, just living and breathing in western North Carolina costs 1 to 3 years off the average life of a person. The UNC School of Public Health, found that in many of our counties 3 in 10 kids have asthma, which is three times the national average.

Just walking in the Great Smoky Mountains is as bad for your lungs as breathing in many big cities. When the head of the EPA, Christie Todd Whitman, visited the Great Smokies last Fourth of July, she could barely see 15 miles at a place where you used to be able to see 75 to 100 miles. So clean air is a huge priority. It is important for our kids, for seniors, and for our parks.

This administration has made radical changes in the regulations under the

Clean Air Act. This is about a program called New Source Review or NSR. The basic idea of NSR is simple. Under the Clean Air Act, if someone builds a new factory, the new factory has to have state-of-the-art equipment to prevent pollution, but there is a special deal for factories that were built before 1977. Those factories don't need to install new pollution controls unless and until their toxic emissions go up by a significant amount. Only when that happens does the plant have to install these new controls that others have to meet instantly. This is what the New Source Review is all about.

There is no question—and all of us believe—that reforming NSR is a good idea. We ought to do two things: One, we ought to cut red tape, which is a problem; two, we ought to cut pollution.

Under Carol Browner, EPA Administrator in the Clinton administration, positive work was done in that direction. But the debate today is not about those kinds of reasonable and sensible reforms that are in the best interest of the American people. This debate is about this administration's package.

There are several glaring problems with that package. First, the administration developed these rules through a series of secret consultations with executives from power and oil companies. It would not have been so bad if the administration had also been talking secretly to regular patients and kids and doctors about what effect these changes in the rules would have on their lives and their health. But there is no evidence they did that. Instead, the administration focused on one side and favored that side in the changes they made in the rules.

The second problem is this administration has never explained in any serious way whether these changes will in fact harm human health, whether they will cause more pollution, more asthma, or more premature deaths. For months we have asked for a serious qualitative study, and for months we have not received that study.

Let me go through a short timetable. On July 16, 2002, at a joint hearing of the Environmental Committee and the Judiciary Committee, both Senator JEFFORDS and I asked Jeff Holmstead, the EPA's top clean air official, whether he could quantify the effects of this proposal on a human level. He could not do it then, and the best I can tell, he has not tried to do it since.

On August 1, 2002, 44 Senators signed a bipartisan letter to EPA which asks the EPA to conduct a rigorous analysis of the air pollution and public health impact of the proposed rule changes. Again, they didn't do it.

On September 3, 2002, I again asked Mr. Holmstead for an analysis of EPA's proposals. Mr. Holmstead had no new analysis. Instead, he pointed back to an analysis that had been done 6 years earlier during the Clinton administration—a different set of proposals, a different analysis.

The head of the EPA, 6 years ago, Carol Browner, who testified at the hearing, said the old study proved nothing. But when I asked Mr. Holmstead if EPA would simply hold off on the new rules until we had a real study on the effect that these new rules would have on the health of the American people, he said no.

On November 22, 2002, the administration just went ahead, finalized the rules without giving any credible evidence on what impact this would have on human health.

So what we are saying is not complicated. We are saying: Should we not look before we leap, before we change rules that can affect the most basic protection for our kids and our families and our parks? Should we not at least do an analysis of what impact it is going to have on kids and families and our environment and our parks?

The administration's answer is no. Let's go ahead. I believe that is their answer because they don't want to know the truth because they are afraid of what the truth will be.

If you look at these rules, which I have and others have, it is clear that they will hurt people. Time after time this administration has twisted proposals made under the Clinton administration to allow more pollution.

Here is what Ms. Browner said:

> The current administration's recent announcement of final changes to the New Source Review Program abandons the promise of the Clean Air Act—steady air quality improvements. [These rules] will allow the air to become dirtier.

Let me repeat that: These rules ''will allow the air to become dirtier.'' And that means they will allow our kids and our seniors to get sicker, to die sooner. That is what we are talking about. It is very basic and fundamental.

Let me give two examples of what these rules will do:

First, the rules change the way pollution levels are calculated. Under the new source review, a factory has to clean up only if it increases its pollution level. It matters a lot how we measure the factory's initial pollution level, what's called the ''baseline.''

Up to now, the rule has been that the baseline is the average for the last 2 years—that is the basis on which we determine whether there has been an increase in pollution—unless the company can prove another period is more representative of recent emissions. But the basic rule has been that you establish the baseline by looking at the last 2 years. That makes sense.

What this administration proposes doing makes no sense. What they are saying is instead of using the last 2 years, we let the factory choose any 2 years out of the last 10. So instead of looking at the last 2 years as a baseline to determine whether emissions have gone up, what they are saying is we are going to let the factory choose any 2 years in the previous 10 in order to determine whether emissions have gone up.

So even if the reality is that their pollution level is quite low right now, they get to go back a decade and say that pollution is high.

They can even take emissions from accidents and malfunctions and use those to inflate their baseline. And because they can make pollution 10 years ago look like pollution today, they can pollute even more without cleaning up.

You don't have to take my word for it. According to internal documents, career staff at the EPA said that this change would ''significantly diminish the scope'' of the New Source Review. A study by the Environmental Integrity Project found that at just two facilities, the new rules would allow over 120 tons of the pollution into the air. The National Association of State and Local Air Regulators says that this change ''provides yet another opportunity for new emissions to avoid NSR.'' So the bottom line is more pollution.

Here is a second example. The new rules contain something called a ''Clean Unit'' exemption. In theory, the exemption should give companies an incentive to clean up by giving them benefits if they install state-of-the-art technology. It is a perfectly good idea. But this administration has provided an exemption as long as the company installed new equipment anytime during the last 10 years. In other words, if a company did something good in 1994, they get a free pass to increase pollution in 2003, 9 years later.

Again, this makes no sense. Again, it will increase pollution. Again, here is what the State and local air commissioners said. This rule ''would substantially weaken the environmental protections offered by the NSR program.''

Now, when it comes to the effects of these rules, it is true that the State administrators could be wrong. The career officials at EPA could be wrong. I could be wrong. We could all be wrong. The rules could be OK.

But even if we are all wrong—and I do not believe we are—shouldn't we get the whole story and get a real answer to the question before putting our kids and our seniors at risk?

Six months is not a long time to wait in order to get the whole story. It is far better to wait 6 months than to say to this administration, go ahead, roll the dice. It is OK. We are willing to put the lives of our children and seniors at risk, and we are willing to let this rule go into effect even though we do not know what effect it is going to have on the health of our seniors and children.

Let me talk for a minute about the broad opposition to these rules.

This administration likes to talk about State flexibility, but these regulations take flexibility away from the States and forces some States to lower their protections.

Again, this is the view of the State experts:

> The revised requirements go beyond even what industry requested. . . . Because the reforms are mandatory, they will impede, or

even preclude, the ability of States and localities all across the country to protect the air.

Although our associations believe NSR can be improved. . . . We firmly believe the controversial reforms EPA is putting in place . . . will result in unchecked emission increases that will degrade our air quality and endanger public health.

That is the States. Now listen to the doctors. Over a thousand doctors from all across the country have urged this administration not to go ahead with these final rules. These doctors see the effects of air pollution every day in their practices and in the emergency rooms, and they warned that ''it is irresponsible for the EPA to move forward in finalizing new regulations that could have a negative impact on human health.''

This is not a partisan issue. The State air quality folks are not partisans. The local air quality folks are not partisans. And then there's Republicans for Environmental Protection, a group to which 12 past or present former Republican Members of Congress are connected. Republicans for Environmental Protection recently wrote a letter supporting my amendment.

They wrote that ''a reasonable delay (of the rules) is necessary in order to allow independent researchers to investigate how the New Source Review revisions would affect emissions and the resulting impacts on public health.'' So Republicans support this amendment as well.

We will hear people say that protecting the air is too expensive. But at the 51 power plants I mentioned earlier, premature deaths and asthma attacks cost our country over $30 billion each year. The costs of cleaning the air are a small fraction of that amount. So clean air not only saves lives; it also saves money.

Finally, I want to be very clear about what this amendment does and does not do. This amendment delays by 6 months the effective date for the final rules on the New Source Review that this administration has already announced. This amendment does not touch the proposed rules regarding so-called ''routine maintenance.''

Now, speaking for myself, Senator LIEBERMAN and Senator JEFFORDS, all of whom have worked very hard on this amendment, we understand the importance of new rulemaking on the definition of ''routine maintenance.'' We understand that reform of this definition is underway to allow for greater certainty for the electric industry. It is a good idea. We are not doing anything in this amendment that affects in any way the proposed rulemaking on ''routine maintenance.'' In fact, we believe it is appropriate to take public comment in the rulemaking in order to develop a rule that promotes energy efficiency, without—and I emphasize ''without''—allowing the air to become dirtier. A bipartisan group in this chamber has expressed support for EPA proceeding with a rulemaking that ''protects human health and the environment while providing regulatory certainty for the electric utility industry and other industries.'' We respect their concerns on this issue.

This amendment is about final rules. It is a very modest amendment. It would delay these rules by about 6 months while we get an honest, nonpartisan study of what these rules will do to our kids' health and the environment. It will protect our kids from asthma, our seniors from heart problems, our parks from smog. This amendment will make sure we look before we leap. I urge my colleagues on both sides of the aisle to support this amendment.

I ask unanimous consent that the following documents be printed in the RECORD following this statement:

Letter from 44 Senators, dated August 1, requesting an analysis of the new rules;

Letter from Physicians for Social Responsibility, dated September 27, opposing the rule changes;

Letter from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officers, dated January 16 of this year, requesting a delay in the rule changes; and

Letter from the Republicans for Environmental Protection, dated January 17, 2003, requesting a delay in the rule changes.

There being no objection, the following letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC.

Hon. CHRISTINE WHITMAN,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR WHITMAN: The Clean Air Act is a vital took for protecting the Nation's health and environment, including our National Parks. With mounting medical evidence that air pollution causes asthma attacks, cardiopulmonary disease, and premature death—particularly among children and the elderly—we need to strengthen clean air protections whenever possible.

Given our strong commitment to protecting Americans' health, we believe that the changes you announced on June 13, 2002 to the Clean Air Act's ''New Source Review'' are extremely troubling. On their face, many of these changes to NSR—for example, giving factories greater leeway to choose how their pollution is measured—appear likely to increase pollution levels. Unsurprisingly, the states' air pollution control administrators have expressed concerns that the new regulations will make it more difficult for the states to attain national clean air standards. Yet as Assistant Administrator Jeffrey Holmstead admitted at a recent hearing, EPA now plans to make these changes without having conducted a full analysis of their impact on air quality and public health, and without providing a full opportunity for public notice and comment on the changes EPA is now proposing.

While EPA should be free to pursue thoughtful changes to New Source Review that reduce regulatory burdens while strengthening public health protection, we see no reason to believe that the proposed changes adequately protect air quality. In fact, because the specific changes proposed have not been subject to careful study and full public comment, we have serious concerns that the changes could allow more air pollution—causing more asthma, more heart and lung problems, and more premature deaths.

We therefore ask that, before finalizing any of these changes, EPA conduct a rigorous analysis of the air pollution and public health impacts of the proposed rule changes and give the public full opportunity to comment on these changes. As we are sure you agree, EPA should not finalize a rule that allows increased air pollution or undercuts the health of any of America's children or seniors. In the meantime, until the law is changed, we ask your continued commitment to enforce the Clean Air Act as it is written.

Sincerely,

John Edwards, Jim Jeffords, Joseph Lieberman, Tom Daschle, Susan Collins, Dick Durbin, Chris Dodd, Charles Schumer, Daniel K. Inouye, Joe Biden, John F. Kerry, Paul Wellstone, Tom Harkin, Russell D. Feingold, Hillary Rodham Clinton, Ted Kennedy, Jack Reed, Robert G. Torricelli, Max Baucus, Harry Reid, Patrick Leahy, Ron Wyden, Patty Murray, Daniel K. Akaka.

Fritz Hollings, Bill Nelson, Barbara Boxer, Maria Cantwell, Jean Carnahan, Debbie Stabenow, Mark Dayton, Barbara Mikulski, Paul S. Sarbanes, Bob Graham, Herb Kohl, Jon Corzine, Max Cleland, Jeff Bingaman, Carl Levin, Dianne Feinstein, Lincoln Chafee, Tim Johnson, Olympia Snowe, Tom Carper.

PHYSICIANS FOR SOCIAL RESPONSIBILITY®,
Washington, DC, September 27, 2002.

Mr. JOHN GRAHAM,
Director, Office of Information and Regulatory Affairs, Office of Management and Budget, The White House, Washington, DC.

DEAR MR. GRAHAM: As concerned doctors, nurses, and public health professionals, we view the health mission of the Clean Air Act as one of EPA's most important initiatives. We are therefore writing to express our concern about EPA's proposed changes to the New Source Review (NSR) program. This program regulates emissions from new and modified power plants, pulp and paper mills, refineries and other industrial plants.

For more than a decade, NSR has proved to be an effective took in bringing polluting industrial facilities into compliance with the law and cleaning up the air that we breathe. The EPA has recently proposed changes to the NSR program that will likely cause the amount of pollution in our air to increase. EPA plans to move forward with these changes to NSR without first determining how they will impact health or the environment. Three separate Senate Committees as well as public health and environmental advocacy groups have requested these studies to no avail. Without evidence that the proposed changes will actually improve air quality, thereby doing no harm, it is irresponsible for the EPA to move forward in finalizing new regulations that could have a negative impact on human health.

Pollution from power plants and other plants regulated under NSR touches the lives of millions of Americans across the nation. This pollution is harmful to human health and sends thousands of individuals to hospital emergency rooms each month. Study after study shows a link between exposure to air pollution and health conditions such as respiratory diseases, asthma attacks, cardiopulmonary disease, cancer, and even death.

No changes to NSR should occur without the public being provided with a comprehensive analysis demonstrating that the proposed changes to NSR will improve air quality and human health. In addition the public, especially the public health community, must have the opportunity to comment on the analysis and the resulting changes to NSR before any changes are finalized. We urge you to put the health of Americans first by upholding NSR provisions that are protective of public health.

Sincerely,

Hans Tschersich, Kodiak, AK.
Helena Zimmerman, Juneau, AK.
Claude Baldwin, Jr., Hunstville, AL.
Anna-Laura Cook, Northport, AL.
David Reynolds, Birmingham, AL.
Bettina Bickel, Glendale, AZ.
Kenley Donaldson, Casa Grande, AZ.
Sara Gibson, Flagstaff, AZ.
William Martin, Tucson, AZ.
Ardyth Norem, Rio Verde, AZ.
Eric Ossowski, Scottsdale, AZ.
Jen Schaffer, Flagstaff, AZ.
Kamal Abu-Shamsieh, Pasadena, CA.
Sara Acree, Alhambra, CA.
David Adelson, Venice, CA.
Jacob Adelstone, Van Nuys, CA.
Felix Aguilar, Long Beach, CA.
Fereshteh Ajdari, Culver City, CA.
Wayne and Sonia Aller, Granada Hills, CA.
Rodolfo Alvarez, Santa Monica, CA.
Frances Amella, San Francisco, CA.
Selene Anema, San Luis Obispo, CA.
Ruben Aronin, Los Angeles, CA.
Misha Askren, Los Angeles, CA.
Annie Azzariti, Santa Monica, CA.
K. Bandell, Norwalk, CA.
Morris Barnert, Palos Verdes Estates, CA.
Barbara Beatty, Berkeley, CA.

STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS,
ASSOCIATION OF LOCAL AIR POLLUTION CONTROL OFFICIALS,
Washington, DC, January 16, 2003.

Hon. CHRISTINE TODD WHITMAN,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR GOVERNOR WHITMAN: As you are aware, the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) have serious concerns with the U.S. Environmental Protection Agency's (EPA's) recently promulgated final rule affecting changes to the New Source Review (NSR) program (67 Federal Register 80186), and with the adverse impact these changes would likely have on the ability of states and localities to achieve and sustain clean, healthful air. These concerns are further compounded by the fact that, for a number of states across the country, the revised NSR program is scheduled to take effect on March 3, 2003. Accordingly, we write to you today, on behalf of STAPPA and ALAPCO, to request that EPA extend by one year the effective date of the final NSR rule revisions. We make this urgent request for several important reasons.

The regulatory changes to the NSR program are not only lengthy and far reaching, but also highly complex and controversial. States that implement the NSR program through their State Implementation Plan are allowed three years in which to revise their plans for the new program. However, in 13 states across the nation, EPA has delegated authority for the federal rules to state and local permitting authorities; in these ''delegated'' states, the revised NSR program, which was published by EPA on December 31, 2002, must be implemented by March 3, 2003. State and local air pollution control agencies have been working vigorously to study the new rule; however, gaining full command of the many intricacies of the regulation, as well as a complete understanding of the impacts and implications, will take time and, we firmly believe, cannot be accomplished in the next 45 days.

Further, although the text of the rule revisions has been published in the Federal Register, EPA has not yet developed or made available to state and local agencies the complex text of the federal rule, as revised by the recent changes. Moreover, EPA has not yet provided, or even scheduled, training opportunities for states and localities, nor has the agency developed any guidance on key aspects of the revised rule. In fact, it is our understanding that EPA regional office staff—with whom states and localities must work to revise and update delegation agreements—has not yet received training on the new rules from EPA headquarters.

STAPPA and ALAPCO understand that EPA would like to make the final rule available to industry as soon as possible. We are deeply concerned, however, that a rush to implement the new rule will result in serious consequences that will disbenefit state and local implementing agencies, EPA, the regulated community and citizens alike.

The March 3, 2003 effective date simply does not allow sufficient time for delegated state and local agencies to prepare for and execute effective implementation of the new NSR rule. Accordingly, STAPPA and ALAPCO urge that you take immediate action to extend the effective date of this new program by one year, in order to allow time for EPA development of guidance and training and for the necessary state and local efforts involved in updating delegation. If you have any questions, please contact either of us or Bill Becker, Executive Director of STAPPA and ALAPCO, at (202) 624–7864.

Sincerely,

LLOYD L. EAGAN,
STAPPA President.
ELLEN GARVEY,
ALAPCO President.

JANUARY 17, 2003.

DEAR SENATOR: REP America, the national grassroots organization of Republicans for environmental protection, respectfully requests your vote in favor of Senator Edwards' amendment to the omnibus appropriations bill, which would delay implementation of New Source Review rule revisions and require the administration to conduct a National Academy of Sciences study of the rule revisions' health impacts.

We believe a reasonable delay is necessary in order to allow independent researchers to investigate how the New Source Review revisions would affect emissions and the resulting impacts on public health. We are greatly concerned that the administration is rushing to change the rules before the public and their elected representatives have had a chance to fully understand the impacts.

More than 170 million Americans live in areas with unhealthy air quality. Ozone pollution is a serious public health problem. The interests of children, senior citizens, and others who are particularly sensitive to air pollution deserve greater consideration before rule changes are implemented that could drive up unhealthy emissions.

Please vote for the Edwards amendment so that the federal government can make better informed decisions on a critical public health issue.

Thank you.

Sincerely,

MARTHA A. MARKS,
President.

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. EDWARDS], for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, and Mr. REID, proposes an amendment numbered 67.

Mr. EDWARDS. 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 require a study of the final rule relating to prevention of significant deterioration and nonattainment new source review to determine the effects of the final rule on air pollution and human health)

At the appropriate place, insert the following:

SEC. . NEW SOURCE REVIEW FINAL RULE.

(a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to determine, not later than September 1, 2003, whether and to what extent the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002), would allow or could result in—

(1) any increase in air pollution (in the aggregate or at any specific site); or

(2) any adverse effect on human health.

(b) DELAYED EFFECTIVE DATE.—The final rule described in subsection (a) shall not take effect before September 15, 2003.

Mr. LIEBERMAN. Mr. President, I rise today to ask my colleagues to restore a little sanity to our Nation's clean air policy. For the past 2 years, I have joined my colleagues on the Environment and Public Works Committee in requesting an analysis of the health impacts of the administration's New Source Review rules. We have asked through letters, through committee questions, through oral questions at hearings. Yet our requests fell on deaf ears, or shall I say on dead air, and the EPA finalized the rules without conducting any careful analysis.

That is why today I join Senator EDWARDS in offering this amendment—one that I call the ''look before you leap'' amendment. All we do in this amendment is delay the effective date of the final rules for less than 7 months, during which time we commission a NAS study to evaluate the effects of the rules on air emissions and human health. In just 7 months, depending on the outcome of those objective, scientific studies, we could prevent serious potential damage to our environment and to public health.

What the Bush administration is proposing is not, as some in the administration might suggest, a nip-and-tuck. It's not a few technical rule changes. It is a significant change in our clean air policy. The administration is introducing new, more permissive rules for measuring whether a facility meets clean air requirements. In Congressional testimony, the EPA admitted that fully 50 percent of the facilities that are now subject to the Clean Air Act's technology requirements would fall out of those requirements under the rule changes.

When I hear that, I cannot believe there will be no health impacts. If literally half the sources are no longer subject to these provisions of the government's main clean air law, how can the air get anything but dirtier? Then I look at recent studies commissioned by the Rockefeller Family Fund and prepared by Abt Associates—the EPA's own consultant—that show emissions will increase as a result of the new regulations.

Based on the bulk of the evidence, it is counterintuitive and I think illogical for the EPA to claim—over and over again—that their new rules will do no damage to the environment. Then again, the EPA never offers any proof of this claim, so perhaps we are expected to accept in on faith.

This amendment will give us the answer. We no longer will have to argue back and forth—the study being commissioned by the National Academies will give us the facts. And we don't have to wait long. Less than 7 months, and then we can go forward with the rules knowing what their impacts will be. If the study shows significant environmental harm, and the majority of this body still wants them to be adopted, then so be it. But at least we made an informed choice.

Anyone in this Senate who has bought a house has toured the house before putting their money down. They've gotten an appraisal. They've conducted an inspection. Well, we're on the brink of buying a new set of rules here that we will have to live with for many, many years. I don't think we want to close our eyes, close our ears, cross our fingers and hope for the best. Ignorance is not bliss. Ignorance is remiss.

This amendment also brings a benefit for the states. Just last week, STAPPA–ALAPCO—the organization of state and local air regulators—wrote to Administrator Whitman asking for a 1-year delay in the rules. They had already written to complain about the air impacts of the rules, but this letter was different—it aimed at the administrative knots in which the states are being placed by the new regulations.

You see, these rules are not optional for States—they are being shoved down their throats. And for the 12 States and the District of Columbia that implement the New Source Review program on their own, they will have to incorporate the rule changes into their programs by March 3. So my colleagues are clear, let me name them: Washington, California, Nevada, South Dakota, Minnesota, Illinois, Indiana, Michigan, New York, New Hampshire, Massachusetts, New Jersey, and the District of Columbia. As the rules were only published on December 31, that only gives these states and the district 3 months to evaluate and implement a tremendously complicated area of law. Neither has EPA provided the training and guidance that all States will need to implement the rule. That is why the States wrote to EPA last week and stated that: ''The March 3 effective date simply does not allow sufficient time for delegated state and local agencies to prepare for and executive effective implementation of the new NSR rule.''

By passing our amendment, we will be giving the state and local agencies the time that they desperately need. Call it breathing room—for our environment and for our State governments.

This is a controversial topic, and I know my colleagues have been pulled in many different directions on this vote. But we are not asking for anything here but smart, well-informed policymaking. Once a rule like this is put in place, it is hard to reverse; indeed, according to EPA, the whole point of this rule is to provide industry with long-term certainty. We asked EPA to look before they leapt, and they refused, ignoring this institution's right to oversee their rulemaking at the same time.

We should understand the clean air impacts of these rule changes before they become the law of the land. We need to stop and take a breath before we change the law, so that we know that all Americans can breathe safely, easily, and freely in the future.

Mr. JEFFORDS. Mr. President, I rise in strong support of the Edwards amendment and I am pleased to be a cosponsor of that amendment.

Senators should know that I support making improvements to the New Source Review, NSR, program. I want NSR to fulfill its promise of developing ever better pollution control technology and cleaner air.

We can and should make it easier for owners of pollution sources to get answers from permitting authorities about whether or not NSR applies to their facility. They could benefit from an updated, more consistent and timely process. That's not really in question.

Unfortunately, every reliable sign indicates that EPA's recent final rules are not really improvements to the NSR process at all. Instead, in the name of ''flexibility'' these new rules appear designed to increase air pollution. At a minimum, they will certainly allow it.

EPA claims that there will be an environmental benefit from these rules. However, they have done no credible work to show that that is in fact true. And believe me, we have asked repeatedly and unsuccessfully for the administration's honest assessment of the impact of these rules since May 2001.

For example, the agency promised to deliver to the Environment and Public Works Committee a document log relating to these rules by October 24, 2002.

We hoped to find emissions information in those files, but the agency failed to keep the promise and failed to provide Congress its due. We're still waiting for the log.

I ask unanimous consent that a chart of the Committee's communications on NSR be printed in the RECORD.

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

(See exhibit 1.)

Mr. JEFFORDS. This administration's record in responding to legitimate oversight by Congress has been dismal on this matter. Though the agency will not respond honestly, independent analyses done by Abt Associates for the Environmental Integrity Project demonstrates that these new rules are likely to lead to significant increases in pollution at various types of facilities. These case studies can be found at www.refund.org/eit/docs/abillmobil.pdf and abtin-nucor2.pdf.

The association of States' air administrators have expressed concerns about these rules and asked that their effective date be deferred until March 2004. Nine Attorneys General, from Vermont and other States, have filed suit against the Agency for violating the Clean Air Act and other statutes through these rules.

These rules allow sources to inflate their emissions baselines, or to be designated as so-called ''clean units'' for a decade or more. That way, even modifications that increase emissions will not trigger NSR and the use of better, more effective pollution controls.

As Assistant Administrator Jeff Holmstead has confirmed to Congress in testimony, these new revisions to major NSR applicability criteria would exclude an estimated 50 percent of sources that might otherwise be subject to major NSR.

An internal EPA memo from June 2001 estimated that the average annual health benefits in terms of avoided mortality from just one small part of the NSR program are, at a minimum, about $400 million annually and up to $3.8 billion.

Now, if we tell 50 percent of those sources that they don't have to worry about triggering NSR, then those health benefits are going to fly out the window along with more pollution. That means more people dying or increased lung disease and sickness.

This is just one small part of the NSR program. EPA steadfastly refuses to analyze the larger, nonattainment NSR program for its benefits.

The administration has conveniently ignored Executive Order 12866 on regulatory review. These revisions are obviously significant under that Order because of its hundreds of millions or billions of dollars in annual health benefits. So, before it goes forward, there must be a thorough and reliable consideration of its benefits and its costs.

That's why I'm supporting this amendment. I'm not a big fan of making environmental policy through the appropriations process, but these rules appear egregious to me.

It's time that we had the National Academy of Sciences review the situation, since the agency and the administration do not respond to Congress or the public. I hope that the Academy can give us a quick and impartial opinion on the impacts of these rules on

public health and the environment. To give them time to do that, the amendment defers the effective date of the rules for about six months.

Mr. President, this administration has a disturbing anti-environment agenda. These NSR changes are just the tip of the iceberg. This group wants to deregulate without considering the public health and environmental effects. That's wrong.

There is no good reason to increase air pollution. Science tells us that time and time again. We have the technology to constantly improve our emission performance. This administration wants to take the whole country backward instead of forward.

I urge Senators to support the amendment.

EXHIBIT 1

New Source Review Correspondence – EPW and Other Information Requests and Administration Response
As of January 16, 2003

Date	To	From	Request	Response (Date)
9/27/00	Robert Perciasepe, Asst. Admin. for Air & Radiation, EPA	Sen. Inhofe, Chairman, Clean Air Subcommittee	1. that the Administration re-propose the entire NSR package at one time, before any elements are finalized, so that Congress and stakeholders fully understand how a new NSR program would work; 2. written update/detailed outline on the 2000 PAL proposal and its provisions; and 3. a list of NSR reform elements that EPA feels are "non-controversial" and that may be included in the final 2000 NSR rule.	1. Does not commit to fulfilling request. Mr. Perciasepe agrees to "consider" it, but says "these issues have been under discussion since 1992...." 2. Does not provide requested information. EPA says it does not have a final approach for which it is comfortable providing more details. 3. Does not provide requested information or acknowledge request. According to EPA, many elements, like PALs, could actually be considered controversial. (10/19/00) Staff indicates that after meeting with Mr. Perciasepe, Sen. Inhofe was comfortable with the response and did not request additional information.
5/21/01	President Bush	Sens. Reid, Clinton, Boxer, Corzine, Lieberman, Wyden, Graham, Baucus, Carper	Response requested by 6/7/01. 1. details on the President's energy plan and plan to pursue multi-pollutant legislation; 2. details on the President's recommendation to direct the Attorney General to review existing enforcement actions under NSR to ensure consistency with the CAA;	No response.

Date	To	From	Request	Response (Date)
			2. details on the President's interest in: promoting permitting flexibility, directing EPA and DOE to streamline permitting for refineries, and directing the Sec. of the Interior to modify impediments to oil and gas leasing; and 3. information concerning the impact of the President's plan on: electricity prices; oil, gas, nuclear, and renewable energy consumption; jobs and the economy; compliance with the UN climate change treaty; protection of endangered species and fragile ecosystems; and the number of new refineries and power plants to be built by 2006.	
5/23/01	Christine Todd Whitman, Administrator, EPA; John Ashcroft, Attorney General, DOJ	Sens. Leahy, Reid, Kerry, Clinton, Lieberman	1. the impacts of the Administration-initiated review of the NSR program on ongoing and future enforcement actions and settlements; 2. a description of projected NOx and SOx emissions reductions and public health benefits resulting from recent settlements and enforcement actions under the current NSR program; 3. the status of information requests transmitted to potential NSR violators, including the name of each company, whether the company has submitted the requested information, and the company's NSR compliance record; 4. information regarding the number and production capacity of utilities and refineries that have applied for or received NSR permits; 5. the number of requests for applicability	1. Provides minimal response. "EPA has not changed its position during settlement negotiations as a result of the NSR review, and will continue to actively press forward with negotiations and investigations in the meantime." Note: In the NSR hearing on 7/16/02, Sen. Leahy asked Thomas Sansonetti, Assistant Attorney General of DOJ: "...[T]he press reports indicate that because of EPA's recent actions revising the NSR, defendants who were close to settlement are now walking away from the bargaining table.... Did you and your lawyers at DOJ see that coming?" Mr. Sansonetti replied that there were no cases where parties were close to settlement and then backed away. When asked whether defendants were using EPA documents to try to dismiss cases, Mr. Sansonetti replied that he knew of only one case

Date	To	From	Request	Response (Date)
			determinations concerning major NSR modifications from refineries and utilities; 6. copies of Presidential or White House documents formally requesting EPA to review the NSR program; 7. whether DOJ or EPA was asked to provide specific information about the review of enforcement cases to the National Energy Policy Development Group – please provide copies of such materials; and 8. whether the National Energy Policy Development Group received NSR-related information from outside sources.	– Niagra Mohawk – where that was true, but that the case was "not within my shop." 2. Does not provide requested data. Note: An EPA memo provides estimates of NOx and SO2 emissions avoided and the associated mortality-related benefits (totaling $3.6 billion) as a result of the current PSD program, which is only a small part of the larger NSR program. Also, this information does not address the issue of achieved reductions through enforcement activities. 3. Incomplete information is provided. The names of companies receiving information requests are given, but no further information on the status of these requests is divulged. 4. Does not provide requested information. EPA headquarters has requested the information from its regional offices. 5. Does not provide requested information. EPA is reviewing available documents. A web-based database is recommended in the interim. 6. "Neither the President nor White House staff has written an Executive Order or other correspondence to EPA formally directing the review of PSD/NSR actions." 7. According to Admin. Whitman, neither EPA nor DOJ was asked to provide information

Date	To	From	Request	Response (Date)
				concerning pending enforcement actions to the energy policy group. 8. Does not provide requested information. According to Admin. Whitman, as a member of the energy policy group, EPA has received information from outside sources, but is not able to provide that information until it completes a GAO request for the same information. (EPA 7/25/01; DOJ 7/30/01)
8/10/01	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Smith	Follow-up questions from Sen. Jeffords regarding the 7/26/01 hearing on the impacts of powerplant emissions on public health and the environment. 1. a consolidated estimate of the public health and environmental benefits, including tons of pollution avoided, achieved through full implementation of all programs, including NSR, designated by Admin. Whitman during the hearing as potentially unnecessary under a new 3-pollutant reduction scenario.	1. Does not provide requested information, but indicates, "After it is complete, the Administration will provide it to the Congress." Since this response, the request has been only partially fulfilled by submission of information regarding the mortality-related benefits of the current PSD program (see #2 note, 5/23/01 letter). A consolidated estimate has not been provided. (9/10/01)
10/1/01	Spencer Abraham, Secretary, DOE; Christine Todd Whitman, Admin., EPA	Congressman Frank Mascara	1. that EPA reconsider the application of NSR so that it interferes as little as possible with plant repair and modification, keeping in mind the nation's energy needs.	Response from EPA: 1. Assures Mr. Mascara that EPA's enforcement cases involve major modifications and not routine repairs. States that EPA has begun conducting a review of the NSR program in response to a National Energy Policy Development Group recommendation. The letter also states, "The NSR requirements are not triggered unless significant emission increases result from a proposed modification.... Some of the modifications at issue have

Date	To	From	Request	Response (Date)
				increased emissions as much as 40,000 tons per year...." (11/9/01)
11/14/01	Jeffrey Holmstead, Assistant Administrator for Air & Radiation, EPA	Sens. Jeffords and Smith	Follow-up questions from Sen. Jeffords regarding the 11/1/01 hearing on multi-pollutant legislation, asking about the current status of the Administration's review of NSR requirements and enforcement actions.	Inadequate response. No specifics on the EPA review are given, other than it "is still underway" and that they "plan to release the results as soon as possible." Mr. Holmstead makes reference to DOJ's separate review of NSR enforcement actions, recently released. (2/5/02)
12/14/01	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords, Lieberman, Corzine, Clinton, Carper, Wyden, Boxer	Response requested no later than the date final proposed NSR rules go to OMB. 1. docketing of all current and future documents concerning: a. EPA's NSR rulemaking; b. EPA's review of the NSR regulations; c. NSR enforcement actions that are pending or have been settled in the last 2 years; and 2. documents discussing the impact of proposed NSR program changes on attainment of National Ambient Air Quality Standards (NAAQS).	Responses from Ed Krenick, Associate Administrator of Congressional Relations, EPA. 1st response: Does not provide requested documents. EPA has begun collecting documents and would like to meet with EPW staff later to clarify request. (12/20/01) 2nd response: Does not provide requested documents. Clarification of narrowed request is made, after consultation with Committee staff. (1/31/02) 3rd response: Incomplete information is provided. Over 700 pages of documents are submitted, all of which are marked "privileged" and many of which are left blank. Certain information regarding emissions and analysis of potential reductions are not submitted, including information from "confidential" settlement negotiations. No

Date	To	From	Request	Response (Date)
				information on projected NAAQS attainment impact is submitted. Only documents dated before 1/23/02 are included thus far. (5/3/02) 4th response: Does not provide any of the requested information. The Administration has "concerns about providing certain pre-decisional documents to Congress during the pendency of a rulemaking.... While this rulemaking continues, the Administration has particular confidentiality interests in these materials... [W]e have concerns that Congressional access to deliberative materials...will blur the separation of powers...." EPA offers to share 1996 rulemaking materials, which are already in the public docket. (6/27/02) 5th response: Incomplete and largely unhelpful information provided. A copy of the NSR 90 Day Docket, which is already public information and unrelated to the rulemaking of concern, and other minor information is included. (7/3/02) 6th response: Incomplete and largely unhelpful information is provided. Submits the 1996 NSR rulemaking docket, which is already public information. (7/10/02)

Date	To	From	Request	Response (Date)
				7th response: Incomplete information is provided. Some post-January 23rd information is submitted. (7/18/02) 8th response: Incomplete information is provided. The original request remains largely unfulfilled. Additional documents analyzing potential reductions from filed utility cases are submitted. Emissions estimates concerning confidential settlement offers are withheld. EPA still opposes providing deliberative documents. (7/30/02) 9th response: EPA still opposes providing "pre-decisional" documents. Agrees with EPW to provide a log of documents that relate to the upcoming rules by 10/24/02. (9/25/02) Note: As of 12/18/02, the log of documents has not yet been provided to EPW. 10th response: The information provided is not a complete response to the original request. (10/24/02)
12/19/01	Spencer Abraham, Secretary, DOE	Sens. Jeffords, Lieberman, Corzine, Clinton, Carper, Wyden,	Identical to 12/14/01 letter to EPA.	1st response: Does not provide requested information or commit to fulfilling the request. "We anticipate being in a position to aid the Committee...in its

Date	To	From	Request	Response (Date)
		Boxer		examination of whatever policy decisions EPA ultimately may reach...." (3/1/02) Subsequent Committee staff contacts produce no meetings or documents. (5/02, 6/02, 7/02, 8/02) 2nd response (2 letters): Incomplete information is provided. Considers a subpoena vote "premature and misdirected." Agrees with EPW to provide a log of documents and some information pertaining to the 1996 rulemaking -- which are already in the public docket -- by 10/24/02. (9/25/02) Note: As of 12/18/02, the log of documents has not yet been provided to EPW. 3rd response: The information provided is not a complete response to the original request. (10/24/02)
1/18/02	President Bush	12 Senators (Bipartisan): Reed, Collins, Leahy, Dodd, Clinton, Kerry, Torricelli, Corzine, Jeffords, Schumer, Lieberman,	Urges President to maintain and vigorously enforce current NSR requirements, and to work with Northeastern and Mid-Atlantic states to further reduce deadly air pollution.	No response.

Date	To	From	Request	Response (Date)
		Chafee		
2/7/02	President Bush	Sen. Jeffords	1. urges care in suggesting amendments to the Clean Air Act (via a multi-pollutant proposal) that would relieve polluters of compliance, citing the lack of analytical information justifying clean air and health benefits of such relief.	No response.
3/1/02	Christine Todd Whitman, Administrator, EPA	11 Senators: Lieberman, Boxer, Cozine, Dodd, Clinton, Leahy, Kennedy, Reed, Jeffords, Baucus, Wyden, Torricelli	The 1996 and 1998 NSR proposals are based on outdated information regarding industry technology and impacts of pollution on public health and ecology, and cannot serve as an adequate basis for a final regulation in 2002. The public should have an opportunity to comment on new proposed rules. No changes to NSR should be made until then.	According to Admin. Whitman, the 1996 proposed rule changes involved extensive public comment. (5/7/02) Note: The new proposed changes are significantly different from those commented on in 1996. EPA has said that it will not disclose details of the new rule to Congress or the public until it is presented in final form to OMB.
3/20/02	Christine Todd Whitman, Administrator, EPA	Sen. Jeffords	In response to a request from the Administration that EPW hold a hearing on the Clear Skies proposal: DOE and EPA must first submit a satisfactory response to the mid-December letters regarding NSR, among other pieces of information.	No response to this letter, and through previous correspondence, the original request remains largely unfulfilled. (See responses for 12/14/01 letter.)
7/3/02	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Leahy	Questions regarding proposed changes to the NSR program, to be answered prior to joint EPW-Judiciary Committee hearing on 7/16/02.	Responses received in installments. Some responses provide inadequate or incomplete answers, or point to information that will not be released until finalization of the rule package (such as citing the legal authority to make the proposed changes). (7/15/02, 8/15/02, and 11/5/02)
7/16/02	Jeffrey	Sen. Jeffords	During the hearing question period, Sen. Jeffords	1. Does not provide requested information, and

Date	To	From	Request	Response (Date)
EPW-Judiciary Joint Hearing on NSR	Holmstead, Assistant Administrator for Air & Radiation, EPA		asks Mr. Holmstead: 1. to estimate the current industry noncompliance rate with the NSR program; 2. when and by how much pollution will decrease as a result of the proposed changes; 3. when EPA will submit to Congress a quantitative analysis of the new rule's impacts on environmental quality/emissions and public health (required by the Congressional Review Act and the E.O. on Regulatory Review); and 4. docketing written comments from the informal interagency review that has begun on the proposal.	provides irrelevant response. Doesn't know, but makes reference to 100% compliance with the Acid Rain program. 2. Does not provide requested information. The proposed changes would result in "greater reductions" than would be achieved otherwise, but no specific estimates are given. Mr. Holmstead promises to submit specific estimates to Sen. Jeffords, but does not commit to do so before the rules are finalized. 3. Does not provide the requested information. Claims that such an analysis is not required because the regulation changes would not be "major" and because the 1996 rules did not require an RIA or cost-benefit analysis under 12866. 4. Agrees to fulfill the request.
		Sen. Voinovich	Questions from Sen. Voinovich: 1. to investigate what triggered the lawsuits filed in 1998-1999; and 2. to show the difference between what was proposed in 1996 and in 2002, since EPA claims they are "quite close."	Responses to Sen. Voinovich: 1. Agrees to fulfill the request. Will respond "in a couple of weeks." Status? 2. Agrees to fulfill the request, but not until "we issue the final regulations." (After the fact and without Congressional comment.)
		Sen. Edwards	Question from Sen. Edwards: 1. to quantify the human health impacts of the proposed rule changes.	Response to Sen. Edwards: 1. Agrees to fulfill the request. Mr. Holmstead references agreeing to Sen. Jeffords' similar request (to which he did not clearly agree), and does not commit to responding prior to

Date	To	From	Request	Response (Date)
				finalizing the rule.
		Sen. Clinton	Question from Sen. Clinton: 1. whether he would commit to allowing the opportunity for Congressional comment, before the rules are finalized; 2. whether the rules will be prospective only; and 3. whether the rule changes will have any effect on powerplant emissions.	Response to Sen. Clinton: 1. Does not commit to fulfilling the request. Although Mr. Holmstead says, "...[W]e will satisfy all of the requirements under the Administrative Procedure Act to make sure that there has been a full and complete opportunity for the public to comment on all rules before they go final," he has also stated that Congress and the public will not see the entire package until the rules are finalized. 2. He "believes so," but will double-check. Note: In an 8/23/02 letter to Sen. Jeffords, John Peter Suarez of EPA's OECA states, the 1996 reforms and the reforms being developed for notice and comment rulemaking "will be prospective in nature.... [They] are not intended to, nor should they have, a negative impact on the enforcement cases." 3. According to Mr. Holmstead, the rule changes will not have an effect on SO2 emissions from powerplants. Analysis of the effect on utility NOx emissions is not complete, but it will become public when completed.
		Sen. Corzine	Question from Sen. Corzine: 1. whether EPA is planning to conduct a review of possible NSR violations at PPL's Martin's Creek Powerplant in Pennsylvania (per an older,	Response to Sen. Corzine: 1. Does not commit to providing the requested information. "[I]f it is something that you have asked about, I am sure that that is something that we will look into further."

Date	To	From	Request	Response (Date)
			unanswered request from Sen. Torricelli); and 2. a list of the cases referred to DOJ since Whitman took office (posed to Mr. Sansonetti).	2. No response. Status?
7/17/02	Christine Todd Whitman, Administrator, EPA	Rep. John D. Dingell	1. that EPA make changes to NSR public and provide an opportunity for informed comment on the specific new proposals; and 2. that EPA reject any NSR changes that would result in worsening of air quality or the rollback of environmental protections.	Response received.
7/25/02	Sylvia Lowrence, Acting Assistant Admin., Office of Enforcment & Compliance Assurance (OECA), EPA	Sens. Lieberman, Jeffords	Response requested by 7/30/02. 1. whether the OECA expressed concern to Jeffrey Holmstead or other political officials about the impact of the proposed changes on EPA and DOJ's ability to settle or litigate NSR cases successfully – please include the substance of such concerns; 2. whether such concerns were expressed prior to public release of the routine repair and maintenance proposals – please provide copies of concerns submitted in writing; and 3. whether the draft proposal was subsequently modified in a way that addressed OECA's concerns.	Response from John Peter Suarez, Assistant Administrator, OECA, EPA: 1. According to Mr. Suarez, Mr. Holmstead discussed "these issues" extensively with OECA, and "[t]he consensus position of the Agency is that neither the report nor recommendations are intended to, nor should, adversely impact the current enforcement cases." 2. Does not provide requested documents. Mr. Suarez confirms that OECA discussed "these issues" with Mr. Holmstead prior to June 13. However, regarding the request for written communications, "It is my understanding that the Agency will provide the documents that are responsive to this question as part of its response to the broader document request." 3. Seemingly in contradiction to response #1 (by suggesting OECA did have concerns),

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				"Drafts of the report and recommendations were modified to address the issues regarding potential impacts on pending cases raised by OECA." (8/23/02)
7/30/02	Jeffrey Holmstead, Assistant Admin. for Air & Radiation, EPA; Thomas Sansonetti, Assistant Attorney General, DOJ	Sen. Jeffords	Follow-up questions from Sens. Jeffords, Lieberman, Voinovich, Graham, and Wyden for the 7/16/01 EPW-Judiciary Committee joint hearing on New Source Review. (Judiciary Committee questions submitted under separate cover.)	No response.
7/30/02	David M. Walker, Comptroller General, GAO	Sens. Jeffords, Lieberman	Request letter asking GAO to provide additional information on NSR's accomplishments and implementation, in light of the Administration's review of the program and its promotion of a multi-pollutant bill (S.2815) that would effect NSR.	No formal response as of yet. GAO has been performing research in fulfillment of the request.
8/1/02	Christine Todd Whitman, Administrator, EPA	44 Senators (Bipartisan): Edwards, Lieberman, Jeffords, Daschle, Collins, and others	1. that before proposed NSR rule changes become finalized, EPA should conduct a rigorous analysis of air pollution and public health impacts and give the public full opportunity to comment; and 2. that EPA should not finalize a rule that allows increased air pollution or undercuts public health.	1st response: 1. Does not respond directly to the request for an environmental and public health analysis. Instead, Admin. Whitman states, "All of the NSR changes will be finalized only after a full notice and comment process, and EPA will fully comply with all procedural requirements for Federal rulemaking," and that the 1996 proposed rules involved extensive public comment.

Date	To	From	Request	Response (Date)
				Note: Previous correspondence indicates that EPA does not commit to fulfilling the request and does not intend to share such an analysis with Congress or the public before the rules are presented in final form to OMB. 2. Does not respond directly to this request. (8/28/02) Note: EPA has yet not demonstrated that the proposed rules will safeguard public health or improve air quality. 2nd response: 1 & 2. No rigorous environmental or health analysis has been conducted. A *Supplemental Environmental Analysis* summary is submitted, concluding that four of the five rule provisions finalized on November 22, 2002 will result in net benefits to the environment, with the last provision yielding no significant effect. However, no comprehensive quantitative environmental analysis was performed. For example, projected changes in overall emissions attributed to Plantwide Applicability Limits (PALs) have not been determined – the Administration has said it does not know how many industries will take advantage of PALs. Environmental analysis of the proposed change to the definition of "routine maintenance, repair and replacement" is not submitted. No health-related analysis has been conducted

Date	To	From	Request	Response (Date)
				for either the finalized or proposed rules. Furthermore, health benefits due to the current NSR program have not been taken into consideration when estimating the net benefits of the reform package. The public was given no opportunity to comment before the first set of rule changes were finalized on November 22. (11/27/02)
9/3/02 HELP Com. Hrg on Health & Changes in the Clean Air Act (tran-script notes)	Jeffrey Holmstead, Assistant Admin. for Air and Radiation, EPA	Sens. Edwards and Clinton	Questions posed to Mr. Holmstead during the hearing, including: 1. whether the EPA has done a rigorous analysis of the environmental and human health impacts of the proposed changes to NSR; 2. whether the EPA will agree to provide such analyses to Congress before the rules are finalized; and 3. whether the rule changes will result in emissions reductions or increases.	1 & 2. Mr. Holmstead responded that "additional" analysis (over the original 1996 RIA) has been performed, but won't be available to Congress or the public until after the rules are published in the Federal Register. 3. Mr. Holmstead stated that the 1996 RIA showed the 1996 proposal to be "environmentally neutral," and made the following statement: "What we can say is that there will be fewer emissions under these rules than there would otherwise have been." Proof that the new proposed changes to NSR – which are not identical to the 1996 proposal – will result in net environment and health benefits remains to be seen.
9/18/02	All EPW Committee Members	Sen. Jeffords	Expresses concern with the way in which the EPA, DOE, and White House have handled EPW information requests regarding NSR. Offers to share copies of related correspondence. Seeks support for subpoena of documents.	No response. Note: The subpoena vote, originally scheduled for 6/27/02 and rescheduled for 9/26/02, was postponed again after the EPA and DOE agreed to provide by 10/24/02 certain requested documents, including a log of documents and

Date	To	From	Request	Response (Date)
				certain "sensitive" deliberative materials. As of 12/18/02, this information has not been submitted to the Committee.
9/26/02	John Graham, Director, Office of Information and Regulatory Affairs, OMB	Sens. Clinton, Edwards, Jeffords, Kennedy, Lieberman	1. that EPA not issue final regulatory changes to the NSR program at this time, given recent evidence linking air pollution to severe health problems and premature death; and 2. encourages EPA to conduct a rigorous analysis of the air pollution and public health impacts of the proposed changes.	No response. Note: EPA has since finalized one set of rules altering the New Source Review program, and it has not taken recent scientific evidence into consideration. The scientific basis for the new changes are based on a 1996 RIA that determined the 1996 set of proposed changes (which are not substantially similar to these new changes) were "environmentally neutral."
10/17/02	John Graham, Administrator, Office of Information and Regulatory Affairs, OMB	Sens. Jeffords and Lieberman	1. that Mr. Graham remand the NSR rule to EPA to remedy deficiencies in the review process, which lacks adequate public input and risk analysis.	Does not address the lack of risk analysis or public review for the *current* proposed rule. According to Mr. Graham, "EPA has a long and detailed record supporting the need for improvement of the NSR process....developed over the last 10 years through an open and far-reaching public rulemaking process." He states that EPA will provide the legal and policy basis for the final rule at completion of the rulemaking process. (11/21/02)
12/20/02	Christine Todd Whitman, Administrator, EPA	Sens. Jeffords and Lieberman	1. to express disappointment that promised documents, such as responses to items I - V of the 12/14/01 letter (revised in 1/31/02 letter) and a log of documents, were not provided by the 10/24/02 deadline. Expects documents to be produced "forthwith." Note: December marks the one-year anniversary of	No response.

Date	To	From	Request	Response (Date)
			the original, detailed request letter.	
12/20/02	Jeffrey R. Holmstead, Assistant Admin. for Air & Radiation, EPA	Sens. Jeffords and Lieberman	1. that Mr. Holmstead provide a direct, clear answer to the question: How many major NSR sources are likely to be excluded from regulation (i.e. will not trigger NSR) because of the recently finalized NSR rules? 2. that long-awaited fully responsive answers to questions posed before and after a 7/16/02 joint EPW-Judiciary Committee hearing on NSR be provided.	No response.
1/16/03	Christine Todd Whitman	Lloyd Eagan, STAPPA President; Ellen Garvey, ALAPCO President	1. that the EPA extend by one year the effective date of the final NSR rule revisions.	No response.

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

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

Mr. BOND. Mr. President, we have before us, although not under lively debate, an amendment by the Senator from North Carolina with reference to the New Source Review air program. This is a very important program that we have debated extensively in the Environment and Public Works Committee. There have been many hearings on this issue and, frankly, the issue has been resolved. But unfortunately, it has become an example of the polarized, confrontational, contentious nature of the environmental debate. I wish it were not this way.

I believe the administration's New Source Review reforms are good for the environment, good for energy security, and good for the economy.

I will not go into all the details here because I know there are many other Senators wishing to speak. So I will await further discussions when they have had their say.

I think it is important—I want to lay down a marker—for my colleagues to understand that the EPA's New Source Review reforms—what we call the NSR reforms—will improve air quality and benefit the environment. EPA has already done the environmental analysis. It shows that four of the five provisions in the final rule will reduce air pollution. That is correct. I said ''will reduce air pollution.'' The other provision will have no significant effect on air quality.

NSR will no longer stand as a barrier to facilities installing state-of-the-art pollution control technology. Anybody who has been around Washington very long knows the law of unintended consequences. We do things we think are going to help, and they turn out to be a hindrance.

The New Source Review, as it has worked, has been a hindrance because companies cannot make routine improvements and upgrades to their facilities to make them operate more efficiently, take less energy, burn less fuel, emit less pollution or polluting substances, anywhere from volatile organic compounds to the other emissions from powerplants. They do that because the New Source Review says that anytime you want to do anything significant on a major plant, you have to go through the whole process. It takes a very long time, and you are required to make very significant upgrades beyond what the available dollars in the company would sustain.

The incremental continuing improvements, day by day or actually month by month or even year by year, cannot be made because of NSR. If you change it the way the EPA Administrator has proposed, NSR will no longer stand as a barrier to facilities installing state-of-the-art pollution control technology.

The NSR reforms that EPA has proposed will actually cut emissions of tens of thousands of tons per year of volatile organic compounds. NSR reforms will reduce ground level ozone and smog. The NSR reforms will also cut hazardous air pollutants and ozone-depleting substances. Our families will suffer fewer cases of premature mortality, asthma, and other respiratory diseases.

I would say further that EPA's NSR reforms are good for the Nation's energy security. Why? Simply because they will allow facilities to install modern technologies which use energy more efficiently. We all ought to be able to agree on that. Using energy efficiently conserves energy and reduces the polluting byproducts of energy production. The facilities will be able to reduce their energy consumption, reduce their dependence on foreign energy sources, and reduce our Nation's dependence on foreign energy supplies.

What is wrong with that? In our current troubled times, we should not stand in the way of any proposal which reduces our dependence on foreign and Middle Eastern oil. I would also say that the EPA NSR reforms are good for the economy. Companies would now be able to make rapid changes to meet their changing business climates without getting bogged down in time-consuming Government redtape.

The reforms will continue to protect the environment while giving companies the flexibility they need to get new products to the market quickly. We have all of the elements that should go into a forward-looking environmental program. We have made great progress, but we have also developed glitches in our system, and anybody who has thought about the system knows that we need to make it more efficient. We need to rationalize it. We need to give it flexibility so environmental improvements can be made with the least hassle.

I am talking about environmental improvements. That is what this NSR proposal does. It allows not only energy conservation, improved economic performance, but environmental progress as well. What is wrong with that?

I have yet to hear what is the objection to providing better environmental performance in a way that is flexible, that encourages companies to move forward. This is such a good idea that the last administration supported it. Yes, Mr. President, you heard me right. The last administration supported it. This was one of their proposals. The reforms EPA finalized this winter were actually proposed in 1996 during the Clinton administration by EPA Administrator Carol Browner. I thought it was a good idea then; I think it is a good idea now. The only change is there is a new administration, with a different President.

I hope this is not the reason behind some of my colleagues seeking to raise the issue and challenge it. If it was a good idea in the Clinton administration, does it become a bad idea in the Bush administration? I don't think so.

I think we are on the right track with what the Clinton administration started. The NSR reforms are good for the environment, they are good for energy security, and they are good for the economy.

I urge my colleagues to reject the Edwards amendment. I look forward—if there is further debate—to responding so that we can deal with this amendment in a timely manner.

I yield the floor and, seeing none of my colleagues wishing to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, on behalf of the leader, I ask unanimous consent that the pending Edwards amendment be temporarily set aside to recur at the hour of 1:30 today, with the majority leader or his designee recognized when the Senate resumes consideration of the amendment; further, I ask that Senator DODD now be recognized in order to offer an amendment related to IDEA, and that no second-degree amendments be in order to the amendment until Senator GREGG or his designee is recognized.

Mr. REID. Reserving the right to object, Mr. President, with the Senator's permission—and I know he has the floor—I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, reserving the right to object, I think we are headed in the right direction. I wanted to state to my friend that Senator DODD is offering his amendment. He is going to speak for a while. We have Senator DAYTON coming at 1 o'clock. We hope we will get permission then to set aside the Dodd amendment so we can consider the Dayton amendment, which is on corporate expatriation. He should not take too long.

I hope the majority will give us consideration to set aside the Dodd amendment then because, if we are going to work through all of these amendments, we are going to have to have cooperation on both sides. I have no objection to the unanimous consent request.

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

Mr. BOND. Mr. President, I thank the minority whip for his explanation. I can assure the Senator that on this side we want to accommodate Senators from both sides of the aisle. We are here in a week when many Senators had other things to do and we need to move forward. It is critically important that we get these appropriations bills passed because we will be getting close to halfway through the year before these bills can be implemented. I know wherever we can make accommodations, we will do so, and the Senator from Nevada has been very gracious in working with us. I know the Senator from Kentucky will work with him.

With that, I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 71

Mr. DODD. Mr. President, on behalf of myself, Senators KENNEDY, MIKULSKI, JEFFORDS, MURRAY, EDWARDS, DAYTON, CORZINE, and KERRY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. EDWARDS, Mr. DAYTON, Mr. CORZINE, and Mr. KERRY, proposes an amendment numbered 71.

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

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

The amendment is as follows:

(Purpose: To provide additional funding for part B of the Individuals with Disabilities Education Act)

On page 1052, line 25, strike ''budget).'' and insert the following: ''budget).

TITLE ____—FUNDING EDUCATION FOR CHILDREN WITH DISABILITIES

SEC. ____. HELPING CHILDREN SUCCEED BY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

Congress makes the following findings:

(1) All children deserve a quality education.

(2) In Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania (334 F. Supp. 1247)(E. Dist. Pa. 1971), and Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as ''IDEA'') (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only ⅕ of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind, deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 17 percent of the maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

SEC. ____. FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, in addition to any amounts otherwise appropriated under this Act for part B of the Individuals with Disabilities Education Act, other than section 619 of such part, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, $1,500,000,000 for carrying out such part, other than section 619 of such part, to remain available through September 30, 2004.

(b) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsection (a) shall not result in a further across-the-board rescission under section 601 of Division N.''.

Mr. DODD. Mr. President, for the benefit of my colleagues, this amendment will add $1.5 billion to the appropriations omnibus bill for the Individuals with Disabilities Education Act, commonly known as IDEA. This is a matter with which all of my colleagues are very familiar. We have debated this matter on numerous occasions over the years. A brief history about the Individuals with Disabilities Education Act may be in order.

It has been almost 30 years—28 years—since Congress passed this legislation in 1975. The promise made in 1975 was that we would provide the States with 40 percent of the funding to educate children with special education needs. We started out with a far lower commitment, and over the years the States have assumed the lion's share of this responsibility. But over the years, we have failed to meet the commitment we made to the States almost 30 years ago.

As a result of efforts by this body in the previous Congress, we came very close to achieving the full funding promise that was made many years ago. In fact, our distinguished colleagues and friends, Senator JEFFORDS, Senator HAGEL, and Senator HARKIN, offered an amendment in the previous Congress, which enjoyed unanimous support, to increase the funding over a series of years, that would reach the full funding level as required by the agreement reached in 1975.

Unfortunately, the President and the Republican leadership of the other body refused to agree to the Senate unanimous vote on full funding for special education. As a result of that opposition by the President and by the leadership of the other body, the bipartisan efforts of the Senate and the good work of Senator HAGEL, Senator JEFFORDS, Senator HARKIN, and many of us who have worked on this issue over the years failed. In fact, I recall some 15 years ago when I was a member of the Budget Committee and offered in the committee the language which required full funding of special education needs. My friend and colleague from Mississippi, Senator LOTT, was on that committee that year. I remember because he cast a vote with me in the Budget Committee, but we failed on a tie vote in the Budget Committee to get the increased funding.

Over the years, we have had good bipartisan support to do everything we could to fully fund IDEA, and every year, for one reason or another, Congress finds a way to avoid its responsibility.

I do not lay that on the shoulders of the Senate because recently we have met the promise we made. My colleagues here understand and know well how strongly the Governors, mayors, and county executives across this country feel about this issue. This is one of their major issues. When we ask them what are the important areas in which we can assist them, inevitably over the years they have listed special education as one of the most important areas in which we can assist them by meeting our obligations we made some 30 years ago.

When Congress passed the Individuals with Disabilities Education Act in 1975, it promised to help States meet their constitutional obligation to provide

children with disabilities a free appropriate education by paying for 40 percent of those costs.

The States came to us in 1975 and said: We need your help on this issue. As I said, some 30 years ago, we said we would step in and help, just as we have done with title I for children who have different kinds of needs. Those needs are economic because of the levels of poverty across the country. We said this also is an area where we think the Federal Government ought to step up and provide help to the States.

The cost of special education—and again, I am preaching to the choir when I talk to my colleagues about this issue because they know these issues as well as, if not better than, I do. Talk to any mayor, county executive, Governor, Democrat or Republican, liberal or conservative, and they will tell you that the cost of special education is very high. In fact, in some small towns—I know in my State and I am confident in the State of the Presiding Officer and the States of my good friends from Vermont or Rhode Island—two or three children with special education needs can so distort a local budget with the tremendous increase in cost that it becomes almost prohibitive for those smaller communities to meet the obligations. That is why we have heard so many loud voices over so many years calling on us to step up and meet our obligation.

We made a promise. In 1975, we said: As representatives of the Federal Government, we will come up with 40 percent of the cost of this program. That is our obligation. We will do that. Here we are almost 30 years later, and we have reached a 15-percent level. We are still short by some 25 percent of the costs of special education.

We have made great strides in going from zero to 15 percent, particularly in the last 4 or 5 years, but we are still way short.

The amendment I offer this afternoon provides for an additional $1.5 billion in this omnibus appropriations bill for an additional 1 year. This is not a full-funding amendment. I am not asking in this amendment for full funding over the next several years. Since this bill only deals with 1 fiscal year, I am merely trying to add these additional dollars which will get us closer to the obligations.

Two years ago, a bipartisan group of 31 Members of this body introduced S. 466 to direct the appropriations of funds, to fully fund IDEA by 2007. That bill was the foundation of the Harkin-Hagel amendment to the No Child Left Behind Act. The amendment passed by the Senate on a unanimous vote would have increased Federal support for special education by $2.5 billion per year until we reach full funding. Unfortunately, as I mentioned a few moments ago, because of strong opposition from the President of the United States and the Republican House leadership, the provision adopted unanimously by this body was not included in the final No Child Left Behind Act. It made an oxymoron of the title of that bill, No Child Left Behind, when, in fact, we excluded the kids with special education needs from the legislation. So it was No Child Left Behind unless you have special education needs and disabilities.

Today's amendment will enable us once again as a bipartisan Senate to take the first step that we recommitted ourselves to in 2001 by increasing the funding for special education by $2.5 billion for fiscal year 2002 to 2003. We are calling upon our colleagues to do just that.

In my State of Connecticut, in spite of spending hundreds of millions of dollars to fund special education programs, our school districts—as is true in almost every other State in the country—are struggling to meet the needs of their students with disabilities.

The costs borne by local communities and school districts are rising dramatically. From 1992 through 1997, for example, special education costs in Connecticut rose half again as much as did regular education costs. Our schools need our help, and this amendment is an opportunity, as we begin this 108th Congress, to do just that.

Of course, no one in my State—or any other State, for that matter, in our great Nation—questions the value of making sure the Individuals with Disabilities Education Act, which is both a landmark education law and a landmark civil rights law, be fully implemented. The only question is how best to do that, and a large part of the answer lies in this amendment.

This amendment will demonstrate that we intend to match our commitment to universal access to education with a commitment to do everything we can to help our States and schools provide that access. This amendment, further, will help not only our children in schools, but it will also help entire communities by easing their tax burden.

Our failure to fully fund IDEA does not make the issue go away. When we do not meet our obligation, then a mayor or county executive at the local level has no alternative; they have to, under their constitutions, meet these responsibilities. So when we duck our responsibility, we only increase the burdens locally. They can slash their budgets locally in other vitally needed areas or they can increase taxes.

As all of us know, there are not many options left at the local level. At the local level, that is where the rubber hits the road, where people need and require that certain obligations be met. Unfortunately, when we do not step to the plate and fulfill our promises on the national level, then we only increase tremendously the burden on our Governors, mayors, and county executives all across this great country.

Homeowners and businesspeople end up paying higher taxes or watch services they depend upon be slashed, not only in my own State, but all around this country, because so much of education is paid for through local property taxes.

Again, I do not need to recite to my colleagues the tremendous burdens that are being felt by local and State budgets all across this country. The estimates are now that deficits running at the State level may hover around $100 billion this year and only get worse next year and the year after. In my State alone, it is about half a billion this year. My Governor tells me it is going to be about $1.3 billion next year. I do not know what it is in the State of Alabama, but I presume it might be like what Connecticut is. I think California is around $34 billion.

I heard some of my colleagues say the other day, in Michigan it is $4 billion or $5 billion. I think someone said in Minnesota it was like $4 billion or $5 billion.

We have these mounting deficits at the State and local level. There is a need in special education. There was a promise made some 30 years ago by the Federal Government. What I am asking for in this amendment on the omnibus bill is that we take out the $1.5 billion, if we could, and see if we cannot step in and provide some real relief for our States and localities in their hour of need and the need of families who have a child with special needs.

The President recently proposed another plan to cut taxes by hundreds of billions of dollars for some of the wealthiest Americans. I represent one of the most affluent States in the country. I probably have a higher percentage of my population who would benefit very directly as a result of the President's tax proposals. Without equivocation or hesitation, the overwhelming majority of the people in my State, including the most affluent, honestly believe the best use of resources is things such as special education. While they, as everyone else, would love to have a tax cut—there is nothing new about that—when asked to balance the priorities and needs of a nation, they understand providing tax relief for people in the top 1, 2 or 3 percent of income earners in the country at a moment such as this is not a wise or prudent use of the resources of this Nation when there are so many other demands that must be met.

I understand the Federal Government faces the same budget challenges in today's slumping economy as do our States and towns, but we cannot accept the argument that because our economy is faltering we cannot provide our children and their families with critical educational resources and otherwise help average Americans. We would and should not accept that argument if our homeland security or national defense were at stake, and we certainly cannot afford to do it here, either.

Investment in education is no less important now than it was when our economy was more healthy. It is essential to our long-term national economic security. So I ask my colleagues

to seize this opportunity and choose to help our schools but, more importantly, our families and young children who need these resources in order to maximize their potential.

I do not know of anyone, regardless of to which party they belong, Conservative, Liberal or moderate, whatever label one wants to put on themselves politically, that when they look in the eyes of a child who has special needs, can say, I am sorry right now but we cannot provide the resources to their town, county, local, or our State government because we have these other priorities that are making too many demands on us. That is not my America.

My America says, when there is a child with disabilities in need we step to the plate and provide them the kind of help they ought to have so they have a chance to become independent and maximize their potential to see to it that they can be productive citizens and add to the great strength and wealth of our Nation.

I can go down the list of the various States and what they will lose or gain. At the end of my statement, I ask unanimous consent to have printed in the RECORD a letter written on January 16, 2003, to the majority leader, Senator FRIST, and the minority leader, Senator DASCHLE, in which they specifically go down and list the importance of this amendment and the funding I am asking for, the $1.5 billion, as one of their top priorities. In fact, they list it as the top priority.

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

(See exhibit 1.)

Mr. DODD. There are a whole list of organizations that support full funding for IDEA. I ask unanimous consent to have that list printed in the RECORD at the end of my statement.

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

(See exhibit 2.)

Mr. DODD. I am not asking for full funding with this amendment. I am asking for the $1.5 billion in this omnibus appropriations bill. I am confident every one of these organizations would support this amendment, even though it is not full funding, but rather the additional amounts this year when we consider the pressures on our States.

Lastly, in looking at the differences in our States—the top State on the list is that of the Presiding Officer—the difference right away where there is a gap between what I am offering and the omnibus bill, it is a little less than $30 million in the State of Alabama, and this amendment would make up the difference. Going down further, in my own State of Connecticut, the difference would be about $18 million. In the State of Vermont, the difference would be about $3 million. In the State of Rhode Island, the difference would be about $5 million in this amendment. What a difference it would make.

I saw my colleague from Missouri in the Chamber recently. In the State of Missouri, the difference would be about $30 million.

I have all 50 States listed and the difference that this $1.5 billion could make. That may not sound like much when a State is facing billions of dollars in deficits, but the fact that we might step up to the plate in Nevada—I apologize to my friend of Nevada, who is sitting right in front of me, but I did not see him—it is about $10 million in his State.

I ask unanimous consent to have this list printed in the RECORD at the end of my statement. It is printed on both sides of one sheet of paper. Members can then have an idea of what the benefit of this small amendment could mean to them and their States.

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

(See exhibit 3.)

Mr. DODD. There are other Members who want to be heard on this issue. As we begin this debate in this Congress, this is one area on which we ought to find common ground. We will have our differences on other issues but every one of our States, Governors, mayors, and families with children with disabilities are asking us to step up and do what we can for them. As we start out in the year 2003, this modest amendment could make such a difference to people across this country and is something we ought to be able to join forces together on and adopt.

EXHIBIT 1

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, January 16, 2003.

Hon. BILL FRIST,
Majority Leader, U.S. Senate, the Capitol, Washington, DC.

Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, the Capitol, Washington, DC.

DEAR SENATOR FRIST AND SENATOR DASCHLE: On behalf of the nation's Governors, we are writing to express our support for several key provisions of the (FY) 2003 omnibus appropriations bill affecting state programs. First, we appreciate that the bill would maintain the FY 2003 highway program investment level at $31.8 billion. With a sluggish economy and many states facing budgetary difficulties, now is not the time to cut federal highway investment. In addition, Governors strongly support the $1.5 billion provided in the bill to implement the new election reform law. We also appreciate that the bill includes an extension of the Temporary Assistance for Needy Families (TANF) block grant and related programs through September 30, 2003. It is critical that states have reliability of funds in order to continue operating their welfare reform programs while Congress considers TANF reauthorization.

We would also like to express our support for the following amendments:

Dodd Amendment. The Governors support Senator Dodd's amendment calling for a $1.5 billion increase in state grants for special education. We are committed to continuously improving the academic performance of all students, including students with disabilities. The nation's Governors support this amendment and urge Congress to continue to work toward enacting legislation that makes the Individuals with Disabilities Education Act (IDEA) funding a mandatory expenditure with incremental increases towards meeting the 40 percent federal requirement.

Murray amendment. The Governors support providing the necessary funding for Amtrak to support the continuation of a national passenger rail system as proposed by Senator Murray. Amtrak must be provided a sufficient level of funding to guarantee there will be no break or threat of a break in service. We must be certain that Amtrak will not encounter the rolling financial crises it experienced during the past year.

Chafee-Rockefeller amendment. The nation's Governors urge your support for quick action on a bipartisan compromise to protect resources in the State Children's Health Insurance Program (S–CHIP). Preserving the S–CHIP funds that have reverted to the federal treasury would keep $1.2 billion of the FY 1998 and FY 1999 allocations within the program until 2004.

Harkin amendment. The Governors urge support for restoring current funding levels to the Edward Byrne block grant program for state and local law enforcement activities.

Finally, while Governors appreciate the inclusion of $2 billion for first responder grants, we urge support for the President's original request of providing $3.5 billion coordinated through the states. Just as Congress and the President have responded by acting on a far-reaching reorganization and consolidation of federal agencies, so too the President recognized the critical role of states—the first line of defense and the first line of coordination of response to any attack. Thus, this should be meaningful, new resources that respect the diversity, responsibilities, and capabilities of states and the immediate need for resources for national defense. Therefore, we encourage you to add an additional $1.5 billion in first responder grant funds to the $2 billion, so that we meet the President's recognition of the need to be prepared to respond to and recover from any terrorist attacks.

We greatly appreciate your consideration of our views.

Sincerely,

GOVERNOR PAUL E. PATTON,
Chairman.

GOVERNOR DIRK KEMPTHORNE,
Vice Chairman.

EXHIBIT 2

ORGANIZATIONS IN SUPPORT OF FULL FUNDING OF IDEA

American Academy of Child and Adolescent Psychiatry.
American Association of School Administrators.
American Council of the Blind.
American Federation of School Administrators.
American Federation of Teachers.
American Society of Deaf Children.
American Speech-Language Hearing Association.
The ARC of the United States.
Association of Educational Services Agencies.
Committee for Educational Funding.
Conference of Educational Administrators of Schools and Programs for the Deaf, Inc.
Consortium for Citizens with Disabilities.
Council of Chief State School Officers.
Council for Exceptional Children.
Council of the Great City Schools.
Easter Seals.
Helen Keller National Center.
Higher Education Consortium for Special Education.
IDEA Funding Coalition.
Learning Disabilities Association.
International Reading Association.
National Alliance of Black School Educators.

National Association of Developmental Disabilities Councils.
National Association of Elementary School Principals.
National Association of Federal Education Programs Administrators.
National Association of Federally Impacted Schools.
National Association of Protection and Advocacy Systems.
National Association of Secondary School Principals.
National Association of Social Workers.
National Association of State Boards of Education.
National Association of State Directors of Special Education, Inc.
National Association of State Legislators.
National Center for Learning Disabilities.
National Coalition on Deaf-Blindness.
National Conference of State Legislators.
National Education Association.
National Governors Association.
National Indian Education Association.
National Parent Network on Disabilities.
National Parent Teacher's Association.
National Rural Education Association.
National School Boards Association.
National Science Teachers Association.
New York City Board of Education.
School Work Association of America.
School Social Work Association of America.

EXHIBIT 3

ESTIMATED ALLOCATIONS FOR IDEA GRANTS TO STATES BASED ON FY02 APPROPRIATIONS, FY03 REQUEST ($1 BILLION INCREASE OVER FY02), AND $2.5 BILLION INCREASE OVER FY02

[Estimates are rounded to the nearest $000; totals may not sum due to rounding; amounts are for policy analysis purposes only; dollars in thousands]

State	FY2002 preliminary allocations	Omnibus: FY2002 estimates based on President's request	DODD amendment: FY2003 estimates based on FY 2002 appropriation + $2.5 billion
Alabama	$119,994	$135,572	$160,598
Alaska	22,200	25,481	29,904
Arizona	111,046	127,461	149,586
Arkansas	71,962	82,600	96,938
California	781,663	897,214	1,052,954
Colorado	94,049	107,952	126,690
Connecticut	89,246	99,915	117,543
Delaware	20,346	23,354	27,407
District of Columbia	10,230	11,742	13,780
Florida	405,996	457,128	539,273
Georgia	195,217	224,075	262,971
Hawaii	25,660	29,453	34,566
Idaho	34,534	39,639	46,520
Illinois	336,545	379,984	449,770
Indiana	170,909	192,168	226,322
Iowa	82,527	92,393	108,694
Kansas	70,916	80,242	95,225
Kentucky	104,534	117,890	139,346
Louisiana	119,377	137,024	160,809
Maine	36,989	41,411	48,717
Maryland	131,489	148,070	174,709
Massachusetts	191,891	214,831	252,734
Michigan	260,223	295,771	350,539
Minnesota	128,322	143,662	169,425
Mississippi	77,199	87,876	103,993
Missouri	153,554	171,910	202,241
Montana	23,560	27,042	31,736
Nebraska	50,476	56,510	66,480
Nevada	41,761	47,934	56,255
New Hampshire	32,080	35,915	42,252
New Jersey	244,341	273,550	321,814
New Mexico	61,595	68,958	81,125
New York	509,444	573,817	677,232
North Carolina	202,782	229,818	273,162
North Dakota	16,521	18,963	22,254
Ohio	288,468	330,031	388,587
Oklahoma	98,503	112,024	132,690
Oregon	86,419	98,061	116,413
Pennsylvania	281,606	319,827	379,343
Puerto Rico	67,880	77,914	91,439
Rhode Island	29,561	33,095	38,934
South Carolina	115,464	129,822	152,889
South Dakota	19,680	22,590	26,511
Tennessee	154,805	175,401	208,004
Texas	608,103	697,998	819,157
Utah	68,595	78,736	92,403
Vermont	15,929	18,284	21,458
Virginia	181,316	204,243	241,077
Washington	142,623	162,181	192,123

ESTIMATED ALLOCATIONS FOR IDEA GRANTS TO STATES BASED ON FY02 APPROPRIATIONS, FY03 REQUEST ($1 BILLION INCREASE OVER FY02), AND $2.5 BILLION INCREASE OVER FY02—Continued

[Estimates are rounded to the nearest $000; totals may not sum due to rounding; amounts are for policy analysis purposes only; dollars in thousands]

State	FY2002 preliminary allocations	Omnibus: FY2002 estimates based on President's request	DODD amendment: FY2003 estimates based on FY 2002 appropriation + $2.5 billion
West Virginia	51,338	57,475	67,615
Wisconsin	140,643	159,051	188,623
Wyoming	16,711	19,181	22,511
Subtotal for States	7,396,822	8,393,339	9,893,341
Set Asides for Outlying Areas, BIA, and Evaluation	131,711	135,194	135,192
Total Appr/Request	7,528,533	8,528,533	10,028,533

Source: CRS analysis based on data from ED Budget Service.

Notice: These are estimated grants only. In addition to other limitations, much of the data which will be used to calculate final grants are not yet available. These estimates are provided solely to assist in comparisons of the relative impact of alternative formulas and funding levels in the legislative process. They are not intended to predict specific amounts which states (LEAs, etc.) will receive.

Mr. DODD. I yield back the remainder of my time.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I ask unanimous consent that I be added as a cosponsor to this important amendment.

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

Mr. REID. I say to my friend from Connecticut, his speech said it all. In addition to the speech he gave today, he has been a vocal advocate for change for many years. He is to be complimented and applauded for his work.

I hope this amendment passes. Every amendment we have offered on this side has been very important. We have not done very well with the amendments because they have been straight party-line votes. In this instance, I hope the children Senator DODD has talked about would be taken into consideration.

As indicated, it would be so important to the State of Nevada. It is a modest increase but it would certainly take care of a lot of problems that the school districts have in Nevada.

Again, I congratulate my friend from Connecticut and hope very much this amendment will pass.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, like the Senator from Connecticut, I was here in 1975. This was an unusual year for Republicans. This was the Watergate year, and I was one of the very few who was enabled by the political process to represent the State of Vermont at that time. Because there were so few Republicans at that time, the day I walked on the floor, I ended up being the ranking member on the Select Education Committee which handled this issue in the House. Thus I have a personal understanding of the need and a personal responsibility. TED KENNEDY was on that conference committee with the Senate, Bob Stafford was another one, and John Brademas was the wonderful leader of the Democrats at that time. We struggled over how much money would be needed. We came up with a solution and then agreed the Federal Government ought to come up with 45 percent of the burden that was placed upon the States.

I stand today somewhat sad in the sense we still have not reached that promise or anywhere near it. We are about half of that now. I look at severe cuts that have occurred and the lack of money for the States and see they are imperiled at this point to be able to give not only a good education, as required in the constitutional mandate, to young people with special needs but also of all children because of the dire circumstances we have.

I first thank my good friend, Senator DODD, for bringing this important amendment to the floor. This amendment is about making sure that all children have an opportunity to learn, and I want to urge my colleagues to support this very critical amendment.

We must recognize that we cannot provide all of our children with the opportunity to achieve unless we support our children with adequate resources. The level of funding for education in this omnibus appropriations bill is unconsicionable.

When I first arrived in Congress in 1975, one of the first legislative initiatives I worked on was the Education for All Handicapped Children Act, now known as IDEA. We wrote the legislation to ensure that children with disabilities receive the special education and related services they need and deserve. This is expensive.

We also recognized, however, that educating children with disabilities would be very costly, and therefore promised that the Federal Government would pay 40 percent of the excess cost of educating children with disabilities.

At that time, nearly half of all disabled children, approximately 2 million children, were not receiving a public education. They were not even in school. Another 2 million children were placed in segregated, inadequate classrooms. It was brutal.

Today, IDEA serves approximately 6 million disabled children. IDEA has been very successful in providing the basic constitutional right of an education to our children with disabilities: dropout rates have decreased, graduation rates have increased, and the percentage of college freshmen with a disability has almost tripled.

IDEA has helped individuals with disabilities become independent, wage-earning, tax-paying contributors to this Nation.

The problem, however, is that we have not kept our promise of helping the States pay for the costs of educating children with disabilities. Although Congress has increased IDEA funding in recent years, it has woefully failed to meet its obligation to fully fund IDEA. Until we do that, we will not have done what we promised.

Rather than contributing the 40 percent as promised, currently, we only pay about 17 percent.

I would like to recognize Senators HARKIN and HAGEL, and, of course Senator DODD, for their unyielding commitment to our children and to our schools, and I look forward to continuing to work with them to fully fund IDEA.

The underlying appropriations bill only increases IDEA funding by $1 billion. At that rate, we're on course to fully fund IDEA in the year 2035. I know that the children of Vermont, and the children across this country, cannot wait another 32 years.

And yet, as we continue to underfund IDEA, the costs associated with educating children with disabilities continue to rise and absorb increasingly larger portions of school districts' budgets.

For example, in my State of Vermont, the special education costs have increased by 150 percent over the past 10 years, and the Federal underfunding leads to the State and local districts to spend approximately $20 million more from local sources than if Federal funding were provided at the maximum level. I know that these problems are not unique to Vermont; but rather, they are shared by States and school districts across the country.

And now State governments are battling the worst fiscal conditions since World War II. According to the National Governors Association, budget shortfalls will be as high as $50 billion this year and $60 to $70 billion next year. Accordingly, State education budgets throughout the country are facing severe cuts, and schools must take drastic measures just to make ends meet, no less meet the burdensome mandates of the No Child Left Behind law.

This amendment represents a significant step forward providing some relief to our schools, and I emphasize the word ''some.'' We must recognize that we cannot provide all of our children with the opportunity to achieve unless we support our children with adequate resources. We must provide our schools with those desperately needed resources and perhaps then we can ensure that, indeed, not one of our children is left behind. The President has made that promise, but I see nothing in the budget or anywhere else that indicates an attempt to bear that cost our States have shouldered for so long. This amendment brings us that little bit closer to our obligation to America's children. I urge my colleagues to support this amendment and vote yes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I ask unanimous consent to lay aside the pending amendment and ask for immediate consideration of amendment No. 27, which is at the desk.

Mr. GREGG. Reserving the right to object, I regret I have to object to this until we can clarify where we stand vis-a-vis this amendment.

Mr. REID. Will the Senator yield?

Mr. REED. I yield.

Mr. REID. It is my understanding you will offer an amendment in a different form than the Dodd amendment, and there would be two side-by-side amendments; is that right?

Mr. GREGG. That is correct.

Mr. REID. We are working on that. I spoke to Senator DODD and he feels we would have 30 minutes equally divided prior to the vote.

Mr. GREGG. That would be reasonable. Assuming all debate on the amendment of Senator DODD—that there is no further amendment, with debate going forward until that time.

Mr. DODD. If the minority whip will yield, my intention was to make a few additional comments, but I have spoken on the amendment. I would like some idea of when we might do this. I know the Senator from Rhode Island has an amendment.

Mr. GREGG. I suggest, if the Democrat assistant leader is so inclined, we now have a vote at 5:15. Why not begin at what time before that?

Mr. REID. The two leaders have to work out what the sequence of votes is going to be. We have the Dodd amendment which has been laid down. We have the Edwards amendment which is pending. We have Senator REED of Rhode Island offering an amendment on LIHEAP, cosponsored with Senator COLLINS. We have Senator DAYTON coming in a few minutes to offer one on corporate expatriation. They have to figure out the sequencing of votes. We are trying to do as we have been told—to offer as many amendments as possible. I suggest this can be worked out between the Senators from New Hampshire and Connecticut, but we would like to get to this.

Mr. GREGG. Mr. President, how much time does Senator REED require?

Mr. REED. Around 10 or 15 minutes. No longer.

Mr. GREGG. I suggest after Senator REED completes the presentation of his amendment, we go back to the Dodd amendment. Hopefully, I can lay down my amendment and spend up to an hour, equally divided, on it at that point and proceed to the next item of business.

Mr. REID. If my friend will withhold, my only point is that we have been trying to do as your leader wants us to do and line up a bunch of amendments. We have Senator DAYTON coming at 1 o'clock, and I have announced that previously. He is not going to take too long. But I am happy to go along with what the Senator suggested. We will get the Reed amendment laid down and come back to the Dodd amendment.

Mr. DODD. That is fine. We have a couple of other Members, I have just been informed, who would like to speak on the special education amendment. They are not here yet because of the conditions outside. In order to accommodate our colleague from Rhode Island, who is here—and Senator DAYTON from Minnesota is on his way—we could work up a proposal and come back later in the afternoon when the other Members are here and finish up the debate on that and allow these other amendments to be debated, since those Senators are here.

Mr. GREGG. I would like to get back to getting the floor at a reasonable point of time. I suggest at 2 o'clock I be recognized to offer my amendment.

Mr. REID. I think the Senator's original suggestion is the better of the two. I ask unanimous consent the Dodd amendment be set aside and Senator REED be recognized to offer his amendment, speak up to 15 minutes, and then we will return to the Dodd amendment and try to work out something.

Mr. REED. Reserving my right to object, Senator COLLINS of Maine, also a cosponsor, wants to speak on this amendment.

Mr. REID. There will be ample time later for her to do that.

Mr. REED. So her rights will be protected.

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Rhode Island.

AMENDMENT NO. 27

(Purpose: To provide additional amounts for low-income home energy assistance)

Mr. REED. Mr. President, I am offering an amendment today to increase funding for the LIHEAP program, the Low-Income Home Energy Assistance Program, to $2 billion for this fiscal year. I am offering this amendment with my colleague and friend from Maine, Senator SUSAN COLLINS. Senator COLLINS wanted to be here to offer the amendment with me, but she is traveling from Maine in very difficult weather circumstances today, and when she arrives this afternoon she will take the floor to speak on behalf of this amendment.

I also thank my colleagues, Senator DAYTON, Senator SNOWE, Senator JEFFORDS, Senator KENNEDY, Senator DEWINE, Senator SARBANES, Senator CANTWELL, Senator STABENOW, Senator CLINTON, Senator DODD, Senator KERRY, Senator LEVIN, Senator CORZINE, Senator LEAHY, and Senator DURBIN, who are all cosponsors of this amendment.

At this juncture I ask unanimous consent that Senators CHAFEE, SCHUMER, HARKIN, FITZGERALD, MURRAY, BINGAMAN, and LAUTENBERG be added as cosponsors of this amendment.

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

Mr. REED. As you can see, this amendment enjoys widespread and bipartisan support. I think it is clear, particularly given the weather today, that support is not unmerited.

Let me begin by offering a weather report, if you will. It is today, in Washington, around 30 degrees. But if you are outside, it feels much colder. The low will be somewhere around 14 degrees.

As you go along the country: Albany, NY, today, 17 degrees the high; Baltimore, 29 degrees; Chicago, 18 degrees; Cleveland, 15 degrees; Des Moines, IA, 12 degrees; Detroit, MI, 18 degrees; Milwaukee, 14 degrees; Omaha, 12 degrees; and my State, Rhode Island, they list the high as 23, but this morning when I left at 5 a.m. it was 5 degrees, but with the wind chill factor it was below zero.

This amendment is important because there are Americans who are suffering because of the cold. But it is not just about cold weather in certain parts of the country at this time of the year; the LIHEAP program is also important since it covers those hot stretches in the summertime when energy bills in the Southwest and the Southeast are astronomical and impact adversely low-income Americans.

We need this program throughout the year. We particularly need it today to protect people from the cold, but, as I said, those individuals who live in Alabama or Arkansas or Texas or southern California need LIHEAP in the summertime and it should be there for them, as it should be for those people who struggle today with the cold weather in the Northeast and Midwest.

In fact, yesterday the coldest place in America was Embarras, MN, minus 26 degrees. It is one thing to be in Embarras, but it is also something else to be freezing in Embarras. So I think we have to do something to ensure that we can protect low-income Americans from the cold that is affecting them today.

Twenty-five years ago Congress passed the LIHEAP program. They knew that people struggling with all sorts of expenses—raising a family, providing food to put on the table—they needed help in these cold months in the Northeast and those hot spells in the Southeast, to provide for assistance so they could afford the energy they needed.

During his campaign, President Bush promised to fully fund LIHEAP to help these low-income families meet their needs for heat in the winter and cooling in the summer. If he stood by his promise, the President would demand the $2 billion for which we are asking; rather, he has proposed cutting that money. This year, despite rising energy prices, colder weather, and increased unemployment, the President's budget has proposed to cut LIHEAP by $300 million. This cut would deny assistance to literally hundreds of thousands of Americans. The appropriations bill that we are considering today does restore part of this funding. I commend and thank Senators STEVENS and BYRD and SPECTER and HARKIN and their staffs for their hard work to maintain this funding, but we want to restore an additional $300 million to bring it up to the $2 billion level that will just be, in terms of purchasing power, equal to last year. We want to do that and I hope we can do that today through this amendment process.

As I said, we could add this $300 million, but we are not requesting new funding. This amendment simply requires the administration to give the States the $300 million the Congress provided in the fiscal year 2001 Supplemental Appropriations Act. Congress provided $300 million in LIHEAP funding 2 years ago to help these families meet their needs when energy costs increase, when there are significant disconnections of utilities because if you can't pay the gas bill or electric bill, eventually you will be disconnected and you will be without any type of energy.

All of these efforts in terms of funding LIHEAP have been urged on the present administration by the Governors. They understand because they are right there in the trenches, if you will, dealing with the issue of people literally freezing today and sweltering in the summertime.

Cutting heating assistance for seniors and low-income Americans is not the way to go, particularly when it is juxtaposed against proposed significant tax cuts. If we can't at least provide people with a warm shelter in the winter and a cool shelter in the summer when thinking about large-scale tax cuts, to me, seems somewhat inappropriate.

LIHEAP, even with our amendment, will be seriously underfunded. Providing this $2 billion in regular funding to the program will just equal the purchasing power of last year. What it does not recognize is that energy prices are soaring. Today, on the front page of the Providence Journal, there is an article about the cold wave that is sweeping our region of the country, but also the fact that in order to keep up with the demand for oil, which is our principal fuel, because the demand is so huge, our Governor had to suspend regulations to allow delivery drivers to work through periods of time when they are normally required to rest. What is also happening is the prices are jumping up because of uncertainty in Venezuela and uncertainty in the gulf.

This combination of increased prices, cold temperatures, and also an economy that sees more and more people unemployed, is the perfect storm, if you will, when it comes to requiring assistance for heating throughout the Northeast in particular.

There is something else that happens when people are challenged for energy, when they do without. They take their own improvisational means to keep warm. They turn the electric stove on and open up the oven. They go out and buy portable heaters. It is more than coincidence that the number of house fires shows a sharp increase in the months of cold weather in the Northeast because people are improvising. So this is another danger that must be recognized.

This amendment simply allows people to stay warm in the winter and to escape scorching heat in the summertime. It is something that is basic. It is something I believe we should support extensively. I am pleased and proud that so many of my colleagues have joined Senator COLLINS and me on a bipartisan basis. I hope this is one amendment we can quickly adopt and include in this omnibus appropriations bill. I hope, also, we can at least signal to those people who are looking for some modest assistance in these cold days that we have heard their calls, we are responding to our political leaders at the State level, the Governors, and we are giving them the resources to at least keep people from freezing in a very difficult time.

The PRESIDING OFFICER. Is the Senator calling up his amendment?

Mr. REED. I asked in my initial statement that we call up amendment No. 27. I ask now it be called up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. REED) for himself, Ms. COLLINS, Mr. DAYTON, Mr. JEFFORDS, Mr. DEWINE, Mr. KENNEDY, Mr. SARBANES, Ms. CANTWELL, Ms. STABENOW, Mrs. CLINTON, Mr. DODD, Mr. KERRY, Mr. LEVIN, Mr. CORZINE, Mr. LEAHY, Mr. DURBIN, Ms. SNOWE, Mr. CHAFEE, Mr. SCHUMER, Mr. HARKIN, Mrs. MURRAY, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. ROCKEFELLER, proposes an amendment numbered 27.

The amendment is as follows:

(Purpose: To provide additional amounts for low-income home energy assistance)

At the end of the general provisions relating to the Department of Health and Human Services, add the following:

SEC. ____. The Supplemental Appropriations Act, 2001 (Public Law 107–020) is amended, in the matter under the heading ''LOW INCOME HOME ENERGY ASSISTANCE'' under the heading ''ADMINISTRATION FOR CHILDREN AND FAMILIES'' under the heading ''DEPARTMENT OF HEALTH AND HUMAN SERVICES'', in chapter 7 of title II, by striking ''amount for'' and all that follows, and inserting the following: ''amount for making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $300,000,000.''.

Mr. REED. I thank the Chair.

Mr. JEFFORDS. Mr. President, I am very pleased to support this bipartisan amendment to provide additional funds for the Low Income Home Energy Assistance Program (LIHEAP). At a time when home heating prices are increasing dramatically and temperatures in my home state of Vermont are plunging, we can ill afford cuts in the LIHEAP program.

I have fought for years to make sure that no Vermonter has to choose between heating and other of life's necessities such as putting food on the table or prescription drugs. I am very mindful of the financial strains that low-income Vermonters feel when the weather gets cold.

We must continue to make sure that funding for LIHEAP is a priority of this administration and of the Congress. I am hopeful that LIHEAP will continue to provide a safety net to families and the elderly who are buffeted by high fuel prices, loss of benefits, and sickness.

I am going to close this short statement with this week's forecast from the National Weather Service for Chittenden County. In very stark terms, more than any speech, it demonstrates the need for LIHEAP in Vermont.

Tonight. Mostly clear and bitterly cold. Low 10 to 15 below zero. Northwest wind 10 to 20 mph early tonight. Diminishing to 10 mph late. Wind chills 20 to 25 below zero.

Wednesday. Mostly sunny and continued very cold. High around zero. Northwest wind 10 to 15 mph.

Wednesday night. Increasing clouds. Low 10 below to 20 below.

Thursday. Becoming cloudy with light snow likely in the afternoon. High 5 to 15 above. Chance of snow 60 percent.

Thursday night. Mostly cloudy with a chance of snow showers. Low 5 below to 5 above. Chance of snow 30 percent.

Friday. Partly cloudy. High 10 to 15.

Saturday. Partly cloudy. Low 5 below to 5 above and high in the teens.

Sunday. Cloudy with a chance of snow. Low 5 below to 5 above and high in the lower 20s.

Monday. A chance of snow showers. Otherwise partly cloudy. Low zero to 10 above and high in the lower 20s.

Mr. President, I yield the floor.

Mrs. CLINTON. Mr. President, I rise today in strong support of this amendment, which I am proud to cosponsor to provide an additional $300 million in Low-Income Home Energy Assistance Program—or LIHEAP—funds for the current fiscal year.

With unemployment rising, temperatures dropping, and energy prices projected to soar, New Yorkers and others around the country need access to energy assistance more than ever. Colder than normal temperatures in October, November, December, and January have boosted overall heating demands above previous expectations. In fact, conditions this winter are projected to be as much as 18 percent colder than last winter, according to the U.S. Energy Information Administration.

People in my state know what cold means. Ask anyone who has been to Buffalo where it feels like zero degrees Fahrenheit today; Rochester where it feels like 6 degrees; Syracuse where it feels like 5 degrees; Binghamton where it feels like minus 2 degrees; Plattsburgh where it feels like minus 7 degrees; Albany where it feels like minus 2 degrees; or any town in New York State in the winter months. It's cold.

Today, the National Weather Service has issued a hazardous weather outlook for western and north central New York. Very cold air will dominate the region overnight, with temperatures again falling into the single digits from the Finger Lakes west, and below zero to the east. According to the Weather Service, these temperatures will combine with winds to produce bitterly cold wind chills below minus 15 degrees in most areas, and below minus 20 degrees in the North Country.

So far this year, it has snowed just about every day in Oswego County. Twice this month, lake-effect storms dumped several feet of snow on the county. In the city of Oswego, snow fell at a rate of 6 inches per hour for about 4 hours last Wednesday.

So it's no surprise that applications for LIHEAP assistance in New York State are up from last year—by at least 9,000 households.

That is why instead of proposing to cut this vital program by $300 million as the Bush Administration has done, we are here today offering an amendment to increase the funding for LIHEAP provided in this bill by $300 million. The $300 million cut proposed by the Bush administration would have forced the State of New York to ''freeze out'' an estimated 80,000 families who previously benefited from the vital LIHEAP program.

Under this amendment, New York and other states will be able to help tens of thousands more families with home heating assistance, rather than leaving families—literally—out in the cold. The change in seasons needs to be accompanied by a change of heart—and that is why we are here today offering this amendment.

An additional $60 million in LIHEAP funding that was released to New York State earlier this month received a warm welcome—particularly from the thousands of New York families that are now able to heat their hoes without having to forgo other, basic household expenses—like buying groceries. And this additional $300 million will receive an equally warm welcome.

I want to commend our colleagues on the Senate Appropriations Committee who voted last year not to cut the LIHEAP program as was proposed by the administration, but rather to keep it at its previous level of $1.7 billion. Thankfully, the bill we are considering today contains approximately $1.6 billion in LIHEAP funding for the current fiscal year. But that is still not enough.

Many of my colleagues and I have asked the administration to release the hundreds of millions of dollars in emergency funds that are still available in order to help low-income families and the elderly in New York and around the country pay their heating bills. With our economy in crisis, this is no time to be heaping additional financial burdens on our low income residents and forcing them to choose between paying for food and paying their energy bill.

That is why we are offering this amendment today, to convert $300 million in already-appropriated emergency LIHEAP funds to regular program funds, so that these funds can be spent now to help families in need. Because for low-income families and the elderly in New York State and around the country who are having to choose between food and heating their homes, between prescription drugs and heating their homes—this is an emergency, not question about it.

So I urge my colleagues to support this common sense amendment to provide an additional $300 million in regular program funding for the Low-Income Home Energy Assistance Program.

Mr. KOHL. Mr. President, I rise today to support my colleagues' amendment increasing LIHEAP funding. In Wisconsin the Low Income Home Energy Assistance Program is not a luxury but a necessity. Many people around my State depend on this funding to heat their home and protect their families, especially in this economy. Already this heating season the State of Wisconsin has almost 4,000 more people being served by LIHEAP than last year at this time. This 13 percent increase is a sign of the high energy prices and worsening economy putting the squeeze on families. The price of the program has skyrocketed as well, almost $8 million more than last year at this time for a 36 percent increase in cost. The small increase from last year proposed in the underlying bill will not be sufficient to meet the needs of my constituents. Without the additional $300 million called for in this amendment, Wisconsin will run out of funding in early May, almost a month earlier than in years past.

Constituents are calling and writing my office concerned about running out of LIHEAP assistance. They are unemployed and facing steep bills for energy as well as rent and health care and they are worried they won't be able to make ends meet. The average benefit in my state is $369, an amount that would be almost impossible for a family on unemployment to pay. Heating a house through the Wisconsin winter is more expensive and takes more energy than cooling a house through a summer down south. We have to recognize that challenge and help these people.

The $1.7 billion in the bill still leaves 8,803 people in my state without benefits. Almost 9,000 people who are eligible for LIHEAP will go without because there is not enough money. There are thousands in my state who need this money but do not apply because they don't know about the program or don't realize they are eligible. The money today is only the tip of the iceberg. This extra $300 million will help reach these folks who are not being helped, and will help them pay their bills until the heating season is over.

Mr. SARBANES. Mr. President, I rise today to speak in strong support of Senator REED's amendment, which would ensure that the Low Income Home Energy Assistance Program (LIHEAP) is funded at an amount close to the level authorized by the Senate for the current fiscal year.

As he traveled through colder climate areas in the Northeast and Midwest in 2000, President Bush campaigned on a promise to fully fund this vital program, which assists senior citizens and low-income households with their basic home heating costs.

Regrettably, the President decided to retreat from this commitment, proposing $1.4 billion for LIHEAP in his fiscal year 2003 budget—a $300 million cut from the previous year's funding level for the program.

Meanwhile, plunging temperatures and rising heating costs are putting some of the most vulnerable Americans at risk this winter. Indeed, only a fraction of those eligible to receive LIHEAP assistance will actually benefit from the program at current funding levels. Furthermore, heating bills are significantly higher than they were at this point last year. According to the Energy Information Administration, which released its monthly short-term outlook on January 8th, the price of natural gas has risen 34 percent compared to last winter's costs. Heating oil prices have increased a remarkable 43 percent.

Senator REED's amendment would increase LIHEAP funding for the current fiscal year to a level close to the Senate-authorized amount of $2 billion by transferring the funds already appropriated by Congress in the Emergency Supplemental Appropriations Act of 2001—but not spent by the President—to the omnibus appropriations bill now pending before the Senate. This important amendment will ensure that the administration does not deny these funds to the scores of households who desperately need this assistance to simply keep warm this winter.

I urge my colleagues to join me in supporting the Reed amendment.

Ms. CANTWELL. Mr. President, I rise today in support of this amendment to provide much-needed assistance to our Nation's low-income families. The amendment before us today would use $300 million in contingency funds included in the fiscal year 2001 supplemental appropriations bill be provide additional money for states struggling to keep pace with demand for the Low-Income Home Energy Assistance Program.

The Low-Income Home Energy Assistance Program, LIHEAP, provides critical aid to many of our Nation's most vulnerable citizens. According to the National Energy Assistance Directors Association, as many as 5 million households received LIHEAP assistance during fiscal year 2001—the last year for which such data is available.

Since then, of course, the need for this program has grown almost exponentially. In many places—particularly in the western part of our country—the downturn in our nation's economy has conspired with soaring retail energy costs to create record-breaking demand for LIHEAP dollars.

I want to explain to my colleagues precisely why this amendment is so important to so many families in my state. On a number of previous occasions—during debate on the Senate energy bill, at various junctures during the Western energy crisis and the ensuing investigations of Enron and others—I have spoken on this floor about the Bush administration's failure to step in and stem the economic bleeding in my state resulting from skyrocketing electricity prices. But not only did this administration sit idly by as Enron and others conspired to wreak havoc on the economy of the West, this administration has also ignored repeated pleas to release the LIHEAP money that would aid those very citizens who have suffered the most from its inaction.

As my colleagues may recall, during the height of the western energy crisis—which we now know resulted at least in part from the manipulations of Enron and potentially other energy companies—wholesale electricity prices spiked to as much as 1,000 percent above normal.

While prices on the wholesale markets have now stabilized, one daunting reality we face in Washington state is that, despite a series of rate increases that had reached almost 50 percent in some areas by September 2001, the worst of this crisis is not yet over. The Bonneville Power Administration, which markets about 70 percent of the power consumed in Washington, subsequently put in place a rate increase of more than 40 percent in October 2001.

My State and region continue to struggle to pay power costs incurred during the crisis, at least in part due to the Federal Energy Regulatory Commission's failure to act and void exorbitantly prices contracts signed with the likes of Enron. And just this week I learned that, as a result, the Northwest faces the prospect of yet another round of double-digit rate increases later this year.

Already, Washington State has suffered from the second or third highest unemployment rate in the nature for almost a year. Already, utility disconnection rates have quadrupled in some areas of my State.

Already I receive letters from constituents who have to make the choice between buying prescription drugs and paying their electricity bills. So my colleagues can imagine just what kind of threat further electricity rate increases pose to the prospect of an economic recovery.

I could recount in much more detail this administration's flagrant disregard for the statutory requirement that consumers be charged ''just and reasonable'' electricity rates. But today, I want to focus on the fact it continues to ignore the plight of citizens who have borne the brunt of the economic crisis the administration itself had a hand in creating.

During fiscal year 2002, the Bush administration had at its disposal a total of $600 million in LIHEAP contingency funds. Congress appropriated a total of $300 million of these funds as part of that year's Labor-HHS appropriations bill; the remaining funds were appropriated as part of the fiscal year 2001 Supplemental bill, which included $300 million in LIHEAP funds that remain available until expended.

Due to the dire economic circumstances in which many of my state's working families find themselves, I have repeatedly asked this administration to release a portion of those funds to Washington State.

In October 30, 2001, in testimony before the Senate Health, Education, Labor and Pensions Committee, Assistant Health and Human Service Secretary Wade Horn stated that LIHEAP fulfills a ''dual responsibility to provide ongoing assistance where it is most needed and to respond to emergency situations such as extreme weather conditions, supply disruptions or price spikes.'' At the same time, he indicated that there were no plans to release emergency funds due to a drop in fuel prices as well as forecasts of a relatively mild winter.

In response, I was joined by my colleague Senator MURRAY as well as six other members of the Washington delegation in sending a December 10, 2001 letter to Health and Human Services Secretary Tommy Thompson, pointing out that some 73 percent of Washington's low-income households are heated by electricity—rather than natural gas or oil, as in other parts of the country—and that retail rates continued to rise rapidly. I would also point out that since 1980—when LIHEAP was first authorized—electricity prices have climbed 180 percent on a national basis, while oil, natural gas and propane prices have been relatively more stable. In light of all this, we requested an immediate release of the then-$300 million in emergency LIHEAP money. no money was released.

On March 8,, 2002, after Congress had added another $300 million to the LIHEAP contingency fund and Assistant Secretary Horn had, in his response to our first letter, suggested that should there be an emergency, the administration would release the necessary aid, I wrote again to suggest we had reached that point.

Washington State's utility shutoff moratorium was set to expire, and 5 inches of snow had just fallen in the eastern part of my State. Still no funds were released.

On April 12, 2002, I wrote yet another letter—this time to OMB Director Mitch Daniels. After a phone call, he requested more information on Washington State's particular situation. My office provided this information in an April 17, 2002 letter. Still no funds were released.

On May 28, 2002, I joined with a number of my Senate colleagues from across the country in sending a letter to President Bush, arguing that many States had already exhausted their annual LIHEAP allocation. Still no funds were released.

Finally, on August 9, the administration released $100 million of the total $300 million available in fiscal year 2002 LIHEAP contingency funds. Unfortunately, Washington State was not on the list to receive any of this additional money.

What this amendment proposes to do is take the $300 million in contingency LIHEAP funds Congress appropriated in fiscal year 2001 and distribute it to this Nation's many families in need.

I ask unanimous consent to print in the RECORD and article from the December 22, 2002 New York Times, entitled ''The Legacy of Power Cost Manipulation,'' which describes the situation in Snohomish County, WA.

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

LEGACY OF POWER COST MANIPULATION

(By Timothy Egan)

EVERETT, WASH. Two years ago this month, a record was set at the height of the West Coast energy crunch: an hour of electric power was sold for $3,250—more than a hundred times what the same small block had cost a year earlier.

Now, power supplies are abundant and wholesale prices have plummeted. But the fallout from what state officials say was the largest manipulation of the energy market in modern times has continued to hit West Coast communities hard. Here in Snohomish County, which has the highest energy rates in the state, more than 14,000 customers have had their electricity shut off for lack of payment this year—a 44 percent increase over 2001. They have seen electric rate increases of 50 percent, as the Snohomish County Public Utility District struggles to pay for long-term power contracts it signed with companies like Enron at the height of the price run-up.

Aided by charities, most customers have had their power returned within a day of being shut off, but others are forced to make choices about which necessities they can live without.

It's a pretty tough thing trying to explain to your 5-year-old kid why the lights won't come on anymore,'' said Crystal Faye of Everett. ''I didn't pay much attention to all that stuff about California and Enron, but it's certainly come home to hurt us now.''

Ms. Faye and her husband, Rick, who are unemployed, have had their power shut off twice this year.

Brianne Dorsey, a single mother, said she removed the baseboard heater in her home here and has had to rely on a small wood stove for heat, because she is $1,000 behind in paying her electric bills.

Faced with such tales tied to rate increases along the West Coast, states are trying to get back some of what they lost during 18 months when energy prices seemed to have no ceiling.

The decision this month by a federal regulatory judge that California utilities had been overcharged by $1.8 billion bolstered the case of Northwest utilities seeking refunds, officials of those utilities said. It also angered California officials, who say they will continue to press for a total of nearly $9 billion in refunds. The Federal Energy Regulatory Commission is expected to decide on Northwest refunds in the spring.

No matter what the federal government decides, officials say their best hope for compensation is from a number of criminal investigations being pursued by Nevada and the three West Coast states—Washington, Oregon and California. They liken their cause to state lawsuits against tobacco companies, which started as long shots but resulted in enormous settlements.

Aided by a guilty plea in October from a former trader for Enron, and by newly discovered internal documents describing how companies manipulated the energy market in 2000 and 2001, the West coast states are hoping to get settlement money from more than a dozen energy trading companies.

The companies say they acted legally in taking advantage of a unique market condition, but state officials say the companies created a fake energy crisis.

At the height of the rise in energy costs in early 2001, the Bush administration said the West Coast's troubles were a precursor of what would happen if the nation did not build 1,900 power plants over the next 20 years.

But state officials in the hardest-hit areas say the crisis was never about energy shortages so much as it was about an epic transfer of wealth. They want payback—in some cases for immediate relief to consumers who cannot pay their bills this winter.

Last month, the Williams Company, in Tulsa, Okla., agreed to a $417 million settlement with Washington, Oregon and California. While admitting no wrongdoing, Williams agreed to pay refunds and other restitution to the three states; in return, the states dropped an antitrust investigation.

Among large energy companies, the states are seeking refunds from the Mirant Corporation, Reliant Resources Inc., Dynegy Inc., Duke Energy and Enron.

''All of us on the West Coast have been hard hit by these rate increases, but the poor in this county have just been hammered,'' said Bill Beuscher, who runs the energy assistance program in Snohomish County. Mr. Beuscher said that in the first two weeks the winter energy assistance program was open this year, requests for financial aid were up 55 percent from the same period last year.

The power trading companies named in criminal investigations and refund cases did not want to comment publicly while the cases were pending. But several of the companies that are fighting refunds have said in their public filings that the utilities, particularly in the Northwest, are trying to renege on legitimate long-term contracts. They said they did not act in collusion and explained that the highest prices were a result of severe market shifts brought in part by the Northwest drought.

In some cases, the power trading companies said, the utilities resisted buying shorter contracts, which would have cost them less. They also said that some Northwest utilities took advantage of the price spikes and sold power into the market themselves, only to come up short later. The companies said they expected to be vindicated when the government finishes its refund cases next spring.

Mr. Beuscher said he would like to see money from the Williams settlement be used to help people who cannot afford the rate increases. Consumers in Oregon and California have made similar pleas. But officials in all three states say that until there are larger settlements with the energy companies, consumers are unlikely to see relief.

''We hope that the Williams case serves as a template,'' said Tom Dresslar, a spokesman for the California attorney genera's office, ''because California was monumentally ripped off by these energy traders.''

About seven million consumers in California, who were initially shielded from having to pay for runaway energy costs during the worst part of the state's deregulation debacle, are paying rate increases averaging 30 percent more than the pre-deregulation prices of 1996. The state has the highest energy rates in the nation, consumer advocates say, although the structure of the rate increase allows poor people and low energy users to escape the recent increases.

''I don't hold out a lot of hope that we will ever get significant refunds,'' said Doug Heller of the Foundation for Taxpayer and Consumer Rights, a nonprofit group based in Los Angeles. The group calculates that California power customers overpaid a total of $70 billion.

At the height of the energy troubles, the trading companies boasted of record profits in their quarterly reports. But many of those companies are now near bankruptcy as they cope with a downturn that has caused the energy trading sector to lose 80 percent of its value, according to Wall Street analysts.

''It's like the highwayman robbed us and then spent all the money on booze,'' Mr. Heller said.

The companies themselves blame the states. In one case that was heard this month, William A. Wise, chief executive of the El Paso Corporation, which is based in Houston, denied manipulating the market and blames the officials who set up California's deregulated energy market for causing the price run-ups with ''one bad policy after another.''

Under a New Deal-era law, power companies can be forced to pay refunds if they have charged an ''unreasonable and unjust'' amount for electricity. The Federal Energy Regulatory Commission, which West Coast governors say did very little to restrain power traders during the height of the run-ups, will determine the exact refund amount, if any.

In the meantime, electric rates throughout the Pacific Northwest, once among the cheapest in the nation, have climbed as much as 50 percent.

California's problems stem from its chaotic attempt at energy deregulation, approved in 1996 and put in effect in 1998. The Northwest, with its tradition of publicly owned utilities, was drawn into the California crisis by a convergence of dry weather and freewheeling trading of its own.

Usually, the Northwest avoids price fluctuations by providing a steady stream of hydroelectric power, aided by abundant winter rainfall. But in late 2000, a drought in the Northwest forced utilities to buy power on the open market. Some utilities had also tried to sell power into the California market but were pinched by the drought.

At the same time, major energy traders were withholding blocks of power to create the appearance of further shortages, according to Enron memorandums discovered this year.

Refunds were once thought to be unlikely. But then came the memorandums—many of them detailing schemes to manipulate the market under names like Death Star—and the agreement in October by Timothy N. Belden, a former senior trader for Enron, to plead guilty to conspiring with others to manipulate the West Coast energy market.

Prosecutors say Mr. Belden is cooperating with investigations of the power trading companies.

''What really started the ball rolling were the smoking-gun memos, and then the guilty plea has helped as well,'' said Kevin Neely, a spokesman for the Oregon Department of Justice.

There is also continued bitterness among West Coast officials toward the Bush administration for waiting until June 2001 before putting price controls on the market, which immediately ended the large price spikes and rolling blackouts and brought stability.

Since then, power use has fallen and prices on the short-term market are about where they were before the energy run-up of 2000 and 2001.

''It was a fallacy to blame this crisis on a lack of new power plants,'' said Steven Klein, superintendent of Tacoma, Wash.'s public utility, Tacoma Power. ''But it's a shame what came of this. It put a dent in a lot of family budgets, and forced some businesses to close.''

Ms. CANTWELL. Mr. President, in part the article says:

Here in Snohomish County, which has the highest energy rates in the state, more than 14,000 customers have had their electricity shut off for lack of payment this year—a 44 percent increase over 2001. They have seen electric rate increases of 50 percent, as the Snohomish County Public Utility District struggles to pay for long-term power contracts it signed with companies like Enron at the height of the price run-up . . .

''It's a pretty tough thing trying to explain to your 5-year old kid why the lights won't come on anymore,'' said Crystal Faye of Everett. ''I didn't pay much attention to all that stuff about California and Enron, but it's certainly come home to hurt us now.''

Ms. Faye and her husband, Rick, who are unemployed, have had their power shut off twice this year.

Brianne Dorsey, a single mother, said she removed the baseboard heater in home and has had to rely on a small wood stove for heat, because she is $1,000 behind in paying her electric bills . . .

Mr. President, this article details but two examples of the plight of far too many Washington state citizens—where an estimated 295,000 households were eligible for LIHEAP even before the Western energy crisis and economic downturn collided to exact such a devastating toll. In 2002, while the Bush administration sat idly by, some 80 percent of Washington State's eligible households received no LIHEAP assistance whatsoever.

Of the 20 percent that did, 74 percent had children in the home, 14 percent of these households included disabled Americans, and 10 percent included the elderly.

The amendment before us today sends a clear message: while the Bush administration has turned a blind eye to the very real economic pain being felt by our Nation's most vulnerable citizens—in my State, a pain exacerbated by a very real energy emergency with its roots in the western electricity crisis—this Congress must not turn its back. This amendment would ensure that an additional 11,000 households in Washington State, and many more through the Nation, would receive much-needed assistance in keeping the lights and the heat turned on. I ask my colleagues to support this amendment.

Mr. REED. Mr. President, I ask unanimous consent that Senator ROCKEFELLER be added to the amendment as a cosponsor.

The PRESIDING OFFICER Mr. (ENSIGN) Without objection, it is so ordered.

Mr. REED. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I believe we are in a position to enter into a unanimous consent agreement relative to the Dodd amendment.

I ask unanimous consent that the pending Dodd amendment be temporarily set aside and that I be recognized in order to offer a first-degree amendment relating to the same subject matter; provided that there be 60 minutes of total debate to be equally divided between Senator GREGG and Senator DODD or their designees; provided, further, that following the use or yielding back of time, the amendments be temporarily set aside, with no amendments in order to either amendment prior to the vote; finally, I ask unanimous consent that when the Senate votes in relation to these amendments, the first vote in order be in relation to the Gregg amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, we know the Senator is acting in good faith. We don't have a copy of this amendment. We have a pretty good idea of what it is. We are confident that we have a general understanding of the amendment. We believe this would be appropriate.

We hope, when this debate is completed, that Senator DAYTON will have an opportunity to offer his amendment. He is scheduled to be here at 1 o'clock. Senator INHOFE is also here. But let us take one step at a time. Therefore, we have no objection. Let me also say that debate on this may not all be completed this afternoon. Senator DODD would reserve whatever time is left of his 30 minutes.

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

The Senator from New Hampshire.

AMENDMENT NO. 78

(Purpose: To provide additional funding for special education programs)

Mr. GREGG. Mr. President, Senator DODD has offered an amendment which increases special education funding by $1.5 billion. As an individual who has spent a tremendous amount of time, after being elected to this Senate, trying to bring special education funding in line with what the obligation of the Federal Government is supposed to be pursuant to the 1976 bill, I like the idea of increasing special education funding and, in fact, have driven the effort here in the Senate for many years to try to do exactly that, increase special education funding.

When special education was originally proposed, as has been mentioned, the understanding was that the Federal Government would pay about 40 percent of the cost. Unfortunately, when I was first elected to Congress, the Federal Government was only paying about 6 percent of the cost of special education. But I think it is important to review the history to determine where we are and how we have gotten there relative to increases in special education funding because the increases have been rather dramatic over the last few years. In fact, as a result of the commitment of the Republican Senate, when we had control of the Senate back in the 1990s—and now with President Bush—we are seeing the most significant increases in special education funding in the history of the program. Special education funding, as a function of the Federal Government, has increased faster than any other funding element within the Federal Government on a percentage basis.

So let's review the history.

When the Republicans took control of the Senate in 1996, we made S. 1 the first bill introduced by the new Republican Senate. S. 1 called for significant increases in special education funding. As a result, we have dramatically increased special education funding every year. That is as a result of the Congress's effort, and now the President's effort, to the point where we are up to, this year, $7.5 billion in 2002. It will be $8.5 billion in 2003. It will be $9.5 billion in 2004 if we follow the President's proposals.

This is an important factor because this funding commitment was made by the Republican Congress, not by the prior administration. During President Clinton's term in office, his proposed special education budget increases were essentially nonexistent.

In the year 1997, he proposed a $280 million increase. In the year 1998, he proposed a $139 million increase. In the year 1999, he proposed a zero increase in special education funding. In the year 2000, he proposed a zero increase in special education funding. But during this exact period, special education funding went up, as I mentioned, rather dramatically. Why? Because the Republican Members of the Senate insisted upon it. We put it in our budget resolutions. We passed it out of our budget resolutions. And as a result, we dramatically increased funding in the special education accounts. There has been a 224-percent increase in special education funding since 1996.

Then President Bush came into office. And to show the difference in priorities from one administration to another administration, to show the importance——

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. GREGG. I am going to send it up in a little while, Mr. President.

To show the difference in its importance in the two different administrations and the impact it has on the special education community in America, when President Bush came into office he did not suggest a zero increase, as President Clinton had in 1999. In the year 2000, he suggested a $1 billion increase. That $1 billion increase was in his first budget. He followed it up with another $1 billion increase in his second budget. So now he was up $2 billion. And then, in the year 2003, he has added another $1 billion increase. So he is now up $3 billion in 3 years, which is a 30-percent increase in just 3 years—just in 3 years—over the funding baseline of special education.

So the commitment from this administration has been there and at a level which is historic and has had a dramatic impact in the funding needs of the special education children of America.

The practical implication is that the Federal Government's role has now gone from about a 6-percent commitment to special education to around 20 percent. It is a huge increase, a dramatic increase, and it is on a rising path to full funding if we can get the cost of special education under control, which brings me to the second point.

We are now in the process of trying to reauthorize the special education bill within the Health, Education, Labor, and Pensions Committee. There are a lot of issues involving special education that do not involve funding; issues such as discipline, in which the Senator from Alabama has been involved; issues such as excessive regulation; issues such as too many consultants, too many lawyers taking money out of the system instead of having it go to the kids.

The fact is that the system has become convoluted, officious, and bureaucratic. It needs to be adjusted, and it needs to be improved so we are getting the money back to the children who need the assistance as special needs children.

So reauthorization is very important in this whole context of what we do. It is really difficult to continue to put money into the program at these huge increased rates without doing reauthorization. Why is that? Because it is like the goalposts keep moving every year.

We have seen, unfortunately, in some areas excessive coding, where kids who should not end up with the stigma of special needs end up being stigmatized as special needs children simply because the school system wants to get more money out of the special education accounts. That is not right and not appropriate, and it undermines the ability to help the kids who really need the assistance.

So we need to reauthorize this bill to get some controls back in place over how many children really are special needs children and make sure those kids who really are special needs children get the assistance they need, which brings us back to this amendment.

This amendment is well intentioned. I am in favor, as I have said before on this floor, of doing proper prioritization, of saying: What is it the Federal Government should be doing today? In what areas should the Federal Government be putting its resources?

The No. 1 area, obviously, is fighting terrorism, protecting the homeland, of making an aggressive effort in this area. Certainly the Senator from Maryland, who is seeking the floor, has been a leader in this effort. But the fact is, after we get into dealing with terrorism, the next area that I think is most important is education. I think the Federal commitment to education is critical. That is why I was a strong supporter, last week, of an amendment which came to the floor which said we are going to put $5 billion more into education, No Child Left Behind proposals, title I, but in doing that we have to be willing to prioritize. We have to be willing to recognize that this country—our Federal Government—is now spending more than it is taking in. We have to be willing to set a ceiling as to how much we can afford to spend and then live within that ceiling.

But within that ceiling we need to make priorities back and forth between what are the right programs, what programs should get more money, what programs should get less money. We did that last week when we adopted the amendment which said we are going to increase title I funding, funding for the education of low-income kids, by $5 billion but, in exchange for that, we are going to make an across-the-board cut.

The Senator from Connecticut has come forward with this amendment to jump, by another $1.5 billion, the funding that is already going into special education. I am supportive of that, but, in the context of allocating resources fairly, of saying, if we are going to make that type of decision, that is a priority, and we have to reduce somewhere else.

So what I am offering today, and what I will send to the desk, at the request of the Presiding Officer, is an amendment which says, let's put in the $1.5 billion in special education, but also have a cut across the board so we stay within this $750 billion number, which is the amount of money which we have all agreed to pretty much is a reasonable number to spend as the Federal Government in the year 2003.

This $750 billion was not pulled out of a hat. It was aggressively negotiated between both sides of the aisle and the White House. Prior to the Republicans taking back the Senate, it was actually agreed to as the number we would reach in a bipartisan way. Now it seems to be eroding with some of the amendments that are being brought forward. But as a practical matter, it is the right number for us, as a Congress, to say: This is what we can afford to spend in the year 2003. But that does not mean that within that $750 billion we cannot make different priorities on the floor of the Senate. I happen to think one of those priorities should be special education.

Mr. President, I send to the desk an amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 78.

Mr. GREGG. 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:

At the appropriate place add the following:

"SEC. . FUNDING FOR INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

In addition to any amounts otherwise appropriated under this Act for support of the Individuals with Disabilities Education Act, the following sum is appropriated out of any money in the Treasury not otherwise appropriated for this fiscal year ending September 30, 2003, $1,500,000,000, which is to remain available through September 30, 2004; *Provided,* That, unless there is a separate and specific offset for any amounts that are appropriated under Title III of Division G for support of special education in excess of $9,691,424,000 for the Individuals with Disabilities Education Act, the percentage amount of any across-the-board rescission provided under section 601 of Division N of this Act shall be increased by the percentage amount necessary to rescind an amount of funds equal to the total amounts appropriated in excess of $9,691,424,000 for special education in Title III of Division G."

Mr. GREGG. This amendment is very simple. It says, let's set the priorities of special education. Let's add, on top of the $1 billion the President is putting in this year, which is on top of $1 billion he put in last year, which was on top of $1 billion he put in the year before, another $1.5 billion, but let's be responsible about it. Let's take the money out of the other accounts, which represents a four-tenths of 1 percent cut across the board on everybody, a very small number, very doable, and let's do a responsible amendment here on special education and take the increase of $1.5 billion and, in exchange for getting that increase in special education, make the across-the-board cut.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I am happy to yield whatever time the Senator from Maryland needs.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Senator from Connecticut.

Mr. President, I rise as a proud cosponsor of the Dodd amendment which I believe is a first step to full funding for IDEA in 6 years. The President has requested a billion dollar increase for IDEA. That might sound like a lot, but at that rate, it will take 32 years to get full funding for IDEA.

The administration is proposing tax breaks for zillionaires, and I believe that is a misplaced priority. We don't need tax breaks for those who do not need help while we are delaying help for those who need it the most—the children with special needs, their parents, and the teachers of the school system that wants to support them and make sure they have the right educational program.

It is so disappointing that the Federal Government is not looking out for the day-to-day needs of the American people. The Dodd amendment increases IDEA by $1.5 billion. That is a total of

$10 billion, $2.5 billion more than last year. Under the Dodd program, if we followed that approach, we could fully fund IDEA in 6 years. What a great way to get to the first decade of this new century.

The Federal Government is supposed to pay 40 percent of the cost of educating children with disabilities, yet it has never paid more than 16 percent. That means local school districts have to make up the difference, often by cutting educational programs or raising taxes. Either one of those are unacceptable options. Full funding for special education will give local governments the resources they need to improve education for all children.

Everywhere I go in my home State, I hear about IDEA. I hear about it regardless of the community, from the rural communities, whether it is the mountain counties or the Eastern Shore, whether it is the suburban counties which at first blush seem very prosperous and certainly my own Baltimore city, from Democrats and Republicans, from fiscal conservatives to social activists, they all talk about how the Federal Government is not living up to its promise about special education. In Maryland, on average, we get only 10 percent. Schools are suffering and parents are worried.

If you talk to parents, they are under a lot of stress, sometimes working two jobs just to make ends meet, trying to find daycare for their kids or elder care for their parents. The Federal Government should not add to their worries by not living up to its obligations. If you have a special needs child with a chronic condition, whether it is asthma or autism or Down's syndrome or juvenile diabetes, you have significant stress in your family.

One of the ways to alleviate that stress is to make sure they have an educational program they can count on and a local school system that will be able to work to meet those needs. Parents have real questions in their minds. Will they have adequate teachers? Will they have up-to-date textbooks or technology? Will they be learning what they really need to know? Parents of disabled children face a tough burden already. Caring for a disabled child at any age can be exhausting. Just think about what they have to do to pay for their prescription drugs, if you are a juvenile diabetic. The federal government should not make it any harder, particularly when the laws are already on the book to guarantee their child an adequate education.

The bottom line is, the Federal Government is shortchanging parents, children, and local school districts. By providing $1.5 billion more than what is already in the legislation, we can fully fund this by 2009, freeing up money in local budgets for hiring more teachers, textbooks, technology that would help schools improve education for all children.

This will help children with disabilities and their families by providing enough money. More money means parents have to worry less. Full funding of IDEA is essential. We don't like being the Federal nanny. We don't like being the Federal schoolmarm. This is not about a new program with a new bureaucracy and new regs and new mandates. This is about living up to our promise, the promise to the children, the promise to their parents, and the promise to the local community that we will meet our responsibility if we give an obligation to a school district.

I think the Dodd amendment is a terrific idea, and I want to support it.

The Senator from New Hampshire also says we need to take a look at special education—no two ways about it. In my home State, there is a disproportionate number of African-American young men and Latino young men being placed into special education. Is it the right place or is it the wrong assessment? I don't know. But what I do know is there are challenges to the legislation that we need to address, new thinking for a new century, particularly with new technology breakthroughs.

If you are a mom or a dad, you are exhausted from meeting your family needs, and the least we can do is help bear the financial cost while they are coming out with what is the best plan and sharing the emotional responsibility, the family responsibility. It is time we have some Federal responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

Mr. SESSIONS. Mr. President, for some years now I have been active in the debate over the Individuals with Disabilities Act. It is a program that has provided tremendous benefit to thousands of families. Children get extraordinary care with the most severe disabilities in our public schools. At one hearing in the Education Committee, the superintendent from a school system in Vermont stated that 20 percent of his budget goes to IDEA.

We have a serious problem with discipline. I have offered amendments and this Senate has passed amendments to deal with that discipline, the weaknesses in the IDEA act allowing a child whose misbehavior is unconnected in any way to the disability that they may have to be treated quite differently from the other kids in the schools, making teachers and principals extremely upset and frustrated, knowing they have a dual standard of behavior in their school systems.

I suggest to anybody that they talk to principals and teachers and superintendents who run school systems. They will tell you this act needs to be reformed.

It is, in fact, a Federal mandate. It is a requirement on State systems mandated by the Federal Government. It is time for us to do our share of fixing the funding of it. I don't disagree with that. We need to get that 40 percent, as Senator DODD indicated, paid. We need to honor that commitment when they started this Federal regulation. But we also need to reform the law. It has resulted in extraordinary lawsuits, bizarre results in the classroom and a trend of teachers leaving the system. A poll in Washington State indicated that 50 percent of special education teachers expected not to be in the profession in 5 years.

We don't get reform here very often. We need to couch the huge increase that is due to this program as part of a reform of IDEA. It is up for reauthorization this year. We are talking about it, working on it. I hope we can bring some real reform to the program. But we agree as a Congress on a $750 billion budget limit. We agreed on that, and it is easier to cast those political votes—one more vote in favor of one more spending program outside the budget agreement that we had—just spend, spend, spend. Then we wonder why we didn't stick to our agreed limit, why we have deficits.

The education budget went up significantly this year—about 10 percent. It has been going up significantly in the last 3 years. We are spending a large amount of money, and more each year, on education at a level probably three or four times the inflation rate. So, to the contrary, we are spending money on education.

I think Senator GREGG's amendment is precisely correct. His amendment says let's put the money in the area of education the Federal Government dominates, the area that in effect the Federal Government has taken over—the regulations that direct schoolteachers and principals and superintendents and board members to run their schools in certain ways. Dealing with disabilities is a Federal regulation. We ought to at least meet the 40-percent promise we made in 1975. So I think the perfect solution to this, as Senator GREGG said, is let's take the overall education budget, which has large increases throughout that system—let's take that $1.5 billion from those other programs that have received increases, shift it to the IDEA program, and give them a bigger boost than we have. I really believe that is the right thing to do.

Mr. President, is my time up?

The PRESIDING OFFICER. The Senator has 40 seconds remaining.

Mr. SESSIONS. Mr. President, I have visited 30 or more schools in my State in the last 3 years. I have talked to teachers and principals on a regular basis, and they express their frustration to me on this subject. As Senator MIKULSKI indicated, she is hearing that and other Senators around the country have said the same thing to me. One experienced special education teacher told me: Jeff, the problem is, we are here working on rules and regulations, lawsuits, and that sort of thing, and we

have completely forgotten what is in the best interest of the child. We need to reform this act. We need to get more money for it and improve what we are doing so that we help children more than based on the money we now have.

I yield the floor.

Mr. DODD. Mr. President, how much time remains under the amendment of the Senator from Connecticut?

The PRESIDING OFFICER. The Senator has 34 minutes, 45 seconds.

Mr. DODD. Mr. President, I will take 10 minutes. Will the Senator notify me when that is up?

The PRESIDING OFFICER. The Chair will do so.

Mr. DODD. Mr. President, I want to express some thoughts. I thank my colleagues for, once again, reconfirming support for the special education program. That is heartening. As the Senator from Maryland pointed out, of course, if we follow the plan of the present occupant of the White House, we will be talking about three decades more—we will have to wait a longer time than we have waited to complete the 40-percent requirement that we have already endured.

So if you are a mayor or a county executive or a Governor, you can take real heart in the fact that for about the next three decades we will be at this debate on getting full funding—if we rely on the administration's plans.

I will remind my colleagues once again that this body and the previous Congress voted unanimously for a full funding program over the next 6 years for special education. It was the administration—the present administration—and the leadership of the other body—the Republican leadership—that killed the proposal the Senate unanimously supported. That is where we are. Those are the facts as we find them today. We can go back and revisit history if you want, but the fact is that the Governors and mayors out there may find a history lesson interesting, but they want to know what we are going to do. What is this administration going to do? What has this administration done? What is the Republican leadership in the Senate and House going to have to do if we are going to meet the obligations we talk about?

So what we have here—as the Senator from New Hampshire suggests he will support—is the $1.5 billion. He is going to do so by adding further to the across-the-board cuts in domestic spending—adding to the impact of the already 2.9 percent across-the-board cuts. I will share with my colleagues what this means.

Now, $1.5 billion is not a huge amount as a percentage—whatever it is, four-tenths of 1 percent. Add that, if you will, to the 2.9. The WIC Program will be cut by $137 million as a result of the 2.9-percent cut. The Food Safety Inspection Service will be cut by $22 million. The Food and Drug Administration will be cut by $40 million under these proposals. State-Justice-Commerce will be cut by $113 million in spending.

Go down to Head Start. This analysis shows what the 2.9-percent cut means in energy and water issues—there it is, a $239 million cut; environmental management, $203 million. There is a whole list of programs, including the Bureau of Reclamation and the Mississippi River Tributaries Program. If you look at Head Start, $63 million will be cut. Air traffic control—that ought to be good news for those who worry about domestic terrorism; transportation security, Coast Guard will be cut by $72 million. The VA–HUD—veterans take note—has $903 million in cuts; VA medical care, $692 million in cuts. So go ahead and add four-tenths of 1 percent to the already 2.9.

I don't hear anybody talking about a slight cut in the $670 billion tax cut in all we are proposing here. Then my colleagues say we will take your $1.5 billion, but we are going to give a ''haircut'' to every other domestic spending program except the tax cut, which goes to the top 1 or 2 percent of income earners. I represent a State that has probably a greater percentage of those income earners than almost any other State in the country. I can say with certainty that my constituents—those included, by the way—who would be the beneficiaries of this tax cut would tell you that at this particular juncture that kind of a tax cut, given the fiscal needs of this country, is unwise.

When my colleagues say we are going to make everybody pay a price, we are going to make that haircut of 2.9 percent, including the budget cuts I have suggested, and add this to it, just make sure you understand what we are talking about. We are not talking about a tax cut which taxes revenues over the table—I am not suggesting there isn't room for a tax cut. But how about including that in the proposal? Why is that particular area always left out and all we talk about are the domestic programs that affect families so strongly?

I guarantee you, by the way, as you start looking at Head Start, the WIC Program, food safety programs, while you are providing $1.5 billion in special education needs and simultaneously cutting back on these other programs, it is not uncommon for the same family and the same child to be the recipient on one hand of the 1.5, and simultaneously getting food in the WIC Program, food safety programs, and the Head Start programs.

Again, I don't know how you can sit here and look at a child who has autism or is suffering from juvenile diabetes, Down's Syndrome, or other special education needs and say: I am sorry we cannot touch the tax cuts, but you are going to have to take this cut in other areas. When my colleagues offer their side-by-side amendment and suggest yet further cuts, I think that is cruel. I think it is unnecessary. I think there are ways of doing this without going after some of these very issues that are so critically important to the well-being of our Nation. They have a lot to do with the economic security of our country as well.

We need to have a balanced approach. So, Mr. President, we will have a debate further along in this year on full funding again. I only hope the administration changes its view from the last Congress. I will reiterate what I said earlier. Governors and mayors list this as their top priority. Mr. Governor or Mr. Mayor, when the first amendment is voted on and we are telling you, by the way, we are going to help you out in special education, hold your breath because we are simultaneously reaching into your other pocket and causing you to raise taxes or cut other vital spending needs you may have because we are reaching in to rob you of the necessary resources you need as well to run your States and your communities. It is a cruel hoax, in a way, we are laying out before people.

I am not opposed to looking at reform efforts. We had a fine effort in 1997—some of my colleagues have forgotten this already—to look at the special education programs. Again, with the reauthorization, I presume we will look at them again. I certainly welcome that. Anytime we have a program such as IDEA, close examination of how well it is working, whether or not the intended beneficiaries are receiving the resources they need, is something we ought to do. It is the only responsible thing to do.

Let's not simultaneously suggest that we are going to have to wait for examination before we provide the resources to the States and communities. They do not have a chance of waiting. They have to provide for these children under existing law. Congress mandated it 28 years ago, and we have only gotten to 15, 16 percent of that 40-percent commitment.

The $1.5 billion in this amendment gets us a little closer to the 40-percent commitment. It raises and provides the resources to these communities for the fiscal year we are in already. We will come back again later in this Congress to see if we can get full funding set up in a way which we did a year and a half ago.

When the vote occurs on this amendment, there are two options: One, to provide the $1.5 billion while going after domestic spending programs, along the lines I mentioned already or, second, we can say we can do it and find the means of doing it, and one of the means is to reduce by a small amount the tax cut the President intends to provide for people in the country. The point being that most of the recipients of this tax cut are people who have incomes in excess of $250,000.

Tell that to a family with an autistic child. Tell that to a family with a child who has Down syndrome or serious learning disabilities: Sorry, we would like to provide that kind of help you need, but, you see, we have an obligation to provide a tax break to someone making $300,000, $400,000 a year. We cannot just quite meet the obligation

to you. I know we made a promise to do it. We said 28 years ago we would do it. We are up to 15 percent of that obligation. By the way, if you wait another 33 years, we will complete that obligation, 60 years after we made the promise. Then we will get you your resources because we cannot afford to give you the help you need without cutting everything else in the domestic area. Of course, we cannot touch the tax cut for the most affluent Americans.

I do not know of anyone outside the people in this town who believe in the logic of that argument. Nonetheless, watch and see what happens when we vote on this amendment. That is exactly what will happen. Go home and explain why we have to cut into these other areas to serve needy kids in this country.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. DODD. Mr. President, I will take 1 additional minute. I repeat what I said earlier, this is not the America of which people think. We are blessed with great resources. We ought to have the common sense to find a balance, to see to it we meet our obligations when we make them; that we try to help those who are least able to help themselves and their families.

I underscore the point the Senator from Maryland made a few moments ago. Families of children with special needs face incredible pressures, especially those making $25,000, $30,000, $35,000, $40,000, $45,000, $60,000. There are incredible pressures within that family. Why is it we cannot find the resources to help our States, our Governors, our county executives to do more to help these children?

Reforming the process, I am all for that. But the only way we can help is to go after the WIC Program, the Head Start Program, food safety programs, and the like? That I do not understand, and I defy my colleagues to ask an average American to explain it as well. They do not understand it when they hear that argument or we are going to wait another 33 years to meet the obligations under this program.

I feel passionately about this issue; I care deeply about this issue because it is the role that Government ought to play. When I look at families in my State and across the country—and I know the pressures they are feeling and what a small amount it is to offer some relief—just some relief—to the families feeling this heat and pressure, the anxiety it causes—I do not understand that we cannot step up and meet the obligation because we cannot touch a tax cut that goes to the most affluent citizens of this country. I do not understand that situation. I hope my colleagues do not either. When the vote occurs tomorrow, I hope we will support the amendment that provides assistance but does not do so off the backs of people who can least afford it in the country.

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

The PRESIDING OFFICER. Who yields time? The Senator from Nevada.

Mr. REID. Mr. President, this has been cleared with the majority. I ask unanimous consent that the consent request with respect to the Edwards amendment be modified to the Senate resuming consideration of the amendment at 2:15 p.m., with the previous provision still applicable.

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

Mr. REID. Mr. President, the Senator from Connecticut has reserved his time, as has the Senator from New Hampshire. I am going to suggest the absence of a quorum and, shortly thereafter, call it off with hopes we can move to the Dayton amendment and set aside the pending amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Nevada does not control the time.

Mr. REID. Mr. President, I ask unanimous consent that the time that Senator GREGG and Senator DODD have remaining be preserved and the quorum call, which I will make immediately, not be charged to their time.

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

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.

Mr. REID. Mr. President, my friend from Wyoming is here and wishes to speak on the Edwards amendment. Under the order we just entered, that is not to recur until 2:15 p.m. If the Senator wishes to speak, we can take him out of order, if Senator DAYTON is willing to wait 10 minutes while the Senator from Wyoming speaks.

Mr. THOMAS. Yes.

Mr. REID. Mr. President, I, therefore, ask unanimous consent that the pending amendment be set aside; that Senator DAYTON be recognized to offer an amendment on corporate expatriation; and that following his recognition, Senator THOMAS be recognized for 10 minutes to speak on the Edwards amendment.

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

Mr. REID. Mr. President, I say to my friend, if he will simply seek recognition and send his amendment to the desk, then Senator THOMAS will be recognized to speak for 10 minutes.

AMENDMENT NO. 80

Mr. DAYTON. Mr. President, I call up amendment No. 80.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 80.

Mr. DAYTON. 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 amend the Homeland Security Act of 2002 (Public Law 107–296) to provide that waivers of certain prohibitions on contracts with corporate expatriates shall apply only if the waiver is essential to the national security, and for other purposes)

At the appropriate place, insert the following:

SEC ___. CONTRACTS WITH CORPORATE EXPATRIATES.

(a) SHORT TITLE.—This section may be cited as the ''Senator Paul Wellstone Corporate Patriotism Act of 2003''.

(b) LIMITATION ON WAIVERS.—Section 835 of the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking subsection (d) and inserting the following:

''(d) WAIVERS.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is essential to the national security.''.

(c) EXPANDED COVERAGE OF ENTITIES.—Section 835(a) of such Act is amended by inserting ''nor any directly or indirectly held subsidiary of such entity'' after ''subsection (b)''.

(d) Section 835(b)(1) of such act is amended by inserting ''before, on, or'' after ''completes.''

Mr. THOMAS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 67

Mr. THOMAS. I rise to talk for a few minutes about an amendment that is pending. It has to do with the New Source Review rider. It is an amendment which would, in effect, negate or postpone a proposed change in rules that have been proposed by the administration that I think are very important to our efforts collectively to increase the more effective production of electricity and energy, and to do it in a way that contributes to clean air. I believe this New Source Review proposal does that.

The Senator from North Carolina has an amendment which would prevent the final rules from taking place. He indicates that, in his view, it would prevent backsliding from the administration. He also indicates he considers it an insider's industry benefit.

I suggest that neither of these allegations is valid. In fact, what is happening is a change that will remove the obstacles to environmentally beneficial projects, clarify the New Source Review requirements, encourage emissions reductions, promote pollution prevention, provide incentives for energy efficiency improvements, and help assure worker and plant safety. Those are the things that are involved.

To some extent, I think this amendment has a little bit to do with 2004 in that it is seen as the President's gift to polluters. Of course, that is not the case.

The proposed rider is premature and ignores the public involvement already inherent in this New Source Review reform process. In December of 2002, the EPA issued a final rule that includes actions previously proposed by and

substantially similar to those put forward by the Clinton administration. These actions are supported by a bipartisan consensus after extensive public involvement over more than 10 years. A separate proposed rule on issues related to routine maintenance, repair, and replacement will undergo a full public review and EPA analysis before it can take effect. Thus, it is clearly premature at this time to stop this open rulemaking process by rider before the process even begins.

A proposed rider is bad energy and environmental policy. The complexity of the current New Source Review program and its related burdens create significant disincentives to new investment in energy-efficient and environmentally friendly technologies that are being proposed.

The NSR reforms should allow facilities where actual emissions remain within permitted levels to make operating adjustments and explore alternative fuel and resource choices that will help them meet energy and product needs in the most efficient, cost-effective, environmentally sound manner possible.

A proposed rider will negatively impact more than 22,000 industrial facilities across the country. The New Source Review program affects utilities, refineries, and manufacturers around the country that form the backbone of our Nation's economy. In the current economic climate, we need sensible reforms that streamline regulatory programs while providing fundamental environmental protection that allows companies to improve energy efficiency, environmental performance, and economic competitiveness.

A proposed rider would impede a State's ability to implement effective clean air programs. The National Governors Association, the National Conference of State Legislators, Environmental Council of the States, and several State attorneys general have called for NSR reforms that enhance the environment and increase energy security.

The keys to improving air quality and energy security are innovation and investment. The final and proposed NSR rules will help promote safer, cleaner, and more efficient factories, refineries, and powerplants.

Many groups have supported the idea of making these kinds of changes. Interestingly enough, the National Black Chamber of Commerce has indicated in a letter the proposed revisions to the Clean Air Act's New Source Review previously provided a meaningful compromise to economic growth and the assurance of clean air and continued public health protection.

Such an amendment that is now before us, they continue, impedes progress in reforming a well-intended program that has, over the years, unintended consequences.

Another group which is a cooperative in Montana, with membership of over 325,000, says: We know many environmental groups oppose NSR reform, but NSR reform will actually move forward quicker in adopting more modern and efficient environmental technologies and procedures.

These are some of the testimonies that say we ought to continue with the proposal that has been made to allow refiners to be able to make improvements on existing facilities that will improve the environment and will continue to provide for efficient energy production.

I urge that the amendment offered by the Senator from North Carolina not be received by the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I ask unanimous consent that I be given 15 minutes to make my remarks.

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

AMENDMENT NO. 80

Mr. DAYTON. President Bush's announced tax proposal expressed concern over the double taxation of corporate profits. I wish he would express an equal concern about the nontaxation of corporate profits.

It is estimated that currently less than half of corporate profits are taxed in this country. There are various tax and accounting gimmicks that have permitted very profitable companies to not only have no tax liabilities but even receive multimillion-dollar refunds from the American taxpayers.

Take CSX, for example, which until recently has been headed by the President's nominee for Secretary of the Treasury, John Snow. In the last 4 years, CSX reported U.S. profits of $934 billion, and they paid zero in U.S. corporate taxes. In fact, they received rebates of $164 billion.

I will repeat that. They made $934 billion in U.S. profits, paid no taxes, and received a $164 billion refund. That is certainly not double taxation. That is not even single taxation. That is no taxation, and it is a bigger winner on Wall Street to inflate corporate profits at the expense of the rest of American taxpayers. It is one of the reasons corporate income tax has been a declining share of Federal tax revenues in the last 40 years. In 1960, corporations paid 23 percent of all Federal tax revenues. Last year, that dropped to 9.5 percent, less than half of the share that corporations paid 40 years ago.

It used to be the ethic that business, being an integral part of the communities in which they operated, drawing their lifeblood from the American people and from the democratic and capitalist structures which hallmark this country, had an obligation to give something back. Not any longer.

An Ernst & Young partner recently noted:

> A lot of companies feel that the improvement on earnings is powerful enough that maybe the patriotism issue should take a back seat.

One of the most outrageous and obscene tax avoidance schemes is many United States companies are setting up sham corporate headquarters offshore in places such as Bermuda or the Cayman Islands. These tax-free havens permit the total avoidance of U.S. taxes on foreign operations and, in some cases, on domestic operations as well.

In the nonpartisan journal, Tax Notes, a recent calculation was made that from 1983 to 1999 the profits that the largest 10,000 U.S. corporations claimed to have earned in these tax havens increased by over 7 times. Today, that means well over $100 billion in corporate profits are shifted each year from the United States to these tax-free havens—no taxes paid on them and, as I have said before, sometimes even refunds. It is bad enough those companies can evade U.S. taxes but some even continue to secure very large and lucrative contracts with the Federal Government, even in the areas of national defense and homeland security. Evidently these corporations—the executives who run them, the boards that oversee them—see nothing wrong with profiting off of the U.S. Government and then avoiding paying taxes on even those profits in order to support our Government.

That is why last summer my colleague, Senator Paul Wellstone, had amended the 2002 Defense appropriations bill to bar such corporate tax dodgers from being awarded Government defense contracts. Then he successfully had amended the homeland security bill to bar those companies from getting contracts with the new Department of Homeland Security. Both of those amendments passed the Senate seemingly unanimously on voice votes.

However, after the November election, and after Paul Wellstone's tragic death, the final version of the homeland security bill gutted the Wellstone amendment. Senator Wellstone's amendment, which he crafted with the cosponsorship of the distinguished Senator from Nevada, Mr. REID, provided a narrow exception to this prohibition. That was if the President of the United States certified to Congress that it would be necessary for our national security.

When the bill came back this provision was gutted and the substitution made known to those who had to vote on it that day. They stuck in language that would allow the Secretary of Homeland Security to grant waivers for national security or economic benefits. Just about any kind of economic benefit whatever could be waived and argued by the Secretary: preventing loss of Government, preventing the Government from incurring any additional costs, anything and everything that you could contrive, you could avoid if you could pay a high-priced Washington lobbyist $1,000 an hour or more, euphemistically called government relations. No doubt those waivers would be granted and the legacy of my colleague, Senator Paul Wellstone,

would be obliterated by waves of waivers, which is why we need more Paul Wellstones in Washington.

To honor Senator Wellstone's memory, I proposed this amendment, which I called the Senator Paul Wellstone corporate patriotism amendment. It reinstates the Wellstone language to the Homeland Security Act. It says, once again, corporations that renounce their American citizenship and have moved offshore to avoid paying taxes to the U.S. Government will not get business contracts from the Government, at least not for homeland security projects.

My language makes it as forceful and explicit as possible. It states that the President may waive subsection (A) of the prohibition if the President certifies the waiver is essential to national security.

Frankly, I cannot see any reason there should be waivers granted in this section. That is the least we can do for the memory of Paul Wellstone. That is the least we can do for our country.

Frankly, most U.S. corporations, as most American citizens, are law abiding, patriotic, responsible, and willing to do their job, including pay taxes, to keep this country strong. No one likes paying taxes. Americans have been antitaxation since colonial days, since the Boston Tea Party, since the rallying cry, ''taxation without representation is tyranny.''

But taxes are necessary for our country's survival. We have increased our military spending by 23 percent in the last 2 years, with bipartisan support regarding the President's request, and we have new efforts underway in homeland security costing an additional $37 million. Some Members last week thought we should be spending even more in that area. We have Operation Enduring Freedom still underway in Afghanistan and a military buildup now for possible war against Iraq. That has to be paid for with our tax dollars. It does not include highways and airports, sewer water systems, public education, student aid, health care, nursing homes. This always depends, again, on Americans paying taxes. It ought to depend on everyone paying their fair share of taxes—individuals and corporations.

When someone avoids paying their fair share, then everyone else has to pay a higher share. When one corporation making profits can shift its profits overseas and avoid paying taxes, everyone else has to pick up that part.

I wish we could establish again in this country the ethic that tax avoidance is unpatriotic. It is un-American, especially at a time such as this with national mobilization, especially in this country since September 11 of 2001, which is likely to continue for the foreseeable future. If the executives and board members of these expatriated companies can so shamelessly abandon their U.S. corporate citizenship, maybe they should forfeit their citizenship as well. I intend to introduce legislation in the next few weeks that would require just that. What is good for the goose is good for the gander. This tax cheating will destroy the great golden goose of America. We send our young men and women overseas to risk their lives or even give their lives for our country, while men—mostly men and a few women—send their corporations overseas to evade taxes. What a disgrace. What a shame that the greatness of this country is being undermined by placing profits and corporate and individual greed over the best interests of the United States of America.

This amendment meant a lot to my friend and colleague, Senator Wellstone. He was surprised but delighted that the Senate, on two occasions, passed this amendment by a voice vote. Had Paul lived, I would have enjoyed watching the fur fly that day in November when this bill came back to the Senate with this provision gutted. But Paul is not here, so it is incumbent upon all of us to take that stand for him and with him. If it was good enough last year to be passed by the Senate, I cannot imagine why anyone who supported it then would change their mind now. In fact, there is even more reason than before to stand behind America, stand behind the belief that we all contribute our share, do our share, and no one avoids their share. That is what makes us successful.

Mr. REID. I would like to ask the Senator a question. I personally appreciate the Senator stepping forward. It should come from the State of Minnesota. Senator Wellstone believed in this strongly.

I remember the Senator advocating this. When I think of our friend Paul and his untimely death in the terrible airplane crash, I feel badly. I feel good about your moving forward with this amendment that Paul and I worked on together in the Senate. It is a modest amendment.

The Senator recognizes, does he not, that this amendment does not apply to nonhomeland security or defense contracts? Maybe we will do something about these companies later. I don't believe they should be able to have a contract with Health and Human Services, with the Department of the Interior, or any of the Federal agencies. However, we have limited this amendment to homeland security and defense. Does the Senator acknowledge that?

Mr. DAYTON. The Senator is correct. The Senator was instrumental in working with Senator Wellstone on the floor and myself to craft this amendment. It is narrowly focused.

Mr. REID. The Senator would also acknowledge, would he not, that this is not a permanent ban. All they have to do is say let me do what I should have done in the first place, just pay American taxes.

Mr. DAYTON. Come home.

Mr. REID. There are all kinds of reincorporations that take place every day in corporate America. They could simply reincorporate in Delaware or Nevada or Minnesota or any place they felt appropriate and they would be right back, being able to get all the contracts they want.

Mr. DAYTON. They would be right back, as the Senator said, where they were before, headquartered in the United States of America, paying taxes on their U.S. profits rather than creating a sham. These are not real entities; these are fictions just for the sake of tax evasion.

Mr. REID. My third inquiry to the Senator from Minnesota: I know some of our friends who are lobbyists, as you have indicated, public relations representatives—I think, with a straight face they really would have trouble advocating for this. Would the Senator acknowledge that?

Mr. DAYTON. I would, also.

Mr. REID. I appreciate the Senator's attention.

Mr. President, tax loopholes allow dozens of U.S. corporations to move their headquarters, but they move them on paper only, to tax haven countries to avoid paying their fair share of U.S. taxes. It was just a short time ago that Senator Wellstone and I offered an amendment to bar the Department of Homeland Security from awarding Government contracts to these corporate tax runaways. The Senate adopted that amendment unanimously. But in the homeland security bill that passed the last little bit that we were here last year, they cut this amendment.

It is a sad reality that these corporate expatriations are technically legal under current law. But legal or not, there is no reason U.S. Government contracts should be awarded to these tax runaways. These are lucrative Government contracts and we should not reward these companies for doing what they have done.

Senator Wellstone and I believed these corporations, if they want Federal contracts so badly, they should simply come home, come back to the United States and be eligible to bid on homeland security contracts. If they didn't want to do that, then they should go lobby, for example, the Government of Canada or Bermuda or the Cayman Islands for contracts there.

Some of these companies have indicated: We have been in business in America for a long time. They should stay in business in America. These corporations are shams. We have companies that file paperwork, set up not one but sometimes more than one corporation. One company has three British employees in a little office in Hamilton, Bermuda, but by having these three individuals in Hamilton, Bermuda, they can avoid paying up to $40 million every year in U.S. income taxes.

This bill would forbid foreign corporations involved in these transactions from holding Government contracts with the Defense Department and Department of Homeland Security. It would not restrict major corporations operating in the United States

from winning millions of dollars from the Government in contracts.

I am not going to pinpoint companies. I have read on the Senate floor just a few months ago the names of these companies that are doing these things. This amendment will finally correct the record and accomplish what Senator Wellstone worked for last year. It should have been a priority in the legislation to guarantee the Department of Homeland Security booked its business with corporations that do their share of bearing the burdens of protecting this country. What they have done is they are bearing the burden to protect their own companies, not their own country. The homeland security law is more concerned with window dressing on this issue because what is in the homeland security bill still allows these companies to have huge Government contracts, homeland security contracts.

One contract I have here, $144,844,000 is what they are getting, even though they have incorporated in Bermuda.

Another company, not as large as the first, but almost $5 million. We have another company, $6 million; $17 million; another company, $249 million; another company, $2 million; $248 million—it is on and on with these what I would think would be embarrassing to them. Apparently it is not embarrassing enough that they pay corporate taxes in the United States like other companies.

I again extend my appreciation to the Senator from Minnesota for this amendment and I hope the many people who are in favor of this legislation will speak in favor of the legislation and we can have a resounding vote like we did when it passed unanimously last year. This would be one way to honor the dignity of Paul Wellstone.

Mr. DAYTON. If I may inquire of my friend, the Senator from Nevada, regarding the last statement, can the Senator think of anything that would be a better tribute to Senator Wellstone's memory than passing this amendment and insisting the Senate conferees uphold it and the President sign it into law?

Mr. REID. I would answer my friend by saying Senator Wellstone, as we know, stood for the small guy. He was concerned about those people who did not have the large lobbying contracts. I think the Senator from Minnesota is absolutely right. The senior Senator from Minnesota is right in that this amendment would help a lot of the small people—small in stature, big in character, like Paul Wellstone—the people Paul Wellstone would try to protect. That is because people who are not paying these taxes prevent us from providing more money for LIHEAP, for which he advocated all the time. It would allow us to provide more money for education, which he talked about, and he could do that because he was a college professor. It would allow more money for the global AIDS epidemic that he talked about.

This money that these corporations are not paying is more money that other taxpayers have to come up with. We have expenses that have to be met. We have programs that have to be funded. This amendment would force some of these unpatriotic companies into being more patriotic. They would be more patriotic because they would be forced to be more patriotic. If they want to have Government contracts with the Homeland Security Department and Homeland Defense Department, they would have to be patriotic.

So I answer the question with a resounding yes. This would mean a lot to Paul Wellstone, that his legacy is not forgotten, nor the things for which he fought.

A lot of these things he fought for alone. I can remember this issue that he was beaten up on pretty good on the Senate floor—until he was able to talk and explain. Like many of the things that Paul Wellstone brought out of the dark into the light, in the light of day it all looked better. I hope we all support this the way we did before.

This is an important amendment and I repeat, it would honor one of the most courageous people I have ever known—physically and intellectually—Paul Wellstone.

Mr. DAYTON. The Senator is absolutely correct about the price we pay when these companies avoid their share of taxes. The Tax Notes journal estimated over $100 billion in corporate profits now go untaxed because of these offshore tax evasions. Even 20 percent, the tax rate on that, which is below the corporate rate but after deductions and exclusions probably is close to what tax-paying corporations pay, that would cover the cost of the 40-percent funding for special education that Senator DODD was discussing with Senator GREGG a few minutes ago. There it would be right there. We could keep that promise to Minnesota's schoolchildren, Nevada's schoolchildren, and all the schoolchildren in the school districts across this country. It would not require raising anybody's taxes by a single dollar, if those who were evading them would pay their share.

I think it is shameful. I think it is un-American, unpatriotic, and it ought to be illegal. I particularly look forward to a discussion at some point, as I said, about legislation I intend to introduce that says if corporate executives and corporate boards are going to send these corporations overseas, they should go overseas themselves. If they think it is such an advantage to be in the Cayman Islands or Bermuda they should go live there themselves. If they are going to renounce their corporate citizenship, let them renounce their own citizenship as well, and they will suffer the consequences maybe then they will stop and think about how fortunate we are to live in this country and how it is only by all of us doing our fair share that this country keeps strong and secure.

Mr. REID. If I could respond to my colleague through the Chair, let me say the defense of this previously was that these are just good lawyers, good tax men. This is the way the law is written so why shouldn't they take advantage of it?

What the Senator from Minnesota and I are trying to do is change the law so that this is not this tax loophole. We know and people know that there are lots of tax loopholes. They are hard to plug because of the huge lobby which they have. We try to plug them. The ones that benefit are some of the largest corporations in America—I am sorry to say—avoiding billions of dollars in taxes. It is not fair. They reply by saying, well, these people have good lawyers and good accountants. That doesn't justify what they are doing. In fact, it even signifies that we need to do this as quickly as possible to stop these people from doing this and make it easier for the rest of the people in America who are paying their fair share.

Mr. DAYTON. As the Senator knows, a lot of small- and medium-sized businesses don't have the options. Certainly the average American citizen paying taxes doesn't have the option to move to Bermuda or the Cayman Islands and not claim any tax liability whatsoever. It is shameful that those most profitable that can most easily afford to pay their share are avoiding them entirely and dumping that burden on everyone else.

As the Senator said, this would be one small step in the right direction of returning to an ethic where those who are making profits pay their taxes. If we all do that in a fair way, then everybody's taxes go down. If somebody is avoiding taxes, then somebody else's taxes go up.

I thank the Senator again for his support and assistance with this matter. I know in this matter that Senator Paul Wellstone could not have stood alone last year, and the Senator from Nevada was with him shoulder to shoulder every step of the way.

I thank the Chair.

Mr. REID. Mr. President, we are waiting now until 2:30 when Senator INHOFE is to appear. We understand he will close with the Edwards amendment.

We want the RECORD to be spread with the fact that we have done everything we can to move this legislation along. We were ready to go early this morning. We had to wait until the other side was ready to move on the bill. We have done our best to plug all the timeslots that have been in existence this morning. I want the RECORD to reflect that we are doing nothing to slow this down.

I see Senator INHOFE is here now. If he is ready to speak, we could move the 2:30 time up to whatever time is appropriate for the chairman of the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, if the minority leader will yield, I thought I would get to the floor at 2:15.

Mr. REID. The Senator was scheduled for 2:30. We are ready now.

I am to be corrected. I was told by the floor staff that I was wrong and the Senator is right. It is 2:15. We don't need to change anything. We ask unanimous consent to return to the Edwards amendment. I think that is the order.

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

The Senator from Wyoming.

AMENDMENT NO. 86 TO AMENDMENT NO. 67

Mr. INHOFE. Mr. President, as many of you know, in March of 2001, Senator BREAUX and I wrote the first congressional letter on the New Source Review Program to Vice President CHENEY in his capacity at that time as chairman of the National Energy Policy Development Group. Our letter stated that, unless reformed ''EPA's flawed and confusing NSR policies will continue to interfere with our Nation's ability to meet our energy and fuel supply needs.''

At this point in my presentation, I ask unanimous consent to have that letter 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, March 23, 2001.

Hon. RICHARD B. CHENEY,
Vice President of the United States of America, The White House, Washington, DC.

DEAR MR. VICE PRESIDENT: In your capacity as the Chairman of the National Energy Policy Development Group, we are writing to bring to your attention our concerns that, unless addressed, the prior administration's EPA's New Source Review (''NSR'') enforcement policies will continue to interfere with our nation's ability to meet our energy and fuel supply needs. We strongly urge that the Administration take into account these concerns in developing its national energy plan.

As you are very much aware, the nation faces a potential energy supply shortage of significant dimension. The California energy crisis is receiving the greatest attention in the media. However, major challenges exist in meeting demands for gasoline and other fuels, especially in the Midwest. More troubling, current projections suggest fuel shortages and price spikes—far exceeding last year's problem. These are due to a number of factors including: difficulties in making summer-blend Phase II reformulated gasoline; EPA hurdles to expanding refinery capacity; and the overall increase in energy demand.

Unless reviewed and addressed, EPA's implementation of NSR permitting requirements will continue to thwart the nation's ability to maintain and expand refinery capacity to meet fuel requirements. In 1998, EPA embarked on an overly aggressive initiative in which it announced new interpretations of its NSR requirements that it has applied retroactively to create a basis for alleging that actions by electric utilities, refineries and other industrial sources taken over the past 20 years should have been permitted under the federal NSR program. We also understand that these new interpretations conflict with EPA's regulations, its own prior interpretations and actions, and State permitting agency decisions.

EPA's actions have been premised heavily on its reinterpretation of two elements of the NSR permitting requirements. First, EPA's regulations specifically exempt ''routine maintenance, repair and replacement'' activities from NSR permitting. EPA now claims that projects required to be undertaken by utilities and refineries over the past 20 years to maintain plants and a reliable supply of electricity and fuels were not routine and thus should have gone through the 18-month, costly NSR permitting process. EPA's enforcement officials are asserting this even though, for more than two decades, EPA staff have had full knowledge that these maintenance, repair and replacement projects were not being permitted.

A second ground for many of EPA's claims has to do with whether projects resulted in significant emissions increases. By employing a discredited method for determining whether emissions increases would result from a project-using so called ''potential emissions'' instead of actual emissions, EPA is asserting that numerous projects resulted in emission increases when in reality they had no effect on emissions or were followed by emissions decreases.

EPA's NSR interpretations have created great uncertainty as to whether projects long recognized to be excluded from NSR permitting can be undertaken in the coming months to assure adequate and reliable energy supplies. Electric utilities and refineries have expected that they could undertake maintenance activities, modest plant expansions, and efficiency improvements without going through lengthy and extraordinarily costly NSR permitting, as long as the project involved either routine maintenance or no significant increase in actual emissions.

Now, in light of the new interpretations, utilities and refineries find themselves in a position where they cannot undertake these very desirable and important projects. This is not an acceptable result when the nation is faced with severe strains on existing facilities. Against this backdrop, we strongly urge that the National Energy Policy Development Group:

Give investigation of EPA's implementation of its NSR requirements a high priority;

Suspend EPA's activities until such time as there has been a thorough review of both the policy and its implications;

Clarify whether the implications of EPA's new NSR interpretations and its enforcement initiative are being reviewed by the White House Office of Energy Policy and the Secretary of Energy prior to actions that could undermine energy and fuel supply; and

Establish guidelines to assure that EPA's application and enforcement of its NSR requirements will not interfere with the Administration's energy and fuel supply policy. Requirements should be developed, which are consistent with responsible implementation of the statutory NSR requirements.

Specifically, to assist you in assessing the implications of NSR on meeting the nation's energy and fuel supply demands, you may want to obtain the following: (1) all requests since January 1, 1998 for information under section 114 of the Clean Air Act issued to facilities and companies in any sector involved in energy and fuel supply; and (2) notices of violation issued to, and complaints filed against, any such company and/or facility alleging NSR violations during that period. We are submitting a similar request to EPA today.

Thank you for your consideration of this matter. We look forward to working with you in the future to develop environmental policy, which further protects human health and the environment and works in concert with sound energy policy.

Sincerely,

JAMES M. INHOFE,
U.S. Senator.

JOHN B. BREAUX,
U.S. Senator.

Mr. INHOFE. Mr. President, I publicly thank the administration for being responsive to the concerns of Senator BREAUX and myself. I know it took real courage to pursue the NSR reforms. It took courage because the President knew that many people would misconstrue these reforms as a ''sneak attack on the environment'' in an attempt to score cheap political points and fundraise.

Despite the rhetoric we will hear today and have heard today about NSR reforms and the process of developing these reforms, make no mistake: President Bush's decision will result in a cleaner environment and greater energy security.

The Clinton administration developed draft proposals and accumulated over 130,000 pages of comments on NSR reform. In fact, on his last day at work on January 19, 2001, President Clinton's air chief with the EPA, Bob Perciasepe, wrote a letter, No. 1, outlining NSR reforms which are similar to the Bush administration's NSR reforms and which are almost identical and, No. 2, calling for the Bush administration to consider finalizing the reforms.

At this point in the presentation, I ask unanimous consent to have this letter printed in the RECORD.

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

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, January 19, 2001.

Memorandum on the Status of the New Source Review Improvement Rulemaking:

Over the last two years we have all worked hard to develop improvements to the New Source Review (NSR) program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emission reduction techniques voluntarily and give greater flexibility when companies take these voluntary actions. I am writing to share with you where we are on the NSR Improvement effort as I leave this office.

We have come a long way together in developing the conceptual framework for how EPA can improve the NSR program by providing greater certainty and flexibility for industry without sacrificing the level of environmental benefit provided by the current program or meaningful public participation. Due to the array of policy and legal issues that arose on the vast number of areas we attempted to tackle in one very large rulemaking, we were not able to complete the regulatory/packages in this Administration. The concepts that we developed make both economic and environmental sense because in return for environmental performance, industry will receive greater flexibility and more certainty for business investment decisions. The concepts would not undercut the basic goals of the NSR program.

The concepts that we developed and which I support are listed below. I believe many of these could be taken as final actions because of the hard work we have done together.

Voluntary Alternative NSR Program for the Electric Power Generating Industry.—This voluntary program would allow owners of power plants to commit to specific, verifiable emissions reductions across all their generating units over a defined period

of time and in most instances would avoid the need to get an NSR permit when making changes at their facilities.

Plantwide Applicability Limits (PALs.—Source owners would be able to make changes to their facilities without obtaining a major NSR permit, provided their emissions do not exceed the plantwide cap. Also, facility owners that use PALs must commit to install best controls over time to gain this flexibility and certainty. PALs would be especially attractive to those industries (e.g., pharmaceuticals and electronics) who need to make changes quickly to respond to market demands in order to stay competitive in a global marketplace;

Clarifications of Roles, Responsibilities and Time Frames for Class I Area Reviews.—The process for review of permit applications by Federal Land Managers (FLMs) would be clarified to delineate the roles of the source owner, the permitting authority and the FLM, in conducting permit reviews for sources potentially affecting air quality near national wilderness areas and parks (Federal Class I areas). These changes would reduce delays and disputes associated with permitting applications for sources near Federal Class I areas because they would provide a time frame for the FLM to identify any concerns and analyses needed for the permit applications. Also, it would clarify that the FLM does not have the authority to veto permits, and ensure that the FLM obtains the necessary information to conduct their permit reviews in a timely manner;

Clean Unit Exemption.—This exemption would provide an incentive for source owners to install the best emission controls on new or modified emission units and provide flexibility and certainty so that most future changes at such units would not trigger NSR. An owner of an emissions unit that meets certain minimum criteria to be considered ''clean'' could make most changes to these units without triggering NSR for a specified period of time, such as ten years.

Innovative Control Technology Waiver.—This waiver would provide more flexibility for owners of sources who risk trying innovative technology that have not yet been proven effective. Should the innovative technologies not perform up to expectations, we would provide the owners with time either to correct the efficiencies or alternatively apply a more standard control technology;

Pollution Control Project Exclusion.—This would codify our existing policy that owners of facilities making changes to their plants that primarily reduce one or more targeted air pollutants (but which collaterally increase other pollutants) are excluded from NSR provided certain conditions are met. We would provide a list of environmentally beneficial technologies that, absent other information that would indicate that the projects would not be environmentally beneficial, would be presumptively eligible for the exclusion; and

Control Technology Review Requirements.—Because disputes arise over what control technologies are considered available, the permit review process can become lengthy. To improve the process for obtaining a permit, we would (1) add a definition of ''demonstrated in practice,'' (2) provide a ''cut off'' date for consideration of additional control technologies, (3) add provisions that specify when applications are deemed ''complete,'' and (4) require that control technology determinations be entered into a clearinghouse before permits can become effective.

Nearly all parties in our discussions identified the need to have all of the data on the latest control technology determinations made by permitting authorities in the EPA clearinghouse. Improving the availability of this information to everyone will greatly assist the permitting process. To this end, I have committee significant resources to gather all of the existing data, input into the database, and redesign the system to make it easier for all parties to put in new data to keep it up-to-date.

One of the lessons that we have learned through our ongoing efforts is that it would be difficult, if not impossible, to improve NSR in one large rulemaking. Instead, I believe it is best to make incremental changes that will provide flexibility and certainty without sacrificing the benefits of the current program. I hope the new Administration will consider finalizing the concepts described above that provide flexibility and certainty without compromising environmental protection to make near term progress. I realize there are other issues, such as applicability for the base program, that also need resolution. For these remaining issues, continued discussions in the context of the overall program are needed.

I appreciate and thank you for the time, effort and input that you have provided over the past years, and I believe that both industry and environment will benefit from the approaches described above.

ROBERT PERCIASEPE,
Assistant Administrator.

Mr. INHOFE. Mr. President, I very much look forward to seeing the fruits of the Clinton and Bush administrations' labors on this issue.

From my tenure as chairman of the Senate's Clean Air Subcommittee, I knew that New Source Review was a major issue for the energy sector. In fact, I held the very first congressional hearings on New Source Review in February of 2000 in Ohio. I could not believe my own ears. We heard from companies that were trying to make environmentally friendly modifications to their facilities being stopped dead in their tracks by, ironically, the Clean Air Act.

I was also shocked to hear that it took 4,000 pages of guidance documents to explain 20 pages of regulations. That is 4,000 pages of guidance documents just to explain 20 pages of regulations.

Since then, my shock at the absurdity of the NSR Program has not worn off. We, as a nation, need to rethink the manner in which we approach regulations. We all need to keep an open mind during the debates on various regulatory reform initiatives. I am sick of continually hearing that these are ''sneak attacks on the environment.'' In fact, just the opposite is true. If we rethink regulation, we could find ourselves in a place where we can have far greater environmental protection and more reliable and diverse energy sources.

Congress and the executive branch must also do a better job of understanding how the various layers of regulations impact sectors of our economy. I normally have a chart which shows all of the different regulations that are going to be hitting the various regulated sectors—a chart that shows the refiners that are currently working at almost 100–percent capacity are going to be simultaneously hit with a number of regulations in the next few years. NSR will make it close to impossible for refiners to make these environmental upgrades. Now is the time to work together on these and other regulations to not only achieve the environmental goals but also ensure no disruption in fuel supply which would cause the price spikes that we know are inevitable.

Higher energy prices affect everyone. However, when the price of energy rises, that means the less fortunate in our society must make a decision between heating their home and keeping the lights on or paying for other essential needs.

During a recent EPW Committee hearing last year, Senator VOINOVICH's constituent, Tom Mullen, articulated this concern. Mr. Mullen stated that in a recent study—which is well known and very well expected—on Public Opinion on Poverty, it was reported that 23 percent of the people in America have difficulty paying for their utilities. That is one out of every four Americans.

I will not support policies, such as NSR, that will hurt the poor in Oklahoma and around the Nation. Additionally, the lower environmental performance resulting from the current NSR Program impacts Americans in every tax bracket. NSR reforms enjoy the support of a wide range of interests—from the State attorneys general to labor unions to business groups.

I ask unanimous consent to have printed in the RECORD letters from the U.S. Chamber of Commerce and the International Brotherhood of Boilermakers in support of NSR reform.

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

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, July 15, 2002.

Hon. JAMES INHOFE,
U.S. Senate,
Washington, DC.

DEAR SENATOR INHOFE: I am writing on behalf of the U.S. Chamber of Commerce (U.S. Chamber), the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, to express our support for reform of the new source review (NSR) program. NSR, in its current form has impeded environmental progress and energy production for decades. The revisions recently announced by the U.S. Environmental Protection Agency (EPA) are a good beginning to reforming a deeply flawed program.

The NSR program concerns the Clear Air Act (CAA) emissions standards applicable to significant new and modified stationary sources. In 1980, EPA established a regulatory exclusion for ''routine maintenance.'' The scope of this term, however, remains subject to debate. A clear administrative interpretation of ''routine maintenance'' would be an improvement over the present situation, which is mired in complexity and confusion.

Reducing the problems with the NSR program is vital. Governments should not unnecessary impede the work of the private sector. The NSR program is a classic example of bureaucratic complexity. More than 20 years after the initial regulation, a plant manager cannot determine with any certainty whether planned maintenance activities will subject the facility to millions of dollars of extra costs.

The NSR program, as presently constituted, is a severe impediment to increasing domestic energy supply. Electric generating plants cannot make even minor changes in to their operations without running the risk of ruinous enforcement actions that would impose huge fines and enormous compliance costs on their facility. National energy policy, indeed national security, requires the removal of every obstacle to increased domestic energy production.

The National Energy Policy Report directed EPA to review the NSR program, and report on its effect on environmental protection and energy production. EPA's review found that the NSR program has impeded or resulted in the cancellation of projects that would maintain or improve reliability, efficiency, or safety of existing power plants and refineries.

On June 13, 2002, EPA announced a set of revisions to the NSR program. Among other changes, facilities would be able to make physical changes to their plants without obtaining an NSR permit, if their emissions do not exceed a plantwide cap. Projects would be excluded from NSR requirements if they result in a net overall reduction of air pollutants. EPA would also establish a safe harbor test. Projects whose aggregate costs are below the threshold established by the safe harbor test would be exempt from NSR requirements.

These proposals promise a major improvements to the NSR program. They will lead to improvements in the environment, as regulatory certainty will allow facilities to perform routine maintenance and repairs without the fear of triggering NSR requirements. Plants have deferred routine maintenance, which would have improved safety and decreased emissions, due to the potential costs of NSR requirements. With the NSR program modifications, overall emissions will be reduced. The reforms, particularly the plantwide cap, will benefit facilities by allowing increased operational flexibility. The revised NSR program will simplify an overly complex program.

The recently announced NSR reforms are log overdue. The regulations to be made final later this year were proposed in 1996. The proposals requiring notice and comment rulemaking will not be in effect until 2004, at the earliest.

The U.S. Chamber supports reform of the NSR program. The U.S. Chamber urges the Senate to encourage these efforts to improve environmental progress and energy production.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

STATEMENT OF ANDE ABBOTT, DIRECTOR, LEGISLATIVE DEPARTMENT, INTERNATIONAL BROTHERHOOD OF BOILERMAKERS ON THE NEW SOURCE REVIEW PROGRAM

Chairman Jeffords, Chairman Leahy, and members of the Committees, my name is Ande Abbott and I am the Director of Legislation for the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, AFL–CIO. I thank you for this opportunity to present our views.

Commonly referred to as the Boilermakers Union, we are a diverse union representing over 100,000 workers throughout the United States and Canada in construction, repair, maintenance, manufacturing, professional emergency medical services, and related industries. Boilermakers, who make and maintain industrial boilers and the pollution control equipment they use, have had a long-time commitment to a clear, effective and reasonable new source review (''NSR'') policy. We support the recent efforts of this Administration to clarify the program. The efficiency of our facilities and the safety of our workers hang in the balance.

First, let me be clear today that Boilermakers do not oppose the Clean Air Act, nor do we oppose its rigorous enforcement. In fact, construction lodges of our union look forward to doing much of the actual work for the installation of new technologies and controls at utility plants and for industrial boilers across this region and the country. In reference to the NO_X control program alone, our international President Charlie Jones recently wrote:

''The EPA estimates that compliance measures will cost about $1.7 billion a year. A sizable portion of that money will go to the Boilermakers who do the work necessary to make the additions and modifications required by the SCR technology.''

Aside from NO_X control, Boilermakers have always led the way on Clean Air Act issues. For example, Boilermakers were pioneers in installation of scrubbers and further in fuel-substitution programs at our cement kiln facilities. In short, Boilermakers have been there to meet the challenges of the Clean Air Act, to the benefit our members and all Americans that breathe clean air.

However, Boilermakers could not support the EPA's 1999 recent interpretation of its authority under the New Source Review program. NSR, correctly interpreted as we believe the Administration's clarification does, forces new sources or those undergoing major modifications, to install new technology, like the technology President Jones mentioned. We support NSR in that context.

But, when NSR is applied to the routine maintenance policies and schedules of existing facilities, very different results occur. In those cases, facilities are discouraged from undertaking routine actions for fear of huge penalties or long delays or both. By applying NSR in that way, we are pretty sure that Boilermakers won't have the opportunity to work on maintenance projects that we know are extremely important to energy efficiency. Just hearing about recent events in California is enough to make the case that facilities need to be as efficient as possible. We now have read that New York may be facing similar problems. The New York Times reported just a few days ago that, the State ''is unexpectedly facing the potential for serious power shortages over the next couple of months.'' Now is definitely not the time to play with the reliability of a power grid.

Efficiency is not the only reason to encourage routine maintenance. Experienced professionals or Boilermakers new to the trade can both tell you: maintenance is necessary to maintain worker safety. Electric generating facilities harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure. Any EPA interpretation which creates incentives to delay maintenance is simply unacceptable to our workers.

Some critics of the June 13 action by the Administration have contended that the NSR decision was made with insufficient attention to public process. This simply has not been the experience of the Boilermakers or other unions working on this project. The U.S. EPA held four public hearings in each region of the country. Paul Kern, the recording secretary of our Local 105 in Piketon, Ohio, offered a statement at the hearing in Cincinnati. In addition, it is our understanding that over 130,000 rulemaking comments were received on this initiative. Given our experience with certain regulations that just seem to appear over night, the Administration's action NSR seem pretty open and fair to us. When you compare the current clarification to the way the program changed in 1999—without any rulemaking process whatsoever—the Administration's June 13 announcement looks all the better!

Boilermakers are not just workers; they are also consumers of electricity that work hard for their wages. One item often lost in the mess regarding NSR is that capital expenditures not justified for environmental protection are still passed along to ratepayers. Unfortunately, the less money you make, the greater the percentage of your paycheck goes to your electricity bills. According to Energy Information Administration data, those living at or near the poverty level pay 4 to 6 times the percentage of their income for power. So, advocates of misusing the NSR program hurt those least able to afford it the most!

As you can see, Boilermakers have never asked for repeal or substantial revision of the NSR program. We encourage the development and installation of new technology, and we stand ready to continue to train and apprentice workers to meet the needs of the Clean Air Act. However, when the NSR programs goes where it wasn't intended—and discourages the very maintenance, repair and replacement activities that constitute the livelihood of Boilermakers—we must strongly object. Thanks for the opportunity to make a statement.

Mr. INHOFE. Mr. President, the environmental community does not have to answer to the American people when energy prices go through the roof. But the President of the United States does, and we do, too. I think the President is doing the right thing, and we should support him for it.

So, in summary, this is one of the rare things that both the Clinton administration and the Bush administration have proposed which enjoys support by virtually all the labor unions as well as the business organizations, the U.S. Chamber of Commerce, and other organizations, and the American people who want lower cost energy.

Mr. President, I am offering a second-degree amendment to Senator EDWARDS' rider on the New Source Review. In his amendment, Senator EDWARDS asks the National Academy of Sciences to conduct a study on the impacts of implementing the NSR reform package and to delay the reforms in the interim.

In our judgment, there is no reason for this delay. We have delayed already for 10 years. We have been living with this thing for 10 years. We need reforms now.

Therefore, I am offering a second-degree amendment to allow the NSR final package to move forward, but to allow the National Academy of Sciences to conduct a study. When the NAS completes its study, the EPA can then benefit from its results. I suggest that the National Academy of Sciences will be getting their information from the EPA because they are the ones who have accumulated all the data to date, and there is no more data that is available. There is nothing to be lost by offering this as a second-degree amendment. You would have the benefit of the NAS study as well as moving along the time for implementation.

There is simply no reason to delay the implementation of the final NSR package. The Edwards amendment calls for a study before the final New Source Review rules go final. I guess the Senator from North Carolina has not read the administrative record on the regulations. If he had, he would see that the EPA conducted a thorough environmental analysis of the final NSR proposals.

Mr. President, I ask unanimous consent that the analysis be printed in the RECORD.

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, January 19, 2001.

MEMORANDUM

Subject: Status of the New Source Review Improvement Rulemaking.

To: New Source Review Stakeholders.

From: Robert Perciasepe, Assistant Administrator.

Over the last two years we have all worked hard to develop improvements to the New Source Review (NSR) program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emission reduction techniques voluntarily and give greater flexibility when companies take these voluntary actions. I am writing to share with you where we are on the NSR Improvement effort as I leave this office.

We have come a long way together in developing the conceptual framework for how EPA can improve the NSR program by providing greater certainty and flexibility for industry without sacrificing the level of environmental benefit provided by the current program or meaningful public participation. Due to the array of policy and legal issues that arose on the vast number of areas we attempted to tackle in one very large rulemaking, we were not able to complete the regulator/packages in this Administration. The concepts that we developed make both economic and environmental sense because in return for environmental performance, industry will receive greater flexibility and more certainty for business investment decisions. The concepts would not undercut the basic goals of the NSR program.

The concepts that we developed and which I support are listed below. I believe many of these could be taken as final actions because of the hard work we have done together.

Voluntary Alternative NSR Program for the Electric Power Generating Industry—This voluntary program would allow owners of power plants to commit to specific, verifiable emissions reductions across all their electric generating units over a defined period of time and in most instances would avoid the need to get an NSR permit when making changes at their facilities.

Plantwide Applicability Limits (PALs)—Source owners would be able to make changes to their facilities without obtaining a major NSR permit, provided their emissions do not exceed the plantwide cap. Also, facility owners that use PALs must commit to install best controls over time to gain this flexibility and certainty. PALs would be especially attractive to those industries (e.g., pharmaceuticals and electronics) who need to make changes quickly to respond to market demands in order to stay competitive in a global marketplace.

Clarifications of Roles Responsibilities and Time Frames for Class I Area Reviews—The process for review of permit applications by Federal Land Managers (FLMs) would be clarified to delineate the roles of the source owner, the permitting authority and the FLM, in conducting permit reviews for sources potentially affecting air quality near national wilderness areas and parks (Federal Class I areas). These changes would reduce delays and disputes associated with permitting applications for sources near Federal Class I areas because they would provide a time frame for the FLM to identify any concerns and analyses needed for the permit applications. Also, it would clarify that the FLM does not have the authority to veto permits, and ensure that the FLM obtains the necessary information to conduct their permit reviews in a timely manner.

Clean Unit Exemption—This exemption would provide an incentive for source owners to install the best emission controls on new or modified emission units and provide flexibility and certainty so that most future changes at such units would not trigger NSR. An owner of an emissions unit that meets certain minimum criteria to be considered ''clean'' could make most changes to these units without triggering NSR for a specified period of time, such as ten years.

Innovative Control Technology Waiver—This waiver would provide more flexibility for owners of sources who risk trying innovative technologies that have not yet been proven effective. Should the innovative technologies not perform up to expectations, we would provide the owners with time either to correct the deficiencies or alternatively apply a more standard control technology.

Pollution Control Project Exclusion—This would codify our existing policy that owners of facilities making changes to their plants that primarily reduce one or more targeted air pollutants (but which collaterally increase other pollutants) are excluded from NSR provided certain conditions are met. We would provide a list of environmentally beneficial technologies that, absent other information that would indicate that the projects would not be environmentally beneficial, would be presumptively eligible for the exclusion.

Control Technology Review Requirements—Because disputes arise over what control technologies are considered available, the permit review process can become lengthy. To improve the process for obtaining a permit, we would (1) add a definition of ''demonstrated in practice,'' (2) provide a ''cut off'' date for consideration of additional control technologies, (3) add provisions that specify when applications are deemed ''complete,'' and (4) require that control technology determinations be entered into a clearinghouse before permits can become effective.

Nearly all parties in our discussions identified the need to have all of the data on the latest control technology determinations made by permitting authorities in the EPA clearinghouse. Improving the availability of this information to everyone will greatly assist the permitting process. To this end, I have committed significant resources to gather all of the existing data, input it into the database, and redesign the system to make it easier for all parties to put in new data to keep it up-to-date.

One of the lessons that we have learned through our ongoing efforts is that it would be difficult, if not impossible, to improve NSR in one large rulemaking. Instead, I believe it is best to make incremental changes that will provide flexibility and certainty without sacrificing the benefits of the current program. I hope the new Administration will consider finalizing the concepts described above that provide flexibility and certainty without compromising environmental protection to make near term progress. I realize there are other issues, such as applicability for the base program, that also need resolution. For these remaining issues, continued discussions in the context of the overall program are needed.

I appreciate and thank you for the time, effort and input that you have provided over the past years, and I believe that both industry and the environment will benefit from the approaches described above.

Mr. INHOFE. Mr. President, I would like to read from the EPA's own environmental analysis:

The overall effect of the final rule will be a net benefit to the environment.

My second-degree amendment calls for a NAS study to look at the impacts of the regulation after implementation of the final rules while allowing the regulations to go forward, thus allowing cleaner and more efficient technologies to be installed in our Nation's manufacturing centers.

Delaying these regulations would delay projects to create safer workplaces. The International Brotherhood of Boilermakers, a member of the AFL-CIO, has recently opined against the proposed delay in the final package on the New Source Review. I would like to read just a small part of their letter and then will have the rest of the letter printed in the RECORD. This letter is a current letter dated today from the International Brotherhood of Boilermakers. It says:

We have encouraged the Environmental Protection Agency to clarify the program as soon as possible, and oppose efforts in Congress to slow reform down. The efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS,
Fairfax, VA, January 21, 2003.

Re Opposition to Appropriations Rider Delaying New Source Review Reform.

Senator JOHN EDWARDS,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR EDWARDS: On behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, ALF–CIO, I am writing to express our support for clarification of the New Source Review, or NSR, program and our opposition to any effort to derail NSR clarification through the appropriations process. Therefore, we urge you and your colleagues not to offer an appropriations rider delaying implementation of the final NSR rules.

Commonly referred to as the Boilermakers Union, we are a diverse union representing over 100,000 workers throughout the United States and Canada in construction, repair, maintenance, manufacturing, professional emergency medical services, and related industries. Boilermakers, who make and maintain industrial boilers and the pollution control equipment they use, have had a long-time commitment to a clear, effective and reasonable NSR policy. We have encouraged the Environmental Protection Agency (EPA)

to clarify the program as soon as possible, and oppose efforts in Congress to slow reform down. The efficiency and competitiveness of our facilities and the safety of our workers hang in the balance. This is a jobs and safety issue for millions of American workers.

First, let me be clear today that Boilermakers do not oppose the Clean Air Act, nor do we oppose its rigorous enforcement. In fact, construction lodges of our union look forward to doing much of the actual work for the installation of new technologies and controls at utility plants and for industrial boilers across this region and the country. In reference to the NO_X control program alone, our international President Charlie Jones recently wrote:

''The EPA estimates that compliance measures will cost about $1.7 billion a year. A sizeable portion of that money will go to the Boilermakers who do the work necessary to make the additions and modifications required by the SCR technology.''

NSR, correctly interpreted as we hope EPA's new rules will do, forces new sources or those undergoing major modifications, to install new technology, like the technology President Jones mentioned. We support NSR in that context.

However, when NSR is applied in an unclear or inflexible manner to existing facilities, very different results occur. In those cases, facilities are discouraged from undertaking appropriate actions for fear of huge penalties or long delays or both. By applying NSR in that way, we are pretty sure that Boilermakers won't have the opportunity to work on projects that we know are extremely important to energy efficiency. Further, by reducing the useful economic life of boilers or by inaccurately setting baselines, the existing NSR confusion undermines the competitiveness of American job sites. And that means some of the almost 20 million manufacturing jobs at stake in heavy industry are placed at risk.

Finalizing new NSR rules is also important to maintain worker safety. Industrial and utility boilers harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure. Any delay of these important EPA rules is simply unacceptable to our workers.

Some have argued that the final NSR rules can await further study. However, the U.S. EPA held four public hearings in each region of the country on the proposal. Paul Kern, the recording secretary of our Local 105 in Piketon, Ohio, offered a statement at the hearing in Cincinnati. In addition, it is our understanding that over 130,000 rulemaking comments were received on this initiative, and over 50 stakeholder meetings were held.

As you can see, Boilermakers have never asked for repeal or substantial revision of the NSR program. We encourage the development and installation of new technology, and we stand ready to continue to train and apprentice workers to meet the needs of the Clean Air Act. However, when the NSR program goes where it wasn't intended—and creates uncertainty regarding the very livelihood of Boilermakers—we must strongly object. Therefore, we ask you and your colleagues not to offer any appropriations rider delaying the final NSR rules.

Sincerely,

ANDE ABBOTT,
Director of Legislation.

Mr. INHOFE. Mr. President, some supporters of the Edwards rider in its current form suggest that delay is justified because State officials seek it. Nothing could be further from reality. Two years ago, a unanimous resolution of the National Governors Association was passed. It says:

New Source Review requirements should be reformed to achieve improvements that enhance the environment and increase energy production capacity, while encouraging energy efficiency, fuel diversity and the use of renewable resources.

The Nation's environmental commissioners passed a subsequent amendment, stating:

The Environmental Council of the States adopts the provisions of the NGA [the National Governors' Association] policy. The Environmental Council of the States encourages the United States EPA to reform the New Source Review Regulations into a workable regulation that is easily understood and effectively implemented.

These positions reflect the true direction of the majority of States. I think there is a propensity in this body for us to think that wisdom in Washington is greater than that of the States. That is not true. So you have a unanimous resolution from the Governors as well as the Environmental Council of the States.

The bottom line is this: My second-degree amendment allows the EPA and the States to benefit from the wisdom of the National Academy of Sciences on the important issues of clean air policy. However, my amendment does not create potential dangers inherent in delaying the onset of the important and thoughtful administrative reforms of the NSR program.

So I offer a second-degree amendment to the Edwards first-degree amendment No. 67 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

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

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 86 to amendment No. 67.

The amendment is as follows:

On page 1, strike all after ''SEC.'' and insert the following:

'' . (a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to evaluate the impact of the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002). The study shall include—

(1) increases or decreases in emissions of pollutants regulated under the New Source Review program;

(2) impacts on human health;

(3) pollution control and prevention technologies installed after the effective date of the rule at facilities covered under the rulemaking;

(4) increases or decreases in efficiency of operations, including energy efficiency, at covered facilities; and

(5) other relevant data.

(b) DEADLINE.—The NAS shall submit an interim report to Congress no later than March 3, 2004, and shall submit a final report on implementation of the rules.

Mr. REID. Mr. President, if my friend will withhold, I have a couple comments I would like to make.

Mr. INHOFE. Mr. President, I am glad to withhold.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I rise in opposition to the second-degree amendment of my friend, the chairman of the Environment and Public Works Committee. The amendment offered by Senator EDWARDS, and cosponsored by Senators LIEBERMAN, JEFFORDS, DASCHLE, and Senator REID of Nevada, really is a very modest amendment.

This administration has gone ahead with the most radical rewriting of the clean air rules in 30 years. Let me repeat that. The administration, administratively, has caused the most radical rewriting of the clean air rules in 30 years. They have not studied what the effects of these rules will be for people's health and the environment. I think Senators on both sides of the gaisle have asked for this study. They have refused to do it.

This amendment simply says, let's wait 6 months—just 6 months—and get a real study of how this amendment will affect people. Our amendment says, because these rules have the potential to be harmful, we should study them first to make sure we know how they will affect people's health. The amendment says, let's wait until we get that settled—6 months, a half a year—before letting the rules become final.

The second-degree amendment says: Yes, we need to study those rules, but let's have the study after the rules go into effect; that is, let the rules go into effect first; and, second, we will study the effects. That means you are rolling the dice with people's health.

What this second-degree amendment says is, we will take our chances with the health of your children, with the health of your parents. What we say is, let the amendment go into effect after we have studied the issue.

What are we going to do a year from now if this study shows—and I am confident it will—that these radical changes will have made people's health worse? What are we going to say to senior citizens who are suffering from respiratory illnesses, as a great deal do?

It was less than a year ago that one of the weekly magazines—I believe it was Newsweek; ran a front-page article that talked about the asthma epidemic sweeping this country afflicting our children. Although they do not determinatively know why, one of the conclusions they arrive at is because of the bad air. However, I don't think we need scientific studies to show that.

By allowing the administration to go forward with this rule, what we are really saying is we do not care. We want these companies to go ahead and be able to continue their polluting—yet we only studied two companies.

We hear that the Environmental Protection Agency today has actually

done the environmental analysis and it shows that these radical rule changes would protect the environment. That is foolishness. It is not true.

The EPA gave us hundreds of pages of old, irrelevant reports.

They said their assessment was qualitative and not quantitative. That is a buzzword for ''we have done nothing.'' It means they didn't do real hard research in how these changes would affect people, children with asthma, and seniors with respiratory illness.

One group did the real hard research. The Environmental Integrity Project looked at two factories and found that just with these two factories, the administration rules would increase pollution by more than 120 tons a year. One of these EPA studies done by the current Environmental Protection Agency points to Delaware as a model. Companies in Delaware have taken some good measures to reduce pollution. That is true. But as industries in Delaware have pointed out and as Senator BIDEN has pointed out, this administration is not following the Delaware model. They are following a different and anti-environmental model.

The amendment of the Senator from North Carolina does not discourage energy efficiency. All of us support more energy efficiency. We support reform of the New Source Review. We want to reduce pollution at the same time as we reform. We don't want reform being an excuse to increase pollution. The new rules would increase pollution.

Again, the amendment of the Senator from North Carolina is a modest amendment. It says: Look before you leap. However, what we are being told to do with the second-degree amendment is look after you leap. That is not the same.

Look before you leap; that is what we should do. The second-degree amendment is misguided, misdirected. It takes away from the importance and the dignity of the amendment offered by the Senator from North Carolina which simply says, the President wants to move forward with radical changes in the Clean Air Act, an act which has been in effect for some 30 years, so before we do this, let's first wait 6 months to see if the changes the administration suggested will hurt the environment.

I certainly hope the amendment of the Senator from North Carolina passes in its form before the Senate and that the second-degree amendment does not pass. I say that because if you look at the track record of the administration, you are looking at a track record that is not good.

We know the administration came out initially with an effort to change the arsenic standards in water. We were able to turn that back. We know the administration has worked very hard to make sure that the rules relating to testing children to find out if lead in their environment is bad—they tried to eliminate that. We were able to stop that.

Clean water: The administration proposed earlier this month changes for managing waterways under the Clean Water Act. The proposed rules would affect enforcement of the Clean Water Act by defining protected and unprotected lakes, rivers, streams, and wetlands. This rule would remove 20 million acres of wetlands from protection.

On January 3—just a few weeks ago—the administration issued categorical exclusions under the National Environmental Policy Act for certain timber projects. As a result, the agency will be able to approve logging in burned, diseased, and insect-infested forests without completing individual environmental reviews.

On December 31, the administration proposed regulations that would allow tuna caught by encircling dolphins to be labeled ''dolphin safe.'' For the last 5 years, tuna caught using dolphins as targets were barred from bearing the ''dolphin safe'' label.

Two days after Christmas, the administration came up with a Christmas present when they issued new guidelines that would allow more development of wetlands and additional mitigation. However, the existence of wetlands is important because they filter drinking water, retain flood waters, and support wildlife.

The administration on December 23—2 days before Christmas—issued a final rule that would allow States to claim ownership of roads in national parks, forests, wilderness areas, and other public lands. Under this rule, States could assert claims to thousands of miles of dirt roads, trails, and wagon tracks—many of which are in wilderness areas and other public lands.

On December 19, the administration issued a cost-benefit report calling for more than 300 rules to be revised and eliminated, or expanded. These changes affect food safety standards, arsenic in drinking water, energy conservation standards, and logging in national forests.

Again dealing with clean water, on December 16 they issued final regulations under a court-ordered deadline that would weaken clean water protections concerning concentrated animal feeding operations. The new rule will affect 15,000 large and medium size U.S. corporate farms.

On salmon protection, the administration proposed new regulations to weaken salmon protections and to allow increased logging in the Pacific.

On November 22 of last year, the administration issued final regulations that would weaken the Clean Air Act's New Source Review program. The administration has issued standards relating to drilling in national parks. They approved natural gas drilling in Padre Island National Seashore in Texas, the Nation's longest stretch of undeveloped beach. They are going to take care of that and allow drilling there.

On climate change, on November 20 the chairman of the White House Council on Environmental Quality said: ''Climate change is a technology issue.'' He believes technological innovations, not curbs on emissions of greenhouse gases, are the solution to global climate change.

Snowmobiles, something on which I have worked hard: The administration proposed to increase the number of snowmobiles allowed in Yellowstone and Grand Teton National Parks by more than 35 percent, even though the rangers there must use respirators and masks because the air is so bad because of the snowmobiles.

Should we not, with a record like this, take 6 months to see if the rules are going to be bad? I didn't read all of them, but you get the idea why I am a little suspect about the rules and why we should not leap before we look. Let's look, have a study done to find out if the rules are as bad as the environmental community says they are.

I hope the second-degree amendment of my friend from Oklahoma is defeated and we have an up-or-down vote on the amendment to call for a study before we enact the very extreme radical rule changes with the Clean Air Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Let me respond to the distinguished Senator from Nevada.

First, this has nothing to do with tuna, dolphins, drilling, snowmobiles in the Tetons. The record of this President has been very good. We passed extensive brownfields legislation with the help of the Senator occupying the chair. My amendment included over 200,000 petroleum sites. The record has been good.

It is important, when you are talking about this issue, to talk about the Bush administration. This essentially came from the Clinton administration, not from the Bush administration. With the exception of a few technicalities which have been worked out to everyone's advantage, this is the Clinton administration's program.

Here is the statement made at the last day of the Clinton administration by Bob Perciasepe:

> Over the last two years we have all worked hard to develop improvements to the New Source Review program. As I have discussed with you, I believe it is essential that this program have greater incentives for companies to employ the most effective emissions techniques voluntarily and give greater flexibility when companies take these voluntary actions.

And so then we had this study. Look at this study. It is 180 pages. The study comes to the conclusion that the overall effect of the final rule will be a net benefit to the environment. This is going to benefit the environment, not hurt it.

When the Senator from Nevada says, what do we say to senior citizens, I say what do we say to senior citizens when their energy costs go up, when they already have to decide whether to heat their homes or have food to eat.

We have studied this matter for 10 years. We don't need 6 more months.

However, we are willing to have the NAS do a study, and they will use the same data the EPA used in coming up with the conclusion that this is not harmful, but it is good for the environment and health.

I will be joining my friend from Nevada in asking for a recorded vote on this second-degree amendment at the appropriate time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SANTORUM. I thank the Chair.

Mr. President, during the last few session days, I have been rising to bring the Senate's attention to an issue which I think is very important. We have had a lot of discussion in this body about the concern for deficits. I share those concerns about how much money we are going to be borrowing in the future. One of the principal reasons for these discussions, particularly from Democratic Members, is their concern that because of these deficits going forward, we cannot give or—let me put it this way—let people in America keep more of their money and provide tax relief, as the President has proposed, to try to stimulate this economy.

The President has proposed in the area of $600 billion in tax relief over the next 10 years to try to help put more money into the private sector to help create jobs, secure jobs, and grow this economy. I think that is a very worthy goal.

Economic growth is vitally important for all of us in America. It creates job security. It creates new opportunities for advancement. It increases our standard of living. I believe everybody in this Chamber would agree that one of our priorities should be to create more jobs and create a stronger economy. The President has put forward a package which he believes will do that.

One of the major criticisms against the package is that it adds too much to the deficit; that while maybe some of these ideas are good ideas—letting people keep more of their money, providing incentives for people to invest, businesses to invest in capital equipment, stopping the double taxation of dividends—all those may or may not be good ideas, depending on to whom you listen—even if they are good ideas, we cannot afford it, we simply do not have enough money; frankly, we are running these deficits, so we have to be fiscally responsible—I am talking about the Democratic conversations of late—that we have to be fiscally responsible and not provide this tax relief.

What I am going to do in the next few days as we continue to debate this year's appropriations bills, the 2003 appropriations bills—not next, but this year, since we did not get our job done last fall and pass the appropriations bills for this year—is I am going to detail all of the amendments the Democrats are offering and begin to add up the 10-year costs of these amendments.

We have the first amendment offered by Senator BYRD on homeland security, which is $70 billion over the next 10 years.

Senator KENNEDY's amendment on education was $84 billion, which brought the total to $154 billion. Senators HOLLINGS' and MURRAY's amendment on Amtrak, that was $5 billion over 10 years. Senator HARKIN's amendment, $7 billion over 10 years, and then Senator BYRD's amendment, which was to basically strip away what was a mechanism to try to pay for some of these increases such as education and others, which was an across-the-board reduction, he eliminated the across-the-board reduction which basically put $154 billion on to the deficit over the next 10 years.

Pending is Senator DODD's amendment, which adds $21 billion over the next 10 years in the area of paying for education for people with disabilities.

We have already had a majority of Democrats, in fact almost every single Democrat, vote for $320 billion in new spending and now we have another $21 billion on which to be voted. There are a whole host of other amendments which have to be filed by 6 p.m. today, which will add robustly, I suspect, to this total of $341 billion to date that have been offered by Members on the other side of the aisle who have come to this Chamber repeatedly and suggested that, we cannot provide tax relief to spur this economy to create jobs and to put more money out on to the private sector into taxpayers' pockets but we can afford almost half of what the President's tax reduction measure will cost.

It is important to show where the priorities are of the respective parties. What we have suggested is that to help this economy get going we need to put more money in taxpayers' hands so we can create a stronger economy and a better quality of life for people in America. Many on the other side, not all, have said that is not acceptable.

What is their alternative? Well, this appears to be their alternative: To grow the size and scope of Government in increasing amounts.

We made a mistake. We made this chart too small. My guess is by the time we are done we are going to have a line of charts as to how much money we are going to add to the deficit at a time when we are hearing all this gnashing of teeth about the President's tax plan that is simply too expensive, that it adds too much to the deficit. Yet time after time Members on the other side are more than willing to add money to the deficit. As long as we spend it on Government programs, as long as we spend it on growing the size and scope of the Federal Government, they are willing to spend taxpayers' dollars and willing to put the deficit to even higher levels.

To set the record straight, when we hear the debate on taxes, as we will later this year and we will hear Members coming to the Chamber saying we cannot afford this tax reduction, remember what they thought they could afford and that is a much bigger Federal Government, more tax dollars being spent in Washington, DC, and higher deficits as a result.

I will be back after each series of amendments we vote on and we will be adding to this chart. I am hopeful this number of votes for these amendments will begin to change. Where we look at almost every single Democrat voting for these large increases in spending, I am hopeful that at some point there will be a recognition that it is important to control the growth of Government spending, it is important not to have big deficits in ever increasing amounts, and we will see some contraction in these numbers.

Time will tell what will happen in the Senate over the next several days as we begin to debate more amendments offered by the other side of the aisle to add more money to the deficit which they decry as already too big in the first place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The Senator from Rhode Island will offer a very important amendment on unemployment insurance. I ask unanimous consent that following my remarks, the Senator from North Dakota be recognized to speak for 15 minutes; following that, the Senator from Rhode Island be recognized to offer an amendment.

I have spoken to the manager of the bill and have indicated to him that we were going to offer this amendment. I ask unanimous consent, therefore, that when Senator REED offers his amendment the pending amendment be set aside. If there is a problem with that, that would give time to someone on the other side to be available to object having that set aside.

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

Mr. REID. My friend, the junior Senator from Pennsylvania, has come to this Chamber on other occasions with his chart and talked about the Democratic amendments. What he has not talked about is the fact that a year ago, we had a huge surplus. There are estimates that it was as much as $7.2 trillion—some say it was only $6 trillion—over a 10-year period. As a result of what has taken place with this administration, that is gone. We are now spending in the red and using Social Security surpluses to pay for the Bush economic plan.

I was on a TV program with Senator NICKLES, who was my counterpart. The person doing the interviewing showed Senator NICKLES a chart. From the time that Harry Truman was President until today, going through every President, every President of the United

States has created jobs, without exception, except the current President Bush. In fact, he has done so poorly in job creation that he has lost over 2 million jobs.

I hope the American people understand we are offering these amendments because we believe the American people deserve more than tax cuts for the rich.

The present administration's tax cut plan will increase the deficit by almost $1 trillion over 10 years. I hope my friend from Pennsylvania would vote against that if he is concerned about deficits, because that is a huge deficit builder.

Every time my friend, the distinguished Senator from Pennsylvania, comes to the Chamber with his chart, we are going to also talk about what this administration has done that has adversely affected the American people.

The amendments offered by the Democrats—which are said to be ''outrageous things''—fund school districts around America to take care of handicapped children. I know that is somewhat radical that we want to pay for handicapped children to be educated, but that is what we have decided we would like to do, that we would fully fund the IDEA program. There is not a school district in America that opposes that.

Some of the other amendments funded the unfunded mandates that have taken place with our passing the homeland security bill. I know the State of Nevada badly needs that money because we have been forced to do things that the Federal Government has passed on to us that we cannot afford to do. The State of Nevada needs help. That is why today States have deficits of about $100 billion.

The deficit of the State of California alone is $35 or $40 billion, but of course it has 15 percent of the population of this country.

So they can bring out all the charts they want to talk about these amendments the Democrats are offering. The reason we have voted nearly unanimously for every one of these amendments is because it is the right thing to do for the people who are not represented by the Gucci shoe crowd, the big limousine crowd.

My friend from Rhode Island is going to offer an amendment to take care of about a million people who have no unemployment insurance. The unemployment rate has increased by millions under this President. It has gone from 4 percent to 6 percent. Job losses, as I have indicated, are over 2 million. The private sector has lost 2.4 million jobs since President Bush took office. Unemployment is staggering. A total of almost 9 million people were unemployed in December. The length of unemployment, which is more than 26 weeks, increased by 122,000 in December alone, the biggest 1-month increase in a long time.

There are a great deal of problems with this economy. We believe there should be a tax plan to stimulate the economy. What we believe should take place is an immediate tax cut. It should be directed toward the middle class. It should have no long-term impact on the deficit in this country.

I talked earlier about the Bush economic record. It is the only administration to lose private jobs in more than 50 years. We have had no other administration that has not created jobs. His dad came close. He almost was in the negative. He was the lowest we had since Eisenhower. But it is topped by this President. Eisenhower created increased employment by one-half of 1 percent, Kennedy by 2 percent, Johnson by 3.6 percent, Nixon by 2.1 percent, Ford by .18 percent, Carter by 3.3 percent, Reagan by 2.3 percent, George H.W. Bush by .4 percent, Clinton by 2.6 percent; George W. Bush has lost jobs. He is the only president whose job creation is in the negative.

We do not need people to lecture us on how bad the Democratic amendments are. Our amendments are targeted toward American people, not targeted toward the rich.

The PRESIDING OFFICER (Mr. CRAPO). Under the previous order, the Senator from North Dakota is now recognized for 15 minutes.

Mr. BIDEN. Mr. President, may I ask the Senator from Nevada a question about what he just stated?

Mr. REID. I am happy to maintain the floor and yield to my friend from Delaware.

Mr. BIDEN. Mr. President, I say to my friend from Nevada, what confuses me about what the Senator from Pennsylvania said, and others have said, and is disturbing, our friends on the other side of the aisle have an incredible definition of what constitutes security. The idea that we would at this moment cut the end strength of the U.S. military, there would be 100 out of 100 Senators in opposition on the floor.

The idea that we are like those soccer moms we talk so much about, they are no longer soccer moms, I suggest. They are security moms. They are literally worried about whether or not in their children's schoolyard, in their shopping center, in their daily routine, they and/or their family might be a victim of terrorism.

If this war is a war the President talks so much about, with good reason, a war on terror, I assume we are saying the same thing. A war on terror is not a war that is only being conducted by special forces overseas, but the war on terror is in the United States.

What is the greatest concern Americans have? It is that something is going to happen as happened on September 11.

I ask this of these friends of ours on the other side of the aisle. I think they mean well. They talk about the fact they do not want to grow government. I ask, How are you going to combat terror in the United States of America, in Washington, DC; in Omaha, NE; in Wilmington, DE; in San Francisco, CA; how are you going to confront terror, combat terror? How are you going to make our nuclear powerplant that is right across the river from tens of thousands of Delawareans secure? How are you going to make sure there are no Americans subject to poison gas attacks, the water supply being polluted, chemical agents, or, God forbid, biological weapons. The only way to do that, it seems to me, is with more defense.

What is the defense? That is homeland defense. The defense is the FBI, local law enforcement; the defense is domestic surveillance, domestic operations. My friends keep saying they do not want to grow government. What the devil are they talking about? They just cut 1,100 FBI agents. They shrank government. If tomorrow they took this similar percentage of U.S. Marines and cut them, we would say: My God, what are they doing? They are crazy.

A U.S. marine, I ask my friend from Nevada, who is going to confront a terrorist on the Mall in Washington, DC, or at a nuclear powerplant in Nevada or Delaware, who will confront that person? Who will track them down? Is it a marine? A special forces person? No, it is going to be a law enforcement officer.

These fellows have, unintentionally, I hope, emasculated law enforcement. They have cut the COPS Program that put 100,000 cops on the street. They eliminated that. They transferred, necessarily, 570-some FBI agents out of violent crime strike forces toward terror. They have reduced the coverage in the States. They have now cut another roughly 1,100 FBI agents, eliminated any help for local law enforcement. They ballooned—as a consequence of that, in part—the budget of all these States, and they proudly stand here and say: We are not going to grow government.

I raise my hand; I want to grow government to fight terror. I want to grow the number of FBI agents. I want to grow the number of CIA agents. I want to grow the number of police officers. I want to grow the ability to defend my family from a terrorist attack on a nuclear powerplant in my region, all of which are exposed now. They are exposed.

I hope my friends, when they come to the floor, will explain to me why an increase in the deficit to maintain the end strength of the FBI is less worthy than increasing the deficit over 10 years by half a billion, counting interest, to give people a deduction, no taxes, on their dividends.

Mr. REID. If I could respond to my friend, the distinguished Senator, formally chairman of the Judiciary Committee and Foreign Relations Committee, the only place the Senator has misspoken is that the tax cut will be near $1 trillion when interest is included, near $1 trillion.

Mr. BIDEN. I was only talking about the dividends.

Mr. REID. And I say to my friend, the Senator is absolutely right.

We have to have a secure nation. The amendments we have supported and were offered by Senator BYRD are amendments that would give the State of Delaware, the State of North Dakota, and the State of Nevada, a little bit of relief from the unfunded mandates we passed on.

I also remind my friend from Pennsylvania who was talking about how bad the amendments were; he talked a lot about the deficit. We are not talking as ''pie in the sky.'' We, as Democrats, have a ledger you can look to of success. For the first time in modern history, during the Clinton years, we were spending less money than we were taking in. The last year of the Clinton administration, they were coming to us saying: Better not retire that debt so quickly because you could have an adverse effect on the economy. I guess someone in the Bush administration heard that because they listened clearly. Instead of having a surplus, as we had, they have gone gang busters.

Mr. BIDEN. If the Senator will yield briefly—and I will yield the floor—I appreciate the response.

I have no doubt and I do not disagree with anything the Senator has said overall, but I am just suggesting that I wonder how any Members will explain at home, if, God forbid, one of our nuclear powerplants is blown up; if, God forbid, sarin gas is released in the tunnels under New York City; if, God forbid, any number of other things I could mention, which I won't because they will frighten people, happen, I wonder how any Member will explain how we justified, in the name of not growing government, reducing the number of what I call domestic defense officials, the number of FBI agents, the law enforcement agents, the number of people who, in fact, have as their primary responsibility, the security of our people. A government's first and foremost responsibility is security. It is not tax equity, it is security. Security. I am here to say we are skating perilously close to a disaster line here for failing to step up to the plate.

My last comment is I made a speech on September 10 to the National Press Club making the same argument I am making now. It was at that time thought to be somehow a little bit of—we can't afford it. The argument I made on September 10 at the National Press Club was we were ignoring domestic security and international terror at our peril and I laid out what we were not doing.

Let me say to you, I will be back on the floor again and again because I do not want my children or my grandchildren saying to me: Where were you during the war, daddy? Put it another way: Where were you when we were fighting terrorism, or supposed to be fighting terrorism? Why were you cutting law enforcement, cutting the FBI? Why were you cutting the very agencies that were designed to protect our security, that mom in her living room, her child in her school, her husband on the subway? Where were you?

I think we are misguided, in terms of the majority view on this floor. I want to grow government to defeat terror. I want to do it with people with guns. I want to do it with people with might. I want to do it with people with intelligence capability. I want to stop it before it happens. You cannot convince me you can do a better job with fewer people.

I thank my friend.

Mr. REID. I have a unanimous consent request, if my friend will yield.

I ask unanimous consent that Senators REED of Rhode Island, CLINTON, BINGAMAN, JOHNSON, and SCHUMER be added as cosponsors to the Dodd amendment No. 71.

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

The Senator from North Dakota is recognized under the previous order for 15 minutes.

Mr. DORGAN. Mr. President, I came to the floor because I want to talk about an amendment that will be offered tomorrow dealing with disaster aid for farmers, but I can't help but comment just a moment on some of the discussion I heard on the floor as I entered the Chamber, and also just prior to that, the notion there is one side of this Chamber that somehow is for big government and there is the other side that is protecting the American people against big government.

My colleague from Delaware said it appropriately. If you take a look at the amendments that have been offered and debated, the amendments, for example, by my colleague, Senator BYRD, are talking about additional investments in homeland security. Does anyone really think it is just building big government to care about investments in homeland security?

Do you know, for example, that there are 5.7 million containers that come into America's ports every single year and only 100,000 of them are inspected and 5.6 million containers are not inspected? Do you think maybe we ought to do better than that? Do you think there is a potential threat by terrorists dealing with our ports and harbors and the containers that are coming in from all parts of the world?

If you do, do you really want to stand up and say what my colleague is trying to do is just big government? Or maybe you want to stand up and say this is an important investment in the security of this country. Maybe you want to stop the kind of demagoguery that exists around this town at almost every turn on almost every subject.

Isn't there a reason to have a thoughtful debate about what kind of security the American people expect and deserve, responding to the terrorist threat around the world? I think it ought to be thoughtful rather than thoughtless, and too much of the dialog I find, regrettably, is thoughtless.

We have heard, of course, the same dissenting voices. When the proposal was to create a Medicare program, the dissenting voices were to say: Oh, no, we can't do that. Create a Social Security Program to help seniors? No, we can't do that.

It's a good thing this Chamber wasn't filled with people with that attitude when President Eisenhower proposed we build the interstate highway system or that wouldn't have gotten built.

I won't go on. I will just say I don't think anyone in here pines for ''big government.'' But I think we want a better country. And some of us very strongly believe that to have a better country is to decide to invest in America's kids, to improve education, to make our neighborhoods safe, to create the kind of circumstances in which we have economic growth and opportunity, and people have decent jobs—jobs that pay well, jobs that have security. All of these represent what will make this a better country—not a bigger government, a better country. I think we would be well advised to redraw a few of these charts that we see brought to the floor of the Senate and talk about what is important to the future of America instead of trading slogans back and forth.

But that is not why I came to the floor. I want to talk just for a moment about the issue of disaster aid for family farmers. Last week a cattle rancher from western North Dakota called and said: I don't want any political discussion or political talk. What I need to know is, will there be some assistance for those of us who have been hit by disaster? Because I just spent 2 hours at my local bank. The fact is, if there is not disaster aid made available by the Congress to help those of us who got hit by a natural disaster—a drought that has been devastating for them—then I am not going to be able to continue. There will not be any credit for the coming year and I am not going to be able to continue on my ranch.

There are thousands, tens of thousands of people all across this country in exactly the same situation, wondering if, during this disaster, this devastating drought that has been likened in some parts of our country to the Dust Bowl days of the 1930s—a devastating drought that is not the fault of farmers and ranchers but that has crippled their ability to make a living, devastated their livestock herds and meant that seeds they planted in the spring could not possibly produce the harvest in the fall—wondering whether, as has always been the case, whether Congress will do in this disaster what it has done in previous disasters, and that is say to those farm families: We would like to extend a helping hand.

We do that in virtually every other circumstance. When there is a hurricane in one of our southern States, when there is a fire or a flood or an earthquake, our country is quick to send teams of people and say: Let us help you. This is a natural disaster. It is not of your making and we understand the need for our country to reach out and extend a hand and say let us help you.

I have always been pleased to say let me be a part of that. I want to help the people who have been hit hard by these devastating natural disasters. So my vote has always been yes. My colleagues, fortunately, have always said the same when it comes to disasters that hit the family farm. The question is whether we will provide enough help to allow them to continue on that family farm or ranch.

We are going to offer, tomorrow morning, I believe—at least it will be tomorrow, I hope it will be the first amendment up—Senator DASCHLE, myself, Senator BAUCUS, and others will offer a farm disaster package here on the floor of the Senate and that package will be similar to that which has been offered in the Senate previously and passed by the Senate previously, $5.9 to $6 billion. It received a very wide margin here in the Senate. The vote was bipartisan. It was declared emergency spending, as has always been the case with respect to disaster relief. And it was blocked. It was blocked by the House; blocked by the White House. But nonetheless, blocked.

We passed disaster relief on three occasions in the last Congress, only to see it blocked, and we were unable, then, to get this disaster relief made available to family farmers across the country.

So, we will try again tomorrow, urging that the Congress pass disaster relief. We could and should be able to do that in the Senate. I am reading there are some others with a disaster proposal that is less than half of what should be available and also providing that those who had no disaster will get payments. Last week's construct was a bit different from this week's. But what I read is we will still see, under the proposal offered by the majority, a disaster relief proposal that will spread money to those in rural America, notwithstanding who might or might not have been hit with a disaster.

It is our proposition that only those who have need—incidentally, it is a wide group of family farmers and ranchers across this country who have been hit by this devastating drought—it is only those, in my judgment, who should receive the benefit of the disaster program.

We passed a new farm program last year that would provide better price supports and that would guard against falling prices. But this isn't about price support. This is about disaster.

In my part of the country, a fair portion of the crops—particularly in southern North Dakota—never got out of the ground. In parts of North Dakota and in parts of much larger areas of the country, if you saw a picture of the ground that you would have taken during what would have been harvesttime, you would see something that looked very much like a moonscape. The seeds were in the ground but the seeds did not come up. That farmer and his or her spouse would have lost everything. Many of them right now are visiting with their bankers to determine whether they will be able to continue on the farm or ranch.

I hope this Congress is ready to say, as it did last year in the Senate, that we believe we ought to provide a disaster package to family farmers who suffered this drought disaster.

There are many strikes that are against farmers and ranchers—some perpetrated by the Congress and some by others, one of which is trade, for example. I will not spend much time talking about that. But our farmers have been beset these years by low prices, by bad trade deals, and by a range of disasters—in some cases too much moisture, and in other cases too dry, but the result is the same. In both cases, their livestock herds are decimated. They are unable to raise a crop.

My hope is that by tomorrow we will have sufficient numbers in the Senate, as we have had on previous occasions in the last year and a half, who will stand up for family farmers and ranchers and decide they, too, will support, as they have in the past, disaster relief. My hope is that by this time tomorrow we will have had the debate, finished the debate, and had a favorable vote. Senator DASCHLE and I, and Senator BAUCUS and others, have spoken on the floor previously.

Senator BAUCUS put this in the stimulus plan last year and Senator DASCHLE was in the Chamber leading the effort. We have had plenty of debate on it. It ought not be a mystery for any Member in this Senate about what is happening in rural America. No one, in my judgment, need ask the question, including the President of the United States—who, incidentally, went to South Dakota so often last year that he should have rented an apartment in South Dakota, and he came to North Dakota. And within the last couple of years, he has said, oh, by the way, you family farmers, when you need me, I will be with you. We needed him and he wasn't with us—last year and now this year. We asked this President to join us. We asked the Speaker of the House to join us and help us pass disaster relief at this point.

That is why beginning tomorrow Senator DASCHLE, myself, and others will be pushing for an amendment on this omnibus bill. I know there will be those who will come to the floor—and perhaps one of my colleagues who spoke earlier today—and say, well, what they are talking about is big government. What we are talking about is trying to stimulate the economy and help those in the country who need some help. One quick way to stimulate the economy in rural America is to help those farmers and ranchers with some disaster relief, as we have always done in the past. That disaster relief finds its way into the mainstream. It supports jobs and main streets and businesses in all of our communities in rural America.

It is not just about family farmers. It is about the world economy. It is about stimulating our economy. There is no more quick way to do that than to include in any stimulus package—in this case to include in the omnibus bill—a piece of legislation that does what Congress should have done a year ago but failed to do because the Speaker of the House and the President blocked it; that is, pass a decent disaster relief bill in the neighborhood of $6 billion on an emergency basis that no longer leaves America's food producers in doubt; that says to those families who are struggling on the farms that we are with you, we care about you, but when you suffer disaster this country is going to extend its hand to you.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Rhode Island is recognized.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that following the remarks Senator REED I be recognized for 15 minutes.

Mr. REID. Mr. President, reserving the right to object, I have spoken to the floor staff. Following the statement of Senator VOINOVICH, Senator DURBIN wishes to speak on the amendment that Senator REED is going to offer.

Mr. DURBIN. Mr. President, reserving the right to object, it is my understanding that Senator REED may speak for 10 minutes. Is that correct?

Mr. REED. No.

The PRESIDING OFFICER. The Senator has no limit.

Mr. DURBIN. All right. I ask unanimous consent that follow his remarks I be recognized for brief comments on the same subject. But I will wait. I think that is appropriate.

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

Mr. VOINOVICH. Mr. President, I have to preside at 4 o'clock. May I ask unanimous consent to be recognized to speak at 5 o'clock after I am finished presiding?

Mr. REID. I think that will be just fine. We will have no objection.

Mr. REED. I have no objection. I think I can assure the Senator that I will be finished before 4 o'clock.

Mr. NELSON of Florida. Mr. President, may I inquire of the assistant Democratic leader, when will we get a unanimous consent on the African famine amendment?

Mr. REID. I have spoken to the majority. They recognize that the next amendment we want to offer is by the Senator from Florida. We understand that Senator INHOFE will be ready to go also. I am sure we will get that consent as soon as the debate on unemployment insurance is completed.

The PRESIDING OFFICER. Hearing no objection, the unanimous consent request of the Senator from Ohio is agreed to. The Senator will follow the Senator from Rhode Island.

The Senator from Rhode Island is recognized.

AMENDMENT NO. 40

Mr. REED. Mr. President, under the unanimous consent, I call up amendment No. 40.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself and Mr. DURBIN, Mr. KENNEDY, Mr. LEVIN, Ms. CANTWELL, Mr. CORZINE, Mr. JEFFORDS, Mr. BINGAMAN, Mr. BAUCUS, and Mrs. CLINTON, proposes an amendment numbered 40.

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

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

The amendment is as follows:

(Purpose: To expand the Temporary Extended Unemployment Compensation Act of 2002)

At the appropriate place in title I of division G, insert the following:

SEC. ___. ENTITLEMENT TO ADDITIONAL WEEKS OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) ENTITLEMENT TO ADDITIONAL WEEKS.—

(1) IN GENERAL.—Paragraph (1) of section 203(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended to read as follows:

''(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to 26 times the individual's weekly benefit amount for the benefit year.''.

(2) REPEAL OF RESTRICTION ON AUGMENTATION DURING TRANSITIONAL PERIOD.—Section 208(b) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1, is amended—

(A) in paragraph (1)—

(i) by striking ''paragraphs (2) and (3)'' and inserting ''paragraph (2)''; and

(ii) by inserting before the period at the end the following: '', including such compensation by reason of amounts deposited in such account after such date pursuant to the application of subsection (c) of such section'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) EXTENSION OF TRANSITION LIMITATION.—Section 208(b)(2) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147), as amended by Public Law 108–1 and as redesignated by paragraph (2), is amended by striking ''August 30, 2003'' and inserting ''December 31, 2003''.

(4) CONFORMING AMENDMENT FOR AUGMENTED BENEFITS.—Section 203(c)(1) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) is amended by striking ''the amount originally established in such account (as determined under subsection (b)(1))'' and inserting ''7 times the individual's average weekly benefit amount for the benefit year''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment this Act.

(2) TEUC–X AMOUNTS DEPOSITED IN ACCOUNT PRIOR TO DATE OF ENACTMENT DEEMED TO BE THE ADDITIONAL TEUC AMOUNTS PROVIDED BY THIS SECTION.—In applying the amendments made by subsection (a) under the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 26), the Secretary of Labor shall deem any amounts deposited into an individual's temporary extended unemployment compensation account by reason of section 203(c) of such Act (commonly known as ''TEUC–X amounts'') prior to the date of enactment of this Act to be amounts deposited in such account by reason of section 203(b) of such Act, as amended by subsection (a) (commonly known as ''TEUC amounts'').

(3) APPLICATION TO EXHAUSTEES AND CURRENT BENEFICIARIES.—

(A) EXHAUSTEES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) who exhausted such individual's rights to such compensation (by reason of the payment of all amounts in such individual's temporary extended unemployment compensation account) before such date,

such individual's eligibility for any additional weeks of temporary extended unemployment compensation by reason of the amendments made by subsection (a) shall apply with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(B) CURRENT BENEFICIARIES.—In the case of any individual—

(i) to whom any temporary extended unemployment compensation was payable for any week beginning before the date of enactment of this Act; and

(ii) as to whom the condition described in subparagraph (A)(ii) does not apply,

such individual shall be eligible for temporary extended unemployment compensation (in accordance with the provisions of the Temporary Extended Unemployment Compensation Act of 2002, as amended by subsection (a)) with respect to weeks of unemployment beginning on or after the date of enactment of this Act.

(4) REDETERMINATION OF ELIGIBILITY FOR AUGMENTED AMOUNTS FOR INDIVIDUALS FOR WHOM SUCH A DETERMINATION WAS MADE PRIOR TO THE DATE OF ENACTMENT.—Any determination of whether the individual's State is in an extended benefit period under section 203(c) of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) made prior to the date of enactment of this Act shall be disregarded and the determination under such section shall be made as follows:

(A) INDIVIDUALS WHO EXHAUSTED 13 TEUC AND 13 TEUX–X WEEKS PRIOR TO THE DATE OF ENACTMENT.—In the case of an individual who, prior to the date of enactment of this Act, received 26 times the individual's average weekly benefit amount through an account established under section 203 of the Temporary Extended Unemployment Compensation Act of 2002 (Public Law 107–147; 116 Stat. 28) (by reason of augmentation under subsection (c) of such section), the determination shall be made as of the date of the enactment of this Act.

(B) ALL OTHER INDIVIDUALS.—In the case of an individual who is not described in subparagraph (A), the determination shall be made at the time that the individual's account established under such section 203, as amended by subsection (a), is exhausted.

Mr. REED. Mr. President, today I join with Senator DURBIN and several other of my colleagues in calling for an extension of Federal unemployment benefits for the 1 million long-term unemployed workers who have exhausted their benefits and were not aided by the legislation that we passed on January 8.

On January 8, we passed a bill that extended benefits to unemployed workers who were cut off from receiving their benefits on December 28. With the December 28th deadline, approximately 800,000 workers were cut off from receiving their benefits. We essentially gave them 13 weeks of extended benefits, but in doing so we neglected to provide additional benefits for a million Americans who lost their unemployment benefits—first, their State benefits of 26 weeks, and then their extended Federal unemployment benefits.

In recent recessions, Congress always acted to respond to the plight of these unemployed Americans who are searching for work, trying to maintain their households, and trying to maintain their families. In the early 1990s, Congress extended benefits five different times—three of those times during the Presidency of President George Herbert Walker Bush.

In contrast to the 1990s, the situation is even greater today. At the end of December 2002, an estimated 2.2 million workers exhausted their Federal benefits; whereas, in the recession of the 1990s, approximately 1.4 million Americans had exhausted those benefits.

Where is this crisis affecting Americans? It is everywhere. It is estimated that of these 1 million jobless Americans, about 56,800 are from Texas; 44,000 are from Pennsylvania; 43,500 are from Ohio; 37,600 are from North Carolina; 53,000 are from Illinois; 20,000 are from Indiana; 27,000 are from Tennessee; 18,000 are from South Carolina; and 84,000 are from New York. And the list goes on and on.

This is not a rollcall to be proud of because it represents the fact that the economy is not working. These are not small numbers. We overlooked a lot of those Americans when we took partial action on January 8.

This is not just about numbers. This is about people.

I think there is an erroneous perception that somehow these people are not looking hard enough for work; that they are really the hard-core unemployed, transient workers; that somehow they just don't deserve our help. Nothing could be further from the truth.

I will share some stories that have appeared in the press about people who are struggling with this dilemma of unemployment. I think you will find these people are very similar to people in your neighborhoods, in your families. They are Americans who want to work but in this economy cannot find work.

And there is something else that is going on here, too. This economic dilemma has some characteristics of a cyclical unemployment cycle, but many economists believe there are structural issues at work. You see, this is the situation where, for the first time in recent memory, many of these unemployed Americans are highly skilled, highly educated, and highly motivated. Yet they cannot find work.

For example, Laura Carson of Easton, MA, lost her job in July of 2001. She was a human resources executive. She worked for approximately 17 years,

since she graduated from Suffolk University. She has applied for unemployment insurance. She exhausted her State benefits, and then she exhausted her extended benefits. She is still looking. She tried to get a job this holiday season in a retail shop, but she could not find work. She is still looking. Just to survive, she has gone ahead and refinanced her house and taken out a home equity loan. But that is only putting off the inevitable, as bills keep crashing in upon her.

These are the types of people we are trying to help: Susan Brown of Chappaqua, NY, lost her job as a consultant 18 months ago. She used to be a principal in a firm that specialized in Web design. She is one of the victims of this technological bubble that burst. Her company went belly-up in 2001.

This is a woman who has worked for 18 years since she got out of college. She worked through high school and put herself through college. This is exactly what we like to reward in America: hard work, discipline, and dedication. She got remarried over the summer and, ironically—but in this market, not surprisingly—her husband lost his job, also. She has had to dip into her 401(k) plan to make ends meet. She is still looking but still very frustrated about finding work. She said:

> There are just no jobs. I can't even tell you how hard it is.

And prior to her loss of employment, she was making $200,000 a year. This is an example of this new phenomenon where highly skilled, highly motivated, highly educated people just can't find comparable employment in this recession.

Jules Berman of Queens was laid off from his job. He worked for almost 30 years for a New York candy company. He filed for unemployment insurance in December 2001, and he has seen his benefits exhausted. He has never been out of work before in his entire work life.

What you are seeing, again, if you do the math: after 30 years, seeing middle-aged men and women, who are losing their jobs for the first time in their work history, who thought—as we all did, our contemporaries—if you worked hard, got a good education, got in with a good company and strived and struggled each day, you certainly could work until you retired on your pension and your Social Security. That is not the case. And now, at the age of 50, with mortgages, with children who are going to college, with health care bills and health care concerns, they are looking for a job.

That is the reality, and it is not just in the Northeast. Eric Strubble lives in Newcastle, CA. He was laid off from Hewlett-Packard—another example of the huge downturn in technology companies that has taken place in the last few years. He has filled the gap with these unemployment benefits, but, as he said:

> Obviously, if we had to live off it, there would be no way, but it helps stretch things out a bit.

People don't get unemployment insurance because they don't want to work. It is a fraction of what you make in your salary check each week. The average unemployment benefit is about $256. It does not make up for your lost wages. It allows you, as Mr. Strubble says, to ''stretch things out a bit'' until you get on your feet.

Joyce Smith, 52, of Ardmore, TN, exhausted her $190-a-week benefit in August. She was a factory worker. As she said:

> There's not much out there. They don't want people my age. It's been a panic and a struggle, and you just go into a depression.

Gary Hineman of Morgantown, PA, an unemployed steelworker who is 48 years old, has worked his whole life. In fact, he fibbed about his age at 16 just to get in the Steelworkers Union. He worked all his life, worked hard, and yet he is looking desperately for work. He said:

> If I could speak to Members of Congress, I would tell them to see how we live and how we feel. They want the economy to pick up, but there are no jobs to pick it up with.

That is Mr. Hineman. His wife Michelle works as a grocery clerk. They are getting by on her $15-an-hour job.

Mr. Hineman said: ''That is the only thing I've got going for me.'' These are examples. These are the realities. These are the people we are trying to help and we should help: hard-working Americans. Yet we neglected 1 million of them.

Now, as the comments of these individuals suggest, this is a reflection of an economy that is not working. For the first time in 8 years, family incomes have fallen; poverty is increasing; families at all income levels are losing their health insurance; gross domestic product is growing, but it is not growing fast enough to make up the jobs that are necessary so these people can get back to work.

Indeed, the reality for most Americans today is, they live on their paychecks not their portfolios. When the paycheck stops, they are in very difficult circumstances. Our proposal is very simple: Let's give these individuals some more extended unemployment benefits so they can stretch it out a bit longer, find that job, make decisions that are going to get them back in the workforce.

Let me point out that our economy has lost over 2.2 million private payroll jobs since President Bush took office. The unemployment rate is currently 6 percent—nearly 2 percentage points higher than when President Bush took office. Long-term unemployment is very high, and that is the issue we are dealing with in this amendment: giving some support to these long-term unemployed.

By the way, I cannot think of a more efficient stimulus program than giving people looking for work unemployment benefits to tide them over until they find work. The money goes directly to them and directly into the economy. So from the standpoint of economic policy, that makes sense. Certainly from the standpoint of helping citizens of this country, it makes a great deal of sense.

The unemployment insurance trust fund has a $24 billion surplus. The funds are there. We should access them and allow these individuals additional benefits. We have to do more to help working Americans to make sure they make it through a very difficult, very challenging economic situation.

We have done it before, and I hope we can do it again. I hope we will do it again in this bill. This is an issue of great concern for our economy, but, as I have tried to illustrate with these individual stories, this is about our neighbors, people we live with back in our home States, the people we represent, the people who have worked all their lives; and all they want is a chance to keep their heads above water until they can find that job, as they look for that job day in and day out.

I think it is the least we can do for them. I hope we will do it. I am pleased and proud to be joined by Senator DURBIN as a cosponsor. I know he will return a bit later to make his comments.

I hope we can, in fact, take up this amendment, adopt it on a strong bipartisan basis, and make sure that all long-term unemployed, not just those who were satisfied in the last legislation—but all the long-term unemployed—get a chance for extended benefits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 86

Mr. VOINOVICH. Mr. President, I rise today in opposition to the proposed amendment to stop the New Source Review reforms from moving forward, and in support of Senator INHOFE's second-degree amendment. I am pleased to have an opportunity to speak about this because there is a lot of confusion among our colleagues and throughout the country over what NSR New Source Review—means. The program is a policy that is in desperate need of reform. Reform is critical to public health and the environment, to our Nation's economy and energy supply, and to the safety of our country's workforce.

The program was created back in 1977. It simply requires new facilities to install the ''best demonstrated technology'' to control emissions. The program also requires older facilities to update their equipment to ''state of the art'' when they do major modifications. I underscore ''major modifications.''

When the NSR program was created 26 years ago, Congress believed that incorporating pollution controls whenever new facilities are built or when older ones are significantly modified was the most efficient way of controlling pollution. The EPA issued their first NSR regulation, a 20-page document, in 1980. This implementing regulation excluded from the definition of

modification ''routine maintenance, repair and replacement.'' Since then, the EPA has produced over 4,000 pages of guidance documents in an attempt to explain and reinterpret the regulations. I say ''attempt'' because in fact the guidance documents are very confusing.

It is important for the public and Members of this body to understand that the lawsuits blossoming all over the United States for NSR violations were brought about by an EPA guidance document, not new regulations, an EPA guidance document in 1998 which changed the definition of routine maintenance. This continual reinterpretation has led to confusion, misunderstanding by the EPA, the States, and the industries affected by the regulations.

This chart, which I have used at hearings before the Government Affairs and EPW Committees, shows why companies are reluctant to subject themselves to New Source Review permits. If you were a company and you were going to do routine maintenance and repair, would you ever submit yourself to this maze? I am sorry it is in such small print because my colleagues can't see it. But this is the kind of thing they are being required to do if they want to go forward with routine maintenance and repair.

Not only has the situation led to costly litigation, but to a climate of uncertainty, forcing companies to forgo needed maintenance and repair work until the regulatory policies are clarified. Ironically, this uncertainty has led companies to reduce their investments in cleaner, less polluting technologies for fear that the shifting regulatory environment would declare such improvements a violation.

While the goal of the Clean Air Act has been to make the air cleaner, the NSR program has at times worked against this goal and wound up having the opposite effect.

I want to clarify a very important point often misconstrued by the opponents of NSR reform. All major facilities are regulated by the Clean Air Act. No plants are exempt from the Act, and no plants are ''grandfathered.'' All facilities have permit levels that they must meet for their emissions. They must abide by ozone and particulate matter standards, what we refer to as maximum achievable control technology standards, the acid rain program, the NO_X SIP Call, the regional haze program, and a range of other regulatory programs that apply to each industry or facility. Furthermore, states implement source-specific emission limits through state implementation plans that can be set at more stringent emissions levels if the states deem it necessary.

In fact, as this chart shows, the Clean Air Act has been extremely successful in reducing emissions of pollutants. Since the 1970s, emissions of all criteria pollutants—carbon monoxide, lead, particulate matter, nitrogen oxide, ozone, and sulfur dioxide—have been reduced by 29 percent. This is significant when you consider the fact that over the past 30 years, our population has increased by 38 percent, our Nation's energy consumption has increased by 45 percent, the number of miles our vehicles travel each year has increased by 143 percent, and our gross domestic product has increased by 160 percent.

While our country has grown, emissions have decreased. However, I strongly believe that more can and should be done.

I have worked tirelessly over my entire career to improve our nation's and Ohio's air quality. In the 1970s, as Mayor of Cleveland, I worked on this issue firsthand by operating a 57 megawatt municipally owned utility. I also spent considerable effort as Governor to get 28 of Ohio's counties into attainment for ozone. Through my efforts to institute an automobile emissions testing program and convince one of our major coal fired facilities to install a scrubber, all 88 of Ohio's counties met the air quality standard requirements of the Clean Air Act by the time I left office.

I have continued this work here in the Senate since 1999. As chairman of the Clean Air Subcommittee, I have been working to further reduce pollution from power plants through a multi-emissions strategy. Last year, we worked on this issue in the EPW Committee. Unfortunately, the majority moved ahead on a proposal that would have been unjustifiably devastating to our economy and very costly for consumers and businesses alike.

In the 108th Congress, I plan to work to craft a bipartisan multi-emissions strategy that makes real reductions possible right away. I urge my colleagues to lay politics aside and work with me to improve public health, protect our environment, provide better regulatory certainty, and ensure continued access to safe, reliable, and low-cost electricity.

Mr. President, the NSR program plays an important role in reducing power plant emissions. It also—this is something that is not well understood—applies to every stationary source in the country. When people talk about this, they think it is just utilities that are involved. Rather, we are talking about refineries, chemical plants, and manufacturing facilities. NSR applies to all of them, and all of them out there today are uncertain about what they should be doing and, as a result, are doing nothing.

The current confusion over NSR is actually contributing to polluting our air. When NSR is clarified, I am sure that many of these companies would move on with their programs. They would reduce emissions, and they would make their facilities more efficient.

It is imperative that the NSR program be reformed if we are to improve air quality because at present companies either can't or won't make the necessary changes to improve efficiency and the environment. Without NSR reform, multi-emissions legislation will not work.

We need to do everything possible to encourage new investments in more efficient equipment that produces fewer noxious emissions. That is why Senator CONRAD and I, along with 24 of our colleagues, sent a bipartisan letter to Administrator Whitman in May calling on her to ''complete the [NSR] review and to undertake the necessary regulatory process in the near future to clarify and reform the NSR program.''

I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 13, 2002.

Hon. CHRISTINE WHITMAN,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

DEAR ADMINISTRATOR WHITMAN: The Administration's National Energy Policy included a recommendation that the Environmental Protection Agency (EPA) conduct a review of the New Source Review (NSR) program and make recommendations to improve the program. We are writing to urge you to complete that review and to undertake the necessary regulatory process in the near future to clarify and reform the NSR program. We also encourage you to implement any changes in a way that protects human health and the environment while providing regulatory certainty for the electric utility industry and other industries that must comply with the program while providing reliable and affordable electricity to consumers.

We have heard of many situations where confusion over the NSR program is having a dampening effect on utilities' willingness to perform energy efficiency and environmental improvement projects. The NSR program needs to be clarified to adequately define the concept of ''routine maintenance'' to avoid the regulatory uncertainty currently facing industry. Such clarification would allow companies to repair their facilities and maintain reliable and safe electric service for consumers and workers without being subject to the threat of federal government lawsuits for allegedly violating vague NSR requirements.

Again, we urge EPA to expeditiously proceed with a regulatory process to clarify and reform the NSR program. Thank you for your consideration.

Sincerely,

Kent Conrad, George V. Voinovich, Mark Dayton, Byron L. Dorgan, Jean Carnahan, Tim Johnson, Zell Miller, Richard Lugar, Chuck Hagel, Arlen Specter, Kit Bond, Thad Cochran, Ben Nighthorse Campbell, Evan Bayh, Sam Brownback, Jim Bunning, Mary Landrieu, Craig Thomas, John Warner, Pete Domenici, Ben Nelson, Larry Craig, Mike Euzi, Mike DeWine, Richard Shelby, Mitch McConnell.

Mr. VOINOVICH. Our letter was bipartisan, nine Democrats and 17 Republicans, all calling for reform. While I am sure all 26 of us would not necessarily agree on exactly what the reforms should ultimately look like, we did all agree that we ought to get moving with it. We are running out of time.

In our letter to Ms. Whitman we also stated:

We have heard of many situations in which confusion over the NSR program is having a dampening effect on utilities' willingness to perform energy efficiency and environmental improvement projects.

Mr. President, I'd like to share just one of the examples that I am aware of. For refiners, I am aware of an incident in which tubes on a reboiler furnace failed, resulting in a fire which damaged the remaining tubes. New tubes were installed and the unit was back in production within two weeks. However, they were in violation of NSR due to the ''actual-to-potential'' emissions test. If NSR regulations were followed, the unit should have undergone the permit process, resulting in the refinery being out of commission for five to 18 months. I think my colleagues should remember that the next time a refinery closes and prices spike.

Mr. President, the 26 Senators who signed this letter are not the only ones who think that NSR has prohibited reductions in emissions. This is really important. In August 2001, the National Governors Association passed a unanimous resolution calling for NSR reform. Their resolution states ''New Source Review requirements should be reformed to achieve improvements that enhance the environment and increase energy production capacity, while encouraging energy efficiency, fuel diversity, and the use of renewable resources.''

Furthermore, according to the National Coal Council study, commissioned by the Clinton administration, if the EPA were to return to the pre-1998 NSR definitions, we could generate 40,000 new Megawatts of electricity from coal-fired facilities and reduce pollution at the same time.

The current NSR program threatens our energy supply due to both short-term and long-term reliability problems. According to the Department of Energy, electricity demand is projected to grow by 1.8 percent per year through 2020. At the same time, no new nuclear plants have been constructed since the 1970s and the number of new coal facilities has declined significantly since the 1980s. Our nation's use of coal will continue to increase, resulting in greater demand on our aging coal facilities. In order to meet the growing electricity demand, more frequent maintenance and repair work will be needed to keep these coal facilities on-line.

Another point that needs to be made, which is often overlooked in this debate, is that the costs of NSR are passed on to the ratepayers. Somehow people forget that the customer always pays. Too often, the environment and the ratepayer get lost in the constant duel between extremist environmental groups and recalcitrant companies.

Higher energy prices will have a more profound effect on low-income families and the elderly. The Department of Energy, as this chart shows, claims that those individuals or families making less than $10,000 per year will spend 29 percent of their income on energy costs, and those making between $10,000 and $24,000 a year will spend 13 percent of their income on energy costs.

The NSR program not only prevents the installation of more efficient and less polluting technologies, but it also interferes with safety improvements.

According to the Boilermakers Union, ''Maintenance is necessary to maintain worker safety. Electric generating facilities harness tremendous forces: superheater tubes exposed to flue gases over 2000 degrees; boilers under deteriorating conditions; and parts located in or around boilers subjected to both extreme heat and pressure.''

Failure to maintain and repair equipment creates a potential danger to the lives and safety of the men and women who work on these facilities, and they are not moving forward right now with many of these repairs.

Fortunately, the EPA has responded to the bipartisan and strong call for reform of the New Source Review program. On December 31, 2002 the EPA published a rule that included five reforms of the program. Some of my colleagues might not know that the final rule was actually proposed by the Clinton administration. Let me repeat: These reforms were proposed by the Clinton administration. They are bipartisan.

The reforms are the result of over 10 years of work by the EPA across three administrations and have involved over 130,000 written comments in the last year alone. The EPA has conducted a detailed environmental analysis of the rule and found that the reforms will have a net benefit to the environment, a net benefit. They are good for the environment. Again, I want to stress to my colleagues that Senator INHOFE's amendment will allow us to move forward and help the environment.

This morning my colleague from North Carolina proposed an amendment to delay the implementation of these reforms for 6 months until a study is completed to assess their impact. They have been studied for a long time. On the surface this sounds like a good idea. However, if this amendment passes, we will delay reforms that have been worked on for over 10 years and would make improvements in the environment and to public health today. An EPA analysis already found that the reforms will have a net benefit to the environment.

Furthermore, Mr. President, contrary to an argument put forth by critics of NSR reform, EPA has stated publicly that it deliberately wrote the rule so that current lawsuits would not be affected by the proposed NSR reforms.

It is my belief that if this amendment passes, it will also seriously harm the prospects of future reforms to the NSR program. For example, EPA has proposed a rule to provide a new definition for ''routine maintenance, repair, and replacement.'' The EPA did not offer specifics but asked for public comment on a range of options. This proposal is at the crux of the issue and is imperative. I believe this amendment would not only delay the current rule from being implemented, but it would also effectively delay other very important reforms to the program. We have to get on with it.

I join my colleague and friend, Senator INHOFE, today in the second-degree amendment he has proposed. This amendment would allow the reforms to be implemented while requiring the National Academy of Sciences to evaluate its impact. It allows the reforms to go forward to stop this state of limbo that exists. At present, nothing is happening. Companies will then be able to make efficiency improvements and reduce their emissions. At the same time, the Academy can study the impact of the reforms as they are being implemented.

Ending the confusion surrounding the NSR reforms will allow companies to make the investments that are necessary to both increase our energy supply and environmental protections. We can reduce pollution and become more energy-efficient. We need to provide both for continued economic development and protections for public health and the environment. To meet these needs, we must move enact substantive NSR reform.

I thank the administration for their work in developing this proposal and moving ahead with the Clinton era reforms. I urge them to continue these efforts. Support for these actions is strong and broad-based. The confusion about NSR regulations is pervasive throughout our Nation, from the regulated community to the regulators. It must be addressed—and soon.

Mr. President, I sincerely urge my colleagues to support Senator INHOFE's second-degree amendment to Senator EDWARDS' amendment. The program is broken and desperately needs to be reformed. We cannot afford further delay.

Mr. INHOFE. Will the Senator yield?

Mr. VOINOVICH. Yes.

Mr. INHOFE. First of all, I thank the Senator from Ohio for the time he has spent in setting out this issue. Not many people are aware of the fact that Senator VOINOVICH was the head of the National Governors Association Clean Air Committee and has been working on it for a long time.

I only add to his comments and ask him if he is in agreement that we have 180 pages here, and almost all of this was done during the Clinton administration. All the data that would be available for the NAS is found in the results that are very positive in this report. So I certainly hope this is an accommodating way for the Senator from North Carolina to say, yes, we want the input of the NAS; we don't want to wait 6 more months.

Mr. VOINOVICH. Again, I thank the Senator. I emphasize that 130,000 comments were made last year regarding those regulations that have been issued by the EPA. So it has been really vetted. People have had an opportunity to

participate in this. I support the Senator's suggestion that rather than ask for a study by the Academy, we delay that and let the rules be issued, and then let the Academy look at it. That is a much sounder, more commonsense approach to dealing with this problem.

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

Mr. VOINOVICH. I am more than happy to yield.

Mr. REID. Mr. President, would it not be better, rather than having the rule going into effect and having all the people, from our perspective, start polluting while the study is taking place, to find out which side is right? We are saying to have the NAS study the issue, hold this off for 6 months, and then there should be a determination made as to whether the rule as proposed by the administration affects people.

I don't see—and I ask my friend from Ohio, the distinguished junior Senator—what harm can be done in holding off for 6 months this rule going into effect when, if we don't hold off, our reasoning would be, as indicated in the study I talked about earlier today, where just 2 months—2 plans would put into the environment 120 tons of bad things every year.

Would it not be better to wait and see what the study of the National Academy of Sciences comes up with before the rule went into effect?

Mr. VOINOVICH. Mr. President, I say to the Senator from Nevada that the previous administration had been working on these rules. They started out during the Clinton administration. The Bush administration began looking at the recommendations from the previous administration. They subjected them to review by many organizations. By the way, these rules do not apply to utility companies. They have only proposed a rule in this regard. What I am saying to Senator REID and others is that because the regulations have not been reformed, companies for several years have done nothing to move forward with installing controls that would reduce emissions or make their facilities more efficient. I think we have delayed long enough. It has been vetted.

If someone believes yet another review is necessary, it should be done after the reforms are implemented. Any additional review should be done after implementation so that we are dealing with reality and not speculation. This is very important. I think it is time for us to go forward with the reforms to allow facilities to do their routine maintenance and repair work. This will make their facilities more efficient, reduce their emissions and, in some cases, produce more energy.

Mr. REID. Mr. President, I will respond simply to my friend that the environmental community has a different view. They believe this radical rule change would simply allow pollution to take place that is not allowed now.

We hear that the rules the administration has made are the same as rules made in the Clinton administration. This simply isn't true. Here is what Carol Browner has said:

> Some have suggested that the administration's announced changes are changes the Clinton administration supported. Nothing could be further from the truth. Fundamental to everything we did was a commitment to ongoing air quality improvements. There is no guarantee, and more importantly, no evidence or disclosure demonstrating that the administration's announced final or proposed changes will make the air cleaner. In fact, they will allow the air to become dirtier.

Mr. VOINOVICH. Mr. President, we had a hearing in the EPW committee last year on the rules before they were publicized, and they were savaged because many people believed the issuance would interfere with current lawsuits. The EPA claims that the reforms do not interfere with pending lawsuits for violations under the guidance that was issued back in 1998.

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

The Senator from Illinois is recognized.

AMENDMENT NO. 40

Mr. DURBIN. Mr. President, I came to the floor to speak on the Reed-Durbin amendment regarding unemployment insurance. If another Senator has been waiting to speak, I will be glad to wait. If not, I will proceed.

Mr. President, I rise in support of the amendment which has been introduced by JACK REED of Rhode Island and myself. About 20 years ago, when I first ran for Congress, I waited each month for an economic indicator which really led the debate about the state of America's economy. That economic indicator every single month was the unemployment rate. If the unemployment rate in America was high, or going up, that really consumed all of the political attention of candidates and Members of Congress. That was considered to be the yardstick or barometer of how healthy America's economy is. In the span of time I have served in Congress, that yardstick and barometer has changed.

We now focus more on the situation of the Dow Jones Index and Standard & Poor's. We look daily, almost on a minute-by-minute basis, to the report of the Dow Jones Index as an indicator of our economic well-being. But I think in so doing, we have overlooked something we have done for a long time. If the economy is not strong, people do not go to work. If they do not go to work, they get desperate to keep their families together, to pay for the basics, to make sure their kids have the necessities of life, and they struggle to hope that the economy returns to strength and they can return to employment, and soon.

There is a lot of talk in this Chamber about who is responsible for this recession. That is a common topic in politics. We politicians spend a lot of time pointing fingers, saying: This recession really started the last few months of the Clinton administration; no, no, it really started in the first few months of President George W. Bush's administration. Let me for a moment push that aside and suggest that the families who lost their jobs do not care. They are not interested in when this started. They want to know when it is going to end so that if they lost a job and are falling behind, they have a chance to get back into the workforce.

These are not people who can be characterized as lazy in any way. They have worked, and worked hard, for a long time, but contractions in the American economy because of this recession have killed jobs all across America. During the 8 years of the Clinton administration, we created 22 million new jobs. During the first 2 years of this administration, we have lost 2 million jobs nationally, and we are losing over 100,000 a month. As a result, many people are hard pressed to keep up with their obligations to their family.

The December 2002 unemployment rate of 6 percent is the highest rate in over 8 years. According to a Congressional Budget Office economic forecast, the unemployment rate is expected to remain at that level at least until the second half of this year, 2003.

Over 1.85 million workers have been looking for work for at least 6 months. As of January this year, more than 1 million workers exhausted the 13-week temporary benefits extension enacted in March 2002 and remain unemployed. Employment has declined by 1.7 million jobs since January of 2001. The decline is slightly worse than the average fall-off after the last six recessions. While the unemployment rate remains far lower than at the end of the recessions in the 1980s and 1990s, it has still risen significantly from its 30-year low of 3.9 percent in 2000, not that long ago.

The reason I raise that point and the reason Senator REED and I come to the floor to offer this amendment is to suggest that hundreds of thousands, perhaps 1 million, unemployed workers in this country are facing extraordinarily dangerous and difficult times. These are people who are caught up in the vortex of this recession and cannot get out. They cannot find work. They drew unemployment for a short period, and it has been exhausted. They used it all up. Now where are they? They are stuck in a position where they have to try to meet their monthly bills and have no unemployment compensation, no prospects for employment, and the recession seems to be going on interminably.

I asked business leaders of major corporations from my State to give me their best guess of when this recession would end. Frankly, they told me—and it was depressing to hear—it might be 2 years. I hope they are wrong. I hope it ends tomorrow. I hope we see better signs of encouragement. The fact is, it has not happened.

What have we done in the past when we have dealt with recessions not even as bad as this one? We said time and

again if the recession continues indefinitely, we have to step in. We cannot abandon these Americans who are victims of this economy. Let us give them a helping hand. Let us do something for their families. Let us make certain they do not lose their homes to mortgage foreclosures. This is not a Democratic response or a Republican response, it has been our American response year in and year out.

Let me give an example. During the recession of the early 1990s which, in many respects, was not as bad as this one, Congress extended temporary unemployment benefits five times. During this recession, we have extended benefits only twice. Of the five times Congress extended benefits in the early 1990s, three were under President Bush's father in the recession he faced, and two were under President Clinton when he took office, and the recession had continued.

This is not a partisan response we are suggesting today. It is unfortunate only two Democratic Senators would offer this. This should have been a bipartisan offering.

During the recession of the early 1990s, Congress established the Emergency Unemployment Compensation Program which was in place for 30 months, from November 1991 to April 1994. During this recession, we established the Temporary Extended Unemployment Compensation Program which is scheduled to expire at the end of May 2003 and, therefore, would have only been in place for less than 15 months. Here we are with a recession that is worse and a response that does not measure up to half of what we did during the last major recession we faced.

We passed an extension of unemployment compensation benefits recently which will provide temporary benefits to some workers. This amendment which Senator REED and I proposed will provide assistance for an additional 53,000 workers in my State and 1 million workers nationwide. It will provide 13 weeks of additional benefits. Workers in high unemployment States who already receive 26 weeks of benefits will receive an additional 7 weeks of benefits. Thus, the greatest number of weeks a worker can receive is 59 weeks, the same as under the extension enacted under President Bush's father.

The CBO cost estimate, $6.5 billion, is substantial but still represents only slightly more than a third of the balance in the unemployment insurance trust fund, after accounting for the extension enacted earlier this month. I think the 5-month extension we enacted was something that was good and it helped a lot of workers, but we cannot leave out the 1 million Americans who will not be helped by this action taken just a few weeks ago. One million Americans have exhausted their unemployment benefits and are stuck in a situation—without a job in a recession—to which, frankly, we do not see an end. What we are asking the Senate to do today on this appropriations bill is to think about those we have left behind. I do not believe it is fair to characterize the people who are victims of this recession as anything less than hard-working Americans caught behind the curve of this economy. I do not care whose responsibility this recession is for this moment. We can argue about that for a long time, but I do feel a responsibility to these workers and their families.

In my State, the unemployment rate in November of last year was 6.7 percent. This is a 13.6-percent increase from November of the previous year when our rate was 5.9 percent. Our unemployment rate in Illinois sadly is tied for third highest in the Nation. Alaska and Oregon are higher. We are tied with the State of Mississippi. If one measures the impact of a recession by the percent change in unemployment rates, this recession has hit my State twice as hard as the recession of the early 1990s, and as of January 1, 2003, over 53,000 Illinois workers exhausted the 13-week temporary benefits extension enacted in March 2002 and remain unemployed. Each week, 4,000 Illinois workers will exhaust their regular State unemployment benefits.

The President, in his radio address a few weeks ago, said as follows:

> We will not rest until every person in America who wants to work can find a job.

Thank goodness. That is a pledge every President should make. On December 28, in another weekly radio address, the President said, and this is right after Christmas and we knew unemployment benefits were expiring:

> One of my first priorities for the new Congress will be an extension of unemployment benefits for Americans who need them.

The President responded and Congress answered with an extension of unemployment benefits that took us close to meeting that pledge, but not close enough for 1 million Americans who were left behind. The extension of unemployment benefits that the President proposed and signed excluded 1 million American workers who have been unemployed for over 9 months and have exhausted all their temporary Federal benefits without finding a new job.

I have argued in this Chamber today that this is a question of fairness and compassion. Let me add parenthetically that it is also a stimulus to the economy. The money given to unemployed workers is spent almost immediately to meet the needs of their family. It is not salted away, invested, or saved. It is spent for goods and services creating economic activity and jobs in a time when this economy dearly needs that to happen.

I hope my colleagues will reconsider this issue and join Senator REED and myself in enacting this amendment.

Mr. NICKLES. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. NICKLES. I will ask a quick question. I know my colleague referred to the 1990–1991 recession a couple of three times and alluded to: We did it then. Why do we not do it now?

Is the Senator aware of the fact that the unemployment rate was 7 percent or more, compared to the current level of 6 percent, when we passed the Federal unemployment extension in 1990–1991?

Mr. DURBIN. I say to the Senator from Oklahoma, I am aware of that fact, but I hope he is also aware of the fact that the recession we are currently in also has some economic indicators that are even more troubling than what we faced in the early 1990s.

I say to the Senator in good faith that I sincerely hope this recession ends tomorrow. I do not care what the political consequences are for Democrats or Republicans, but I hope the Senator from Oklahoma will concede the recession we are in today is unlike those we have had before. There is high unemployment. Maybe we have not reached record levels, but there seems to be a resistance to getting this economy started again. I think that is why we are debating a stimulus and growth package.

I hope the Senator will concede that, though the numbers may not be exactly as bad, the depths of this recession and the impacts of the current recession are really unique and we should respond to them at least in the way we did before.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to speak on this issue, but my colleague, the chairman of the Finance Committee, was in the Chamber prior to my arrival so I will speak after his comments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, I think all 100 Senators would agree, both from the standpoint of our needs for the future as well as what we have done in the past, that we all recognize the legitimacy of the Federal Government stepping in to compensate with Federal unemployment help when State programs have run out. There is no dispute about that.

There is a dispute over when and how much, and the plan we are being offered now would be a plan that has been put in place at other times but under much higher rates of unemployment.

I hope we do not have higher rates of unemployment, but sometime down the road we will, hopefully not now during this period of time, and it seems to me we ought to keep reserve to do what we have other times in the past when we have had higher rates of unemployment than we have right now, as opposed to triggering in programs that do much more for the unemployed than we normally do at 6-percent unemployment, let's say, as opposed to 7-percent unemployment.

If we were to go the route that is being proposed, then we would be doing more than we normally do at this rate of unemployment we have now. Surely, the people who are proposing what they are proposing today, as all of us would probably do if there is a higher rate of unemployment, would expect the Congress to respond to that. It is not a question of should we respond; it is a question of a measured response and when it triggers in.

I am not condemning people who say we ought to do more today beyond what States do, but they are responding in a way that we would normally respond when the unemployment situation would be much more negative than it is right now.

I think it is wrong for my colleagues to speak about this recession being different than other recessions, for two reasons. No. 1, the definition of a recession is two quarters of negative growth. We had three quarters of negative growth but that negative growth ended September 30, 2001. So we have had five quarters now of growth, about 2½ percent average.

Economists are predicting the quarter we are in now for 2003 would be about 3-percent growth, so I do not think it is fair to say we are in recession unless we have a Senator who is making his own definition of a recession—and he has that right—but I think we should be comparing apples with apples and not apples with oranges.

The second point I make is even if we were just coming out of a recession instead of being five quarters out of a recession—an official recession as defined by economists—I think we all need to remember that historically unemployment as a statistic is a lagging indicator. So one would expect other indicators of an improving economy to improve before the unemployment figure improved. Consequently, this has to be taken into consideration as help is given to unemployed people.

It is quite obvious that a number of my Democratic colleagues seem to think we can never spend enough on unemployment. So I want to review where we are so the record is straight.

Under the regular State unemployment program, workers are entitled to as much as 26 weeks of unemployment benefits. Under the temporary federally funded unemployment program enacted last March, those who exhaust their regular State benefits can receive up to 13 weeks of additional Federal benefits. In addition, workers in high unemployment States can receive yet another additional 13 weeks. That is a maximum of 26 weeks of Federal benefits.

So to some, it works out this way: Workers in every State can collect up to 39 weeks of benefits, 26 of those being State and 13 Federal. Workers in higher unemployment States can collect up to a whole year of unemployment benefits, which means 26 weeks State, 26 weeks Federal.

Last year, this temporary program was estimated to cost $11 billion. We are still responding, as we should in a bipartisan way, to this unemployment statistic still being relatively high but not as high as it has historically been. Earlier this month, in addition to what we did last March, Congress voted to extend these Federal benefits through May of 2003. This extension is estimated to cost $7 billion more. That happens to be a total of $18 billion in federally funded unemployment benefits. According to some of my Democratic colleagues, that still seems not to be enough.

Through this amendment, I think they are trying to spend an additional $6 billion. The amendment they offered today would change the current law to provide 26 weeks of federally funded benefits in every State, and 33 weeks in high unemployment States. The last time Congress provided 33 weeks of benefits, the unemployment rate was well over 7 percent. That is why I made the point. If we do this, what are we going to do if unemployment gets up to 7 percent, which I do not think anybody expects it to but suppose it did? The current unemployment rate is 6 percent.

Now there is something even more troubling. What I have said until now has been done by Congress in the past during certain times of high unemployment. More disturbing to me, this amendment changes current law to provide a uniform duration of benefits. Most States vary the duration of benefits based on the worker's actual employment history. Variable duration recognizes the insurance principles inherent in unemployment compensation by providing a shorter duration for workers who had a limited amount of work prior to qualifying for the benefits. These workers have paid less unemployment taxes and they have less attachment to the workforce.

Congress has never provided extended benefits without regard to the duration of State benefits. That is a very dramatic departure that this amendment holds for the future. A uniform duration means some workers will be able to collect more Federal benefits than they would State benefits. Moreover, a uniform duration means some workers will actually be able to collect benefits for a longer period of time than they actually worked.

Current law requires a minimum of 20 weeks of work to qualify for Federal benefit. Yet this amendment provides up to 33 weeks of benefits. These 33 weeks of Federal benefits could be paid in addition to as much as 39 weeks of State benefits. That happens to be a total of 72 weeks of benefits for someone who maybe only worked 20 weeks. This amendment represents the single largest expansion of Federal unemployment benefits in the entire history.

That brings me to an issue of how, if this were a legitimate approach to unemployment compensation, this ought to be handled by committees of appropriate jurisdiction, not be offered on the floor of the Senate to an appropriations bill. I am speaking because that appropriate committee is the Senate Finance Committee. We have jurisdiction over unemployment compensation. A departure in Federal responsibility is very important to consider as a committee—its impact, its costs. More important, if we are going to have this sort of an impact that is so different from what States have historically had, it ought to be considered by the committee of appropriate jurisdiction. We are dealing with something that is other than just simple extension of unemployment compensation.

Now, we may need to revisit this issue later this year, depending upon how the economy performs. But when we do that, we need to do it in a way that we take into full consideration that this amendment represents an unprecedented and, at least at this point with 6 percent unemployment compared to more than 7½percent unemployment when it has been used in the past, an unjustified expansion of the unemployment program.

I urge my colleagues not to vote for this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my friend and colleague, the chairman of the Finance Committee, for his statement. I hope my colleagues pay attention to it, especially the last part. The chairman of the Finance Committee said this has not gone through the Finance Committee, and pointed out several things that sounded like this is about what we did in the 1990s, but it is not. It is expensive. This is a different proposal than what we have seen.

We actually had a similar type of proposal that was debated last year, to which I objected, I believe the Senator from Iowa objected, and maybe the Senator from New Hampshire objected, that was a doubling of the Federal program from 13 to 26 weeks. This is a different iteration of that. It is different—in some cases maybe better, in some cases maybe worse. The one we objected to last year was a $17 or $18 billion program. The proposal now, we understand from the authors—I have not seen this from the Congressional Budget Office, but I respect them and I assume it is correct—says it costs $6.5 billion. Last week, we passed a bill that cost $7.2 billion. So this is $6 billion on top of that.

The Senator from Iowa mentioned that this says there would be a mandatory 26-week Federal unemployment compensation program. Present law we passed last week is an extension of up to 13 weeks for all States. There is a big difference in legislative language when you say ''up to'' rather than mandating 26 weeks. One, you are doubling the program, and you also do not keep it connected to the State program. Some States have different durations. We have always been tied to the State program.

I keep hearing about what we did in 1990; we want to duplicate what we did in 1990. The chairman of the Finance Committee alluded to the fact that the 1990 unemployment rate was much higher. It was 7 percent, 7.4 percent, 7.8 percent. The unemployment rate today nationwide is 6 percent. We have a lot of States that are substantially lower. We have 24 States that have unemployment rates at or below 5 percent this year—now. We have nine States that have unemployment levels between 2.7 and 4 percent. I remember in my private sector days, if you had unemployment at about 4 percent, you might not be able to hire somebody.

So there will always be some who are unemployed because people are changing jobs, they just graduated, they just moved and are temporarily unemployed. There is always a segment of the population temporarily unemployed. Almost half of our States have unemployment rates of 5 percent or less.

I mentioned there is a big difference from the language we passed in 1990. In 1990, we did do 26 weeks, but up to 26 weeks. We also had unemployment rates that were over a full point higher.

Also, sometimes we want to ask: when are we going to pay attention to the committees of jurisdiction? We are on an appropriations bill, yet we have an amendment that expands entitlements. Even though we extended current law last week, agreeing to spend an additional $7 billion plus, colleagues say: Wait a minute, let's add another $6.5 billion on top of that. We will just do an amendment that should come out of the Finance Committee right now. This is the first time that people will have seen it, and it's different than the proposals we have seen in the past, and we will see if we cannot pass it.

It does not belong here. Obviously, my colleagues know the budget point of order lies against this amendment. This proposal has not been introduced as a bill and a committee hearing has not been held, that I know of. Maybe different bills have been introduced. If it is the bill Senator CLINTON was talking about introducing, this is not the same bill. There is a reason we should follow regular order. There is a reason we should use the committee of jurisdiction. There is a reason we should have bipartisan cooperation on bills such as this. I am disappointed we are not.

In this current recession, we have spent up to $26.25 billion since March of 2001 to help the unemployed. That is almost what we spent in the 1990s. People say: Well, you are not helping; you do not care about the people. That is hogwash. The proposal introduced today by Senator REED and Senator DURBIN is not targeted. Twenty-four States have unemployment of 5 percent or less, but they will get the same benefits as everyone else, except the highest unemployment states get an extra 7 weeks.

Then we have the dilemma of, right now, the present requirement is a person only has to work 20 weeks and they can receive as much as 52 weeks in unemployment compensation. That is not a bad deal, especially when you consider 72 percent of workers in a household who are eligible to receive these benefits have another family member who is employed.

Think of that: 52 weeks of paid unemployment compensation while in a household where, in 72 percent of those households, there is an employed family member.

This is a crummy way to legislate. It doesn't belong on this appropriations bill. We need to finish this appropriations process. We have 11 bills that were not finished last year. We have already finished one-quarter of this present fiscal year and we haven't passed these bills and we need to complete them. If colleagues want to do a change on unemployment compensation, they should introduce a bill, have it referred to an appropriate committee, and ask the chairman for a hearing, ask the chairman for a markup. That is the way business is supposed to be done in the Senate. It is not to try to rewrite entitlement programs. If you can do unemployment compensation, you can do Medicare, you can do Social Security, you can do any other bill, but that is not following the procedure.

Senator STEVENS has great expertise, but I doubt that controlling or managing unemployment compensation is his area of expertise. That is not what his committee does. That belongs properly in the Finance Committee. We need to start respecting committees' jurisdictions and we have not been doing it.

I urge my colleagues, let's not be playing games. Let's not be trying to pass something they know won't pass and they know it will not come out of conference even if they are successful. I don't believe they will be successful. They should not be successful.

Mr. President, the pending amendment offered by the Senator from Rhode Island, Mr. REED, increases mandatory spend and, if adopted, it would cause an increase in the deficit. Therefore I raise a point of order against the amendment pursuant to section 207 of H. Con. Res. 68, the concurrent resolution on the budget for fiscal year 2000, as amended by S. Res. 304.

The PRESIDING OFFICER. The Senator from Nevada.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. REID. Mr. President, I renew my request to vitiate the quorum call.

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

Mr. REID. Mr. President, I ask unanimous consent that the leaders set a time for the budget waiver I am going to be suggesting in just a second. That is part of the unanimous consent request.

Therefore, on behalf of Senator REED of Rhode Island, I move to waive the Budget Act under the requisite rules of the Senate.

Mr. NICKLES. Reserving the right to object, and I shall object, because I think somebody in our conference said they would wish to consult with me so, temporarily, I object.

Mr. REID. Mr. President, we have some business here to conduct.

Mr. NICKLES. Will the Senator yield? I have a unanimous consent request I would like to enter before the 5 o'clock vote.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent when the Senate considers S. 121, the AMBER Alert bill, Senator HATCH be granted 5 minutes to speak. Therefore, debate on the bill would commence at 5 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection. Mr. President, I ask the record reflect I do not waive any of my rights under the motion that the Senator from Oklahoma offered, and I would renew my motion to waive at a subsequent time.

The PRESIDING OFFICER. Without objection, the request of the Senator from Oklahoma is agreed to.

Mr. NICKLES. I thank my colleague.

Mr. REID. I also made a request. I say to my friend from Oklahoma, I want to make sure the record is reflective that I do not waive any of my rights on the motion to waive the Budget Act.

Mr. President, while I still have the floor, we have a few minutes until 5 o'clock when debate on the AMBER Alert matter takes place. We have two matters. We have the Senator from West Virginia to be heard—I did see him here. He wanted to speak on the Ridge nomination, which is going to come up. He wanted to get that debate out of the way.

We also have Senator NELSON here, who has been patiently waiting, who wishes to offer an amendment on his behalf and that of Senator INHOFE. We would need consent to set aside the pending amendment to allow him to do that.

I ask unanimous consent the pending amendment be set aside for the Senator from Florida to offer his amendment. He said he would need 25 or 30 minutes to speak, but he said that he could do that this afternoon in 10 minutes.

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

The Senator from Florida.

AMENDMENT NO. 97

(Purpose: To make additional appropriations for emergency relief activities)

Mr. NELSON of Florida. I call up amendment No. 97 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. NELSON), for himself, Mr. DASCHLE, Mr. LEAHY, and Mr. DURBIN, proposes an amendment numbered 97.

Mr. NELSON of Florida. 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:

At the appropriate place, insert the following:

SEC.____. In addition to amounts appropriated by this Act under the heading ''Public Law 480 Title II Grants'', there is appropriated, out of funds in the Treasury not otherwise appropriated, $600,000,000 for assistance for emergency relief activities: *Provided*, That the amount appropriated under this section shall remain available through September 30, 2004: *Provided further*, That the entire amount appropriated under this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. NELSON of Florida. Mr. President, I rise to address a humanitarian crisis in the world that has not been getting the attention its magnitude warrants. The world has focused on the buildup of forces in the Persian Gulf region for a possible war. We focused on a very dangerous situation in North Korea, which threatens the U.S. interests and Asian security. We have a litany of problems plaguing the Western Hemisphere as well, relating to narcotics trafficking, civil war, and abject poverty.

But today I call to the Senate's attention, sub-Saharan Africa and the starvation that is occurring in east Africa, in west Africa, central Africa and in the southern part of Africa. The droughts in these areas have caused a massive food shortage which will worsen over the next few months and threatens the lives of millions of Africans. It is our responsibility, as a nation of bounty, to demonstrate to the world that the United States lives up to its commitments and obligations to those in need.

In that spirit I am offering this amendment. This amendment is not about politics. If you will recall what President Reagan once said, he said:

A hungry child knows no politics.

He was correct. This is about people dying. This is about reaching out and saving lives. We have an opportunity to do the right thing now, and that is save African children from starving to death.

Congressman FRANK WOLF, my good friend, has just returned from Ethiopia and Eritrea.

Mr. President, I ask unanimous consent that his report of his trip be printed in the RECORD.

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

TRIP REPORT: ETHIOPIA AND ERITREA—DECEMBER 29, 2002–JANUARY 4, 2003

Babies wailing and screeching, desperately trying to get nourishment from their mothers' breasts.

Two- and three-year-olds so severely malnourished that they cannot stand, much less crawl or walk, their pencil-thin legs so frail that they could be snapped like a twig with little or no effort.

Young boys and girls with bloated bellies. A teenager whose legs are no thicker than my wrist.

Drinking water almost non-existent—a four-hour walk each way just to find some. Fields scorched. Crops failed.

River beds dry as a bone. Hand-dug collecting ponds for rain so sun-baked that the earth has cracked.

Disease. Despair.

These are some of the horrific sites I witnessed last week in Ethiopia, which once again is facing a famine of catastrophic proportions.

I spent a week in Ethiopia in 1984—when nearly one million people died of starvation—including two nights in a feeding camp. The squalid conditions of the camps and the suffering faces of the children, mothers and elderly were haunting and unforgettable. What I saw—and experienced—changed me forever. I never thought I would see something like that again. I have. Last week.

By Easter, thousands of Ethiopians could be dead from starvation. Children living in villages just 90 miles from the capital city, Addis Ababa, which is easily accessible by truck, are already near death. Conditions in villages in more remote areas of the country are significantly worse.

DIRE SITUATION

While the government of Ethiopia is out in front of trying to draw attention to the crisis—unlike in 1984 when the Mengistu government tried to keep the famine secret until a BBC camera crew broke the story—what makes this year's crisis more horrific is that the population of Ethiopia has increased from 45 million in 1984 to 69 million today. In addition, HIV/AIDS is spreading throughout the country and Ethiopia's 2½-year border was with neighboring Eritrea has drained precious resources and led to thousands of displaced people and families, particularly in remote areas of the country.

With each crisis—drought, war, disease—more families become destitute and completely dependent on others for their welfare and survival. The repeated droughts have made more people vulnerable to hunger and hunger-related diseases, sharply increasing the danger of outright starvation among groups that may have been able to survive previous crop failures and livestock losses.

This also is a tough neighborhood, with Sudan bordering to the west and Somalia to the east. These countries are struggling to overcome internal turmoil of their own and refugees from each have crossed into Ethiopia and are living in refugee camps.

But perhaps the greatest difficulty is getting the world to respond. The focus in capital cities around the globe is the war on terror, Iraq and North Korea.

HOW COULD THIS HAPPEN?

I do not believe this situation should ever have been allowed to develop. Does anyone really believe that the world would turn a blind eye if this crisis were unfolding in France or Australia? If the photographs in this report were of Norwegian children wouldn't the world be rushing to help? Is not the value of an Ethiopian child or Eritrean mother the same in the eyes of God?

This disaster has been building since last fall, yet there has been little mention of it in the Western media, let alone any in depth reports. Without graphic photographs and video-tape, foreign governments will not feel the pressure to act.

The situation in Ethiopia is dire and many believe if immediate action is not taken to address the looming crisis, the number of people who could die from starvation could surpass those who perished during the 1984–1985 drought. In 1984, 8 million were in need of food aid. Today, more than 11 million people—just slightly less than the combined population of Maryland and Virginia—are presently at risk and that number is growing every day.

Last year's crops produced little or nothing, even in parts of the country that normally provide surpluses of food. The demand for international food aid is tremendous. I was told there is enough food in the country to meet January's needs and part of February's, although at reduced levels. Incredibly, there is nothing in the pipeline to deal with March, April, May, or the rest of the year. Even if ships leaded with grain were to leave today, many would not make it in time to avert disaster.

Villagers are living on about 900 calories a day. The average American lives on 2,200 to 2,400 calories a day.

An elderly woman at a feeding station in the northern part of the country showed me her monthly allotment of wheat: it would have fit into a bowling ball bag.

A man working under the hot African sun with fellow villagers to dig a massive rain collecting pond—each carrying 50-pound bags of dirt up from the bottom of the pit—told me he had not had a drink of water all day and didn't know if he would eat that night. It would depend on whether his children had food.

NO WATER

Water—for drinking and bathing—is almost non-existent, and what is available, is putrid. There is no medicine—and even if there was something as simple as an aspirin there is no water with which to wash it down. Disease is rampant.

During my trip I visited villages in both the north and south of the country. I went to a food distribution center and a health clinic. I talked with farmers who had already begun to sell off their livestock and mothers who did not know where or when their children would get their next meal. I met with U.S. State Department officials and NGOs. I also met with Prime Minister Meles and a number of relief officials in his government.

The government's decision not to establish feeding camps is a wise one. The camps only exacerbate the crisis because they allow diseases to spread much more quickly and take people away from their homes and albeit limited support systems. In 1984, many families traveled great distances to reach the camps and by the time they got there were often near death. Moreover, villagers who left for the camps and somehow managed to survive had nothing to return to because they had lost their homes and sold their livestock.

Fortunately, relief organizations, including U.S. AID and the United Nations World Food Programme, have developed an early warning system to better predict the effects of the looming crisis and have been sounding the alarm since the fall.

Nevertheless, they are facing an uphill battle. Donor fatigue is a very real problem.

COMPETING WORLD CRISIS

Getting the world—and the United States, in particular—to focus on the issue is difficult because of the war on terrorism, the situation in Iraq and the growing crisis in North Korea.

Since August 2002, the United States has provided approximately 430,000 metric tons

of food, valued at $179 million. This amount constitutes approximately 25 percent of the total need in the country. The U.S. government will need to do more to avert a disaster of biblical proportions.

Before leaving on the trip, a number of well read people in the Washington area looked at me quizzically when I told them I was going to Ethiopia. They all asked why? When I told them that the country was facing another famine along the scale of 1984, they were dumbfounded.

Time is of the essence. A village can slip dramatically in just a matter of weeks. Many of the children I saw last week will be dead by early February and those who do somehow miraculously survive will be severely retarded. The world cannot afford to wait any longer.

I also visited neighboring Eritrea, where the situation is not much better. Widespread crop failures are expected as a result of the drought. Compounding the situation are the lingering effects of its war with Ethiopia, which ended in December 2000. While nearly 200,000 refugees and displaced persons have been reintegrated into society following the truce, almost 60,000 have been unable to return to their homes due to the presence of land mines, unexploded ordnance, insecurity or the simple fact that the infrastructure near their homes has been completely destroyed.

RECOMMENDATIONS

Donors, including the United States, must make prompt and significant food-aid pledges to help Ethiopia overcome its current crisis. The food pipeline could break down as early as next month if donors do not act immediately. There are a number of countries, Canada and France, for instance, that can and should do more.

The Office of Management and Budget (OMB) must work to ensure that the U.S. assistance is released as quickly as possible.

When President Bush visits Africa, he should consider going to Ethiopia. I believe he would be moved by what he sees.

The Bush Administration should make an effort to rally public support similar to what was done during the 1984–85 famine. Perhaps the new director of faith-based initiatives at USAID should serve as the coordinator for such an effort.

Donor support also must include water, seeds and medicine as well as veterinary assistance.

The Ethiopian government should take its case to capitals around the globe, sending representatives to donor nations armed with photographs of dying children to put a face on the growing crisis. Regrettably, if they do not ask, they will not receive.

The Ethiopian government must contribute additional food aid from its own resources as it did in 2000 and 2002 as a sign of leadership and commitment to the welfare of its people.

More must be done to develop long-term strategies to tackle the root causes of the food shortages in Ethiopia, like improving irrigation and developing drought-resistant crops. The government must develop a 10- or 15-year plan designed to help end the constant cycle of massive food shortages. A well developed plan would go a long way toward reassuring the international community that the country wants to end its dependence on handouts.

The Ethiopian government also should do more to help diversity its economy. Its largest export—coffee—is subject to huge price fluctuations in the world market and rather than exporting hides and leather to Italy and China—only to come back as belts, purses and shoes—the government should work to attract business that will make these products on Ethiopian soil.

The government of Ethiopia also should consider a sweeping land reform policy that would allow farmers to own their property rather than the government owning all the country's land, a vestige of the country's socialist days.

The media needs to more aggressively pursue this looming crisis. It was responsible for making the world aware of the terrible famine that was occurring in 1984 and has the ability to let the world know about the tragedy unfolding again.

Many of the same issues that apply to Ethiopia apply to Eritrea. Both countries are in desperate need of assistance.

In closing, I want to thank all the people—from government officials in both Ethiopia and Eritrea to U.S. officials and NGOs and missionaries in both countries—who are working around the clock to deal with this crisis. I also want to thank U.S. Ambassador to Eritrea Donald McConnell and U.S. Ambassador to Ethiopia Auzerlia Brazeal and their respective staffs for all they do. They are outstanding representatives of the U.S. government. Special thanks go to Jack Doutrich in Eritrea and Karen Freeman, Jo Raisin and Makeda Tsegaye in Ethiopia. Roy ''Reb'' Brownell with USAID in Washington also deserves special recognition.

Finally, I want to thank Lt. Col. Malcom Shorter, who accompanied me on the trip, and Dan Scandling, my chief of staff, who took all the photographs and videotaped the trip.

Available on line at: http://www.house.gov/wolf.

Mr. NELSON of Florida. This report states that thousands of Ethiopians could be dead of starvation by Easter. Frank Wolf writes:

More than 11 million people, just slightly less than the combined population of Maryland and Virginia—are presently at risk—and that number is growing every day. That number could surpass the number that died in the 1984–85 hunger crisis in the region.

The U.N. World Food Programme also warned of severe food shortages this spring, estimating that between 10 million and 14 million Ethiopians, at risk of starvation, are at risk of starvation in this year, 2003.

Back in 1985, my wife Grace and I spent 8 days in the feeding camps in Ethiopia. And every day we carry with us what we experienced.

I ask unanimous consent to have printed in the RECORD, since I do not have the time to read portions, an article that I wrote in January of 1985 about the starvation that occurred there.

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

ETHIOPIAN HUNGER PROBLEM BAFFLES THE MIND

ADDIS ABABA, Ethiopia.—Here in this drought-stricken land the enormity of the hunger problem baffles the mind. As I visited the feeding centers where gentle humans are restoring life to some of the starving, I was bewildered as to how to solve this crisis.

The problem of famine in Africa is real. Twenty nations have been affected. Seven are critical. Just in Ethiopia alone, over 7 million people are threatened by starvation.

A severe drought is a major cause. The rains either did not come or were less than is required to germinate the seeds in the fertile soil.

Agricultural techniques are backward. There are few drilled wells, little irrigation, almost no fertilizer used and severe topsoil erosion. If there is to be problem-solving, it will be long-term and it will be painful. Attitudes will have to be changed to use modern agricultural methods. And in Marxist countries, the collective farm reduces the farmer's incentive to produce for himself and only aggravates the sparse production.

There have been four major droughts in Ethiopia in the last 35 years. People have died of starvation. But this is the worst drought and death is apparent throughout the land.

My visit to Alamata and Korem, two feeding centers 250 miles north of Addis Ababa, was shocking. The emaciated bodies of young and old were overwhelming. One's emotions cannot be controlled as you see the helpless trying to survive. The huge numbers dulled my sense of hope.

Thousands have died and thousands more died in remote villages which statistics will not record. But there is hope—because humankind is responding—and responding well.

The Free World is responding swiftly by sharing its abundance of food, medicine and blankets. Help from Western nations, from the private sector and from government, is pouring in. People are acting out of their best humanitarian instincts.

The United States is leading the pack. There are not many ''ugly Americans'' in Africa today. We are responding from our generosity. And America is responding mightily!

Americans are responding as a government. President Reagan has announced his intention to provide one-half of the food assistance needed in Africa this year—a $500 million U.S. contribution. For Ethiopia, a Marxist state, with whom we have strained relations, $130 million in food is already planned. This government-supplied grain is distributed by many private volunteer agencies, such as Catholic Relief and World Vision, and soon some will be given directly to the Ethiopian government relief agency. The sacks bear the words: ''Donated by the People of the United States of America.''

The private sector is also responding. For 1985, food assistance to Ethiopia through private organizations is estimated to be $125 million, with another $22 million spent on Ethiopian refugees elsewhere.

The private sector from Florida responded magnificently. A ''flight of mercy'' was organized, funded, loaded, and flown to Addis Ababa, which bespeaks the generosity of Floridians.

This mission was conceived by my wife, Grace Nelson, as a needed response to the problems she had seen in Africa last summer. In Mali, she held a starving child in her arms. She has not been able to forget it. After organizing some fundraising activities, the thought of a ''flight of mercy'' came from a discussion with the editor of the Florida Times Union. He suggested that although people wanted to help, they needed a concrete mission to respond to and one which could be tracked to a successful conclusion.

This story is an American success story. A DC–8 was chartered and loaded with 40 tons of food, medicine and blankets, in the midst of ongoing fund drives. WCPX–TV in Orlando collected over $80,000 and two truckloads of blankets. World Vision, a Christian humanitarian organization, provided the mechanism for obtaining the two tons of medicine and thirty-eight tons of fortified food, eleven tons of which were donated by a former Ethiopian official in Indiana. This special mixture of oats, powdered milk and honey, known as ATMIT, is indigenous to Ethiopia. Another $120,000 was raised before the flight departed Chicago on January 12th.

The plane was so long you could hardly see from one end of the cargo bay to the other. During the 24-hour journey, our group of

''food shepherds'' slept on top of the pallets of fortified food using some of the donated blankets for warmth. It was a good feeling to know that our mission was one of trying to help the starving by actually taking food to them.

Our landing was the first of a stretch-DC–8 on the Addis Ababa runway. Trans-American Cargo Airlines and World Vision soon had the cargo unloaded.

Success does not come easily and indeed we soon had our problems. Food was being delayed to the feeding centers because rebel activity in the region interrupted transportation of supplies. When we finally were cleared for an old DC–3 to fly us to the camps, we found they were running dangerously low on food. But our supplies arrived just in time.

I shall never forget the children, also starved for affection, clinging to my hands and arms smiling in spit of their physical deprivation. They were proof that the World Vision feeding center was successful because only a few weeks before they had been lifeless and lethargic. Others were in intensive care, often with their mothers, as nutritional supplements were administered—sometimes through a tube because they were too weak to eat.

The staff was loving and kind . . . it showed. The nuns at the Missionaries of Charity Compound ministered to the dying. These sisters are sponsored by Mother Teresa of Calcutta, who had just paid a visit, greeting and blessing each person in the camp—9,000 of them! What a lesson in love.

There are those who say, ''let them die.'' Their theories of over-population and survival-of-the-fittest are practical, they say. Besides ''why should we care about a foreign, strange land?'' Fortunately, most of America does not think that way. The goodwill, hopes and prayers of Floridians were obvious in our specific flight of mercy. Many have responded before, others are following.

This mission was successful because of the spirit and character of our people. Perhaps it is best summed up in Matthew Chapter 25: ''When you did it for the least of these, you were doing it for me.''

Mr. NELSON of Florida. Mr. President, from my letter, which will be in the RECORD, you will see the similarity to what we have here today.

Just in Eritrea, crop failures and the lack of rainfall put about 1.5 million at risk—just less than half the population. But these grotesque figures only speak to those in the Horn of Africa. For example, down in Zimbabwe, 49 percent of the population is in need; in Malawi, approximately 29 percent of the population is in need; in Zambia, approximately 26 percent of the population; and in Lesotho, approximately 30 percent of the population. These are just some of the countries whose populations need food right now.

The World Food Programme estimates that a total of over 38 million people are at risk of starvation throughout Africa this year. This figure is almost beyond comprehension, and compels this body to provide relief.

The toll of this famine threatens to be far worse than anything we have seen previously for another reason. The terrible epidemic of HIV/AIDS, which is currently ravaging the continent, destroys the immune systems of its victims. When further weakened by malnutrition, they are unable to fight off even the most mild illnesses. If we do not act, the death toll will rise, and it will rise quickly.

There is also a security aspect to providing this relief. It is well-known that the Horn of Africa has had its problems with extremism, particularly in nearby Sudan. As such, crises in this region may pose significant security threats as we fight the global war on terrorism. Terrorist organizations and other extremists have frequently used food as a political weapon in past famines. By controlling the distribution of food, they can hold entire populations of hungry people hostage, and thereby gain their unwitting support. We must combat these threats on all fronts, including providing relief, and with it order, to regions that desperately need it.

Now, allow me to explain this amendment in the context of the fiscal year 2003 appropriations bill we are debating. Because of the Congress' inability to pass the 2003 appropriations bills on time, food relief is being undercut by $252 million as we operate at 2002 funding levels. Moreover, such severe food shortages in Africa were not contemplated in the president's 2003 request. Simply funding the president's request will not be enough to stave off a massive starvation crisis in Sub-Saharan Africa.

I ask that a letter from the Alliance for Food Security to President Bush dated January 3, 2003 be printed in the RECORD.

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

ALLIANCE FOR FOOD SECURITY,
January 3, 2003.

Hon. GEORGE W. BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: US charitable, agricultural and commercial groups have come together to urge additional US Government funding to provide assistance to 30 million Africans suffering from severe food shortages, without diminishing US efforts to address chronic hunger and provide relief elsewhere. To assure that previously-planned food aid programs and emergency relief can go forward in fiscal year (FY) 2003, we urge you to seek full funding of the $1.2 billion appropriations for PL 480 Title II when the current continuing appropriations bill expires. To provide the additional commodities needed for urgent emergencies in Ethiopia, Eritrea and southern Africa, we ask you to seek emergency supplemental funds for the $603–778 million that would provide half of the commodities to meet projected needs for FY 2003.

In FY 2003, US food aid levels are alarmingly insufficient. There are several reasons for this resource gap.

First, Congress has not yet passed the FY 2003 appropriations bill and is forcing PL 480 Title II to operate at a level that is $252 million less than the Administration's FY 2003 budget request. Second, even if the Administration's FY 2003 budget request for Title II is approved, because most commodity prices have increased, that funding level would buy 30% fewer commodities than originally planned. Third, severe food shortages in southern and eastern Africa were not anticipated when the Administration prepared its FY 2003 budget request, and these emergencies require an additional $600–778 million above the Administration's FY 2003 budget request.

Finally, for FY 2003, the Administration initiated a policy which precludes the purchase of commodities for food aid using general Commodity Credit Corporation (CCC) authority. Instead, the Administration stated its intent that it would seek appropriations to meet legitimate food aid needs. Although the FY 2003 PL 480 Title II budget request was increased to make up for the loss of a portion of CCC commodities, the funding request is insufficient to meet the needs of both ongoing programs for poor and displaced persons, as well as people facing emergency food shortages.

Insufficient funding for ongoing Title II programs will hurt millions of people in regions that are recovering from war or are vulnerable to crises, such as Afghanistan, West Africa, Bangladesh, Nicaragua, Angola, Somalia and Sudan. Cuts in these programs could also have negative repercussions for U.S. foreign policy and national security interests, and could lead to future emergencies. The more subtle and insidious effects of chronic under-nutrition must not be overlooked. Thus, the full appropriations of $1.2 billion is needed now for FY 2003.

Beyond the FY 2003 appropriations, another $603 to $778 million is needed to meet the historic US commitment of providing at least half of the commodities required during a food crisis in poor countries. This funding is needed to provide a nutritious mix of foods to avoid starvation in Ethiopia, Eritrea and 6 southern African countries, and to help people rebuild their strength and take the first steps towards recovery. People are even more vulnerable to starvation due to the HIV/AIDS pandemic, which makes this an extraordinary crisis and requires immediate response. Even if the Bill Emerson Humanitarian Trust is used to provide up to 500,000 MT (valued at $250 million including delivery costs), this would only provide one-third of the estimated emergency needs.

In conjunction with delivering adequate food supplies to address the emergencies in Africa, charitable organizations are committed to helping people immediately move into the recovery phase. Food aid must be integral with investments in agricultural production, such as seeds, fertilizer and farming tools, and with expanded HIV/AIDS efforts. This includes services that improve prevention, enable families to provide nutritious foods and care for relatives living with the disease, and ensure the nutritional, educational and financial needs of orphans are met.

Using food aid to assist people who are impoverished so in the future they may provide for their own nutritional needs in the main purpose of the PL 480 Title II program. It is an equally high calling as helping people who face immediate famine. To diminish the one in order to care for the other is not a choice our great country should make. In compassion and recognition of our urgent needs in Africa while at the same time maintaining the U.S. commitment to fund the developmental and other relief programs of Title II in FY 2003.

Sincerely,

ACDI/VOCA.
Africare.
American Maritime Congress.
American Soybean Association.
Astaris LLC.
Bread for the World.
California Wheat Commission.
Chippewa Valley Bean Co., Inc.
Didion Milling, Inc.
Friends of World Food.
Illinois Soybean Association.

Adventist Development & Relief Agency International.
Agricor, Inc.
American Red Cross.
APL Limited.
Bethel Grain Company.
California Association of Wheat Growers.
CARE.
Central Bag Company.
Counterpart International.
Food for the Hungry, Inc.
Global Food & Nutrition, Inc.
International Organization of Masters, Mates & Pilots, ILA, AFL–CIO.
International Orthodox Christian Charities.
J.R. Short Milling Company.
Land O'Lakes.
Mercy Corps.
National Farmers Union.
North American Millers Association.
Opportunities Industrialization Centers International, Inc.
Project Concern International.
Salvation Army World Service Office.
TechnoServe.
The Manchester Company.
U.S. Dairy Export Council.
U.S. Wheat Associates.
USA Rice Federation.
World Vision.
International Relief & Development.
Jesuit Refugee Service USA.
Maritime Institute for Research and Industrial Development.
National Dry Bean Council.
National Potato Council.
Northwest Medical Teams.
P&O Nedlloyd Limited.
Salesian Missions.
Save the Children.
The International Rescue Committee.
Transportation Institute.
U.S. Jesuit Conference.
USA Dry Pea and Lentil Council.
Washington Wheat Commission.

Mr. NELSON of Florida. Mr. President, this letter from a coalition of over 50 nongovernmental, humanitarian and agricultural groups seeks between $608 and $778 million above the President's request to meet the demands of these emergency circumstances. The $600 million my amendment provides is based on close consultation with these organizations who know the situation well from their work on the ground in Africa.

This amendment provides resources called for in the African Famine Relief Act of 2003 introduced by Senator DASCHLE. It does not specifically designate the funds for sub-Saharan Africa, to be consistent with the way we have traditionally appropriated P.L. 480 Title II funds. But I trust that these funds will be used for the purpose for which they are intended—staving off the imminent threat of mass starvation in Africa.

It is my hope that this amendment will be acceptable to my colleagues on both sides of the aisle, and to the administration, and I will explain why. The designation of these funds as ''emergency funds'' is important. That means the funds do not have to be spent unless the President likewise designates this crisis as an emergency. If he does not designate the situation in Africa as an emergency, and most would agree it is an emergency, but the President would not be required to provide these funds and it would not affect the topline.

Over the weekend, USAID Administrator Andrew Natsios took an important first step to provide some relief to Ethiopia, by agreeing to send 262 metric tons of food there at a cost of about $127 million. I commend Mr. Natsios and Secretary Powell for their attention to this issue, but we need to do more. It is my hope that by speaking about this issue now, increased attention to the plight of the Africans will spur American and international action. The U.S. Senate should show leadership on this without delay. I thank the Chair, 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. FEINGOLD. Mr. President, I want to underscore the importance of the issue that Senator NELSON has raised today. Some 38 million Africans are threatened with starvation in the coming months. In a six-country region encompassing Zambia and Zimbabwe, Malawi and Mozambique, Swaziland and Lesotho, 25 percent of the population is urgently in need of assistance. This food crisis is striking a tremendously vulnerable population that has already been devastated by HIV/AIDS, compounding the difficulty of African families' struggle for survival. In the Horn of Africa, almost half of Eritrea's population is at risk, and Ethiopia stands on the brink of a crisis rivaling that of the mid-1980s.

I have served on the Subcommittee on African Affairs since I came to the Senate, and spent over half of my tenure here as either the ranking minority member or chairman of that subcommittee. I have watched this crisis unfold over the past year with horror. The United States and the international community must act now to address this crisis; delay will mean death for too many innocent families. But we must also work in the months and years ahead to address some of the underlying causes of food insecurity in Africa, so that we can reduce communities' vulnerability to natural factors affecting harvests. Certainly we need to join with the many Africans who want to ensure that misguided policies and decisions are examined, discarded, and not repeated—from the tremendously destructive policies pursued by the Zimbabwean government, to corrupt practices affecting food stocks in Malawi, to the impact of the government's national service program on the agricultural sector in Eritrea. And certainly we need to ensure that assistance is distributed responsibly, fairly, and efficiently. But we also need to help African societies reinvigorate their agricultural sectors, by working to get small farmers the technical assistance, infrastructure, and opportunity that they need to succeed.

In July of last year, I asked the GAO to examine some of the causes contributing to the southern African food crisis, and to evaluate the efficacy of our response, so that we can improve our performance and prevent crises in the future. Unfortunately, the World Food Program has warned that early indicators suggest drought may continue to plague the region in the year ahead. I am looking forward to the GAO's final report, and hope that it can point the way toward proactive steps that we can take to work with our African partners on this issue.

As another step in this broader, long-term effort, this week I am introducing a resolution calling on USAID to give adequate attention to land tenure issues as the agency pursues efforts to bolster agricultural development and fight hunger, and I hope to work with my colleagues on other initiatives aimed at addressing underlying causes of chronic food insecurity in the months ahead. Too often, we think of Africa only as a troubled continent, full of flood and famine, war and deadly disease. But I have traveled widely on the continent, and I have met with energized and committed Africans from government officials to businessmen to community activists. There is no lack of good partners on the continent, and there is no absence of promise or potential. Our commitment to get serious about these issues now can lead to meaningful success, improving the lives of millions of Africans and bolstering food security in the region.

These long-term initiatives deserve Congress's support, but we will be working with profoundly weakened partners in our every effort—be it counterterrorism initiatives or programs aimed at increasing trade and investment—if we do not address this immediate emergency. Senator NELSON is right to sound the alarm about this crisis now, while we have an opportunity to act and to help those people currently at risk. To help now is humane, it is right, and it is in our interest.

Mr. REID. Mr. President, I ask unanimous consent that the Reed amendment on unemployment insurance which is before the body be recalled, and I move to waive the relevant section of the Budget Act for the consideration of the Reed amendment. Senator NICKLES also raised a point of order. I just want to move to waive it. Such time as we vote on it will be the decision of the body.

The PRESIDING OFFICER. Is the Senator asking for regular order on that amendment?

Mr. REID. I asked that the Reed amendment be recalled. I ask for regular order and renew my unanimous consent request to waive the relevant section of the Budget Act for consideration of the Reed amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, will the Senator from Florida yield?

Mr. NELSON of Florida. Mr. President, it was clearly my intention to regain the floor so I could yield to my friend from Oklahoma.

Mr. REID. Mr. President, will the Senator yield?

Mr. INHOFE. Yes.

Mr. REID. I ask unanimous consent that we return to the Nelson amendment.

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

Mr. NELSON of Florida. I yield to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the distinguished Senator from Florida for yielding.

Let me first of all say, to clarify the understanding that I have in listening to his presentation, that his request would not necessarily be binding unless the President were to include this as something which he would interpret as an emergency; that is, the funding that is requested by the Senator. Is that correct?

Mr. NELSON of Florida. The Senator is correct. If the President did not designate the situation in Africa as an emergency, the President would not be required to provide these funds and it would not affect the top line.

Mr. INHOFE. If the Senator will yield further, I can't quite see the Senator's map of the continent. My understanding is that most of that is in sub-Saharan Africa. Is that correct?

Mr. NELSON of Florida. The Senator is correct. It involves three countries in east Africa, six countries in west Africa, three countries in central Africa, and about seven countries in southern Africa.

Mr. INHOFE. Mr. President, if the Senator would yield further, let me just make a comment. I perhaps have had maybe even a conflict of interest in this case. But that conflict has made me very sensitive to the plight they have in sub-Saharan Africa. As the Senator from Florida knows, I have been there many times. I am very familiar with that whole region. But in the case of Ethiopia, which seems to be one of the first areas the Senator is addressing, a drought is taking place there right now. In fact, I have and I will hold up a picture of a little girl we found during that drought. She was abandoned. She was 3 days old. We were able to get her back into good health. I am very proud to say that this little girl—Zegita Marie Rapert—happens to be my granddaughter. She is now officially adopted.

By the way, in case you are wondering why she is wearing a crown, that was her first birthday. She has three older brothers ages 4, 5, and 6. It is a pretty typical family. Anyone from Ethiopia is considered royalty: Queen of Sheba—anyone from Ethiopia is royalty. So they gave her this crown for her first birthday.

I would suggest that there is no area that is having a more difficult time right now. I know there is a lot of competition for funds. But I think the way the junior Senator from Florida has structured this amendment, that would allow the administration to make some of these determinations and some of these priorities.

I strongly support the idea of giving some aid to that area because of the drought that has been unprecedented for about 12 years. Hopefully, this will happen, and it will become a reality for these people.

We do a lot of talking around here about poverty; we do a lot of talking about problems; but until you see some of the poverty and some of the effects of the drought that has taken place right now in the sub-Saharan, Africa, it is really one that we don't understand.

I yield the floor.

NATIONAL AMBER ALERT NETWORK ACT OF 2003

The PRESIDING OFFICER (Mrs. DOLE). Under the previous order, the clerk will report S. 121.

The assistant legislative clerk read as follows:

A bill (S. 121) to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

Mr. NELSON of Florida. Madam President, I have a parliamentary inquiry. I had asked for the yeas and nays, and there was determined to be a sufficient second.

Could you inform me, on the Nelson amendment, what is the parliamentary situation?

The PRESIDING OFFICER. The yeas and nays have been ordered on that amendment.

Mr. REID. Madam President, if I could ask the Chair to direct the Senator's attention to the Senator from Nevada, it is my understanding we have a vote scheduled for 5:15. There are 15 minutes of debate prior to that time. The two leaders are trying to figure out what votes are going to come next. We have a series of amendments that have been offered today. I ask that my friend from Florida withhold until the two leaders have determined the time for the vote.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise in strong support of S. 121, the National AMBER Alert Network Act of 2003. Specifically, I congratulate and thank my colleagues who have worked so hard toward the passage of this needed legislation: Senators KAY BAILEY HUTCHISON and DIANNE FEINSTEIN. Both of them are deserving of the credit for this bill. I am very proud to align myself with both of them.

Senator HUTCHISON has been a great leader in this area, and I am very much appreciative of her. Also, Senator LEAHY and others have worked hard on this bill.

The horrific kidnapping of Elizabeth Smart in my home State of Utah is illustrative of a terrifying wave of recent child abductions that has swept our Nation. Clearly, there is a tremendous need for legislation to help communities fight these terrible crimes.

Without question, when it comes to child abductions, time is of the essence. We are all too aware that child abductors prey on the youngest, most innocent and vulnerable members of our society—often for the purpose of committing other serious violent crimes against them.

Too often, it is only a matter of hours before a kidnapper abuses, assaults or kills the child victim.

According to figures released by the Bureau of Justice Statistics, almost 75 percent of the murders that occur following child abductions happen within the first 3 hours.

AMBER Alert systems are critical to successful search and recovery efforts because they enable law enforcement authorities to galvanize entire communities to assist in the safe recovery of child victims.

We recently witnessed the success of the AMBER Alert system in California where the system was used to broadcast the disappearance of Nichole Timmons. After she was recognized, Nichole was safely recovered in the neighboring State of Nevada.

In another recent California case, the AMBER Alert system was used to broadcast the disappearances of Tamera Brooks and Jaqueline Marris. Just hours after their abduction, and minutes before their possible murder, the two young women were found.

My home State of Utah recently adopted a statewide alert program aimed at preventing child abduction called the Rachel Alert. The program was named after young Rachel Runyan who was kidnapped from behind her home in Sunset, UT, and later found murdered.

I know that law enforcement agencies are working closely with broadcasters and the public to develop AMBER Alert systems across our country. Despite these efforts, however, I believe a National AMBER Alert Coordinator in the Department of Justice is needed to assist States in developing effective alert plans that can be coordinated nationwide.

Fortunately, we already have the technology in place to do just that—the Emergency Broadcast System. For years, broadcasters have been cooperating with Government officials and reaching Americans across our country by issuing emergency alerts on our televisions and radios. We have all experienced an interruption in regular

programming so that a news breaking announcement can be made. With the addition of a National AMBER Alert Coordinator and continued cooperation between law enforcement officials and broadcasters, we can create an effective national AMBER Alert system.

Just now, I walked into the Senate Chamber with Ed Smart, who, as the country knows, has joined with his wife and family to launch one of the most brave, concerted, and vigilant efforts ever known to locate their precious daughter, Elizabeth.

On many occasions, Ed and Lois Smart have educated me about the need for enhanced efforts to combat child abduction, such as the National AMBER Alert Network Act.

This measure is overwhelmingly supported by the Smart family and all the parents who have firsthand experience with the uncertainty, pain, and trauma that exist while waiting for news about an abducted child.

We have no greater resource than our children, and we need to see to it that we do all we can to protect them from predators of all types.

So let us pass this legislation for Elizabeth Smart and Rachel Runyon and, indeed, for all children in our Nation.

Madam President, I yield the remainder of our time to the distinguished Senator from Texas, who deserves so much credit for being on top of this bill and bringing it to the Senate.

The PRESIDING OFFICER. The Senator from Texas.

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

The PRESIDING OFFICER. Five minutes forty-five seconds.

Mrs. HUTCHISON. Madam President, Senator FEINSTEIN and I introduced this bill last session. Under the leadership of Senator LEAHY and Senator HATCH, it went through in a remarkably short amount of time. Everyone could see the need for this bill, something that could be done on a volunteer basis, but with that Coordinator in the Department of Justice, we could really make a difference when a child is abducted in this country.

Unfortunately, the bill died in the House. So we have introduced the bill again. And this time, once again, through the leadership of Senator HATCH and Senator LEAHY, it has gone through the committee in record time. I hope we can pass this bill and give the House plenty of time to also pass this legislation and send it to the President.

The President has asked for this bill. He knows we need legislation on the books to create this Coordinator and to help every abducted child have a chance to live.

A Department of Justice study shows that 75 percent of child homicides occur within 3 hours of abduction. AMBER Alerts have gone out within 17 minutes of an abduction. That means we are giving law enforcement personnel the help they need to find this person who takes a child and wants to do harm to this child.

Forty-three abducted children have been recovered with the assistance of AMBER Alerts. We now have 85 regional AMBER Alerts in this country, up from 53 when we introduced the bill last summer.

People like Joann Donnellan are running the National Center for Missing and Exploited Children and have provided the technical assistance to States and local governments to help us find these children quickly.

In fact, this bill is named for Amber Hagerman of Arlington, TX, who was abducted in 1996 and found murdered. Her death had such an impact on the community that it was determined that if we could get the word out and try to find someone who had taken a child, that it would help save these children.

In fact, we have found that AMBER Alerts have been so effective that an abductor who saw an AMBER Alert sign in California went to the side of the road and let the child out because he knew he was going to be caught and that he was in trouble. So it is very effective.

What we want to do is have a Coordinator in the Justice Department who a local law enforcement official can call and not have to make 10 calls to contiguous States. He or she can make that one call to the AMBER Alert Coordinator in the Justice Department. That person will then be able to put the word out in contiguous States, without having to go through different call lists and wasting time.

We know that time saves lives in AMBER Alerts. When a child is abducted, if we can save time, we can give that child the chance to not be harmed or horribly murdered, as we have seen in so many instances with child abductions.

It is hard for me to understand how someone could prey on a defenseless child. It is the worst nightmare a parent would have to hear, that her child or his child has been taken by a stranger and you don't know what has happened. I have met with the parents of Elizabeth Smart, the wonderful couple from Utah, who have lost their child to an abductor and still have not heard from her. The agony they must go through every day is something no parent can imagine.

With this bill, we will put the coordinator in place. We will help set criteria for when an AMBER Alert would go out. We thank the National Association of Broadcasters and the local broadcasters associations because they voluntarily put the word out through radio and television in a community where this has occurred.

We want to make that go further and wider. We also want to try to help States with signage and help them know what works. For instance, the blinking signs on highways have been very effective.

This is a bill that will make a difference. We know that if we can find a child within 24 hours, we have the best chance for them to be recovered safely.

I thank Senator FEINSTEIN, my cosponsor of this bill, and thank again Senators HATCH and LEAHY for pushing this bill through the Judiciary Committee in record time because we know this bill needs to be on the books.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I am very pleased the Senate is again taking up and passing the AMBER Alert Network Act. I remember last year when Senator HUTCHISON would meet me coming in one door of the Senate and she would say: This bill is extremely important. Can we get it up and pass it.

And before I would get to the other door, Senator FEINSTEIN would grab me saying the same thing.

I went to the Judiciary Committee with it. I must say with the strong help and support of the then-ranking member, now chairman of the committee, Senator HATCH. In the course of just 1 week after we introduced this, we held a hearing on the AMBER Alert bill. We passed it in the Judiciary Committee, and we passed it in the full Senate. That is almost unheard of.

This is a case of what can happen in the Senate when people set aside political or partisan labels, work together and make sure something can pass.

It was unfortunate that the House did not pass it but now we will give them a chance. I am proud to join Senator HUTCHISON and Senator FEINSTEIN as an original cosponsor of the legislation.

Senator HUTCHISON said it very well, the reasons for the legislation, as did Senator HATCH. I commend those Senators for their leadership. Senator HUTCHISON and Senator FEINSTEIN have been absolutely dynamic in this case. Because of their support, they made it possible for Senator HATCH and I to get the unanimous support of the Judiciary Committee to move this bill.

It has been credited with recovering 43 children nationwide; 84 modified versions have been adopted in local, regional and Statewide locations. And 33 States have a Statewide plan.

My home State of Vermont is not yet one of them, but this bill would help towns and counties in States such as mine to build and maintain the AMBER Alert.

We spoke about how parents feel. I can imagine, when my children were growing up, the terrible fear that my wife and I would have had at the disappearance of any one of them. I don't know how a parent or grandparent gets through that. I don't know how members of the family get through it. The most vulnerable and most trusting part of our society is our children. Because they are the most vulnerable and the most trusting, we, not only as legislators but as parents, as family members, owe a particular duty to them.

I know President Bush is ready to sign this bill as soon as it is passed by

both bodies and goes to his desk. I urge all Senators to vote for it to send a very clear message to the other body that we support it. It is a bipartisan bill. They would then pass it. The President will sign it.

Mr. FEINGOLD. Madam President, I am pleased to support the National Amber Alert Network Act of 2003. I urge the House of Representatives to take prompt action to pass this critical legislation and for the President to support it.

We have all heard the stories of parents who have found themselves trying to find a child who has been abducted, while fearing serious injury or even death. While local law enforcement officials work tirelessly to locate these children, the reality is that they are not always able to find a child in time without the help of the public.

What has made the difference around the country in many communities is the Amber program, a system designed to get critical information to the general public that might lead to locating a child and his or her abductor before the worst can happen.

The National Amber Alert Network Act of 2003 builds upon successful local programs and encourages other communities to develop Amber programs. The National Amber Alert Network Act of 2003 would enhance local programs by giving State and local communities help in apprehending an abductor who takes a child and then crosses State lines. In Wisconsin, there are three Amber programs in effect, in Madison, in La Crosse and in Green Bay. But, if a child is taken from Wisconsin and brought across State lines to another State, the local Amber programs have no uniform way to get critical information from one State to another.

The National Amber Alert Network Act of 2003 would allow communities the flexibility to develop Amber programs that are responsive to the needs of their areas and provide Federal assistance and coordination for local programs. The National Amber Alert Network Act would have the Department of Justice create a national coordinator to work on interstate issues, develop voluntary minimum standards for the issuance and dissemination of Amber alerts, and provide matching grants for the development and enhancement of local Amber alert plans.

The cost of implementing the National Amber Alert Network Act of 2003 is small when we consider the price every parent and community must pay when children are not protected. I am hopeful the National Amber Alert Network Act will help local programs continue to reunite families and apprehend their abductors.

(At the request of Mr. LEAHY, the following statement was ordered to be printed in the RECORD.)

• Mrs. FEINSTEIN. Madam President, today, the Senate will vote on a bill that will save children's lives by expanding the existing AMBER Alert program nationwide.

I want to commend Senator KAY BAILEY HUTCHISON for her continued leadership on this legislation. Her work on this bill has been extraordinary.

I also want give a special thanks to Senator HATCH, Chairman of the Judiciary Committee, and to Senator LEAHY, the Ranking Member, for putting the National Amber Alert Network Act on the fast track to the Senate Floor.

Senator HUTCHISON and I introduced the bill on January 9th, 2003. Now, just a couple of weeks later, we are voting on Senate passage. I am hopeful that this tidal wave of Senate support will carry over to the House and we soon will have a national AMBER Alert law.

So what are AMBER Alerts? AMBER Alerts are official bulletins transmitted over the airwaves to enlist the public's help in tracking down child abductors fleeing a crime scene.

AMBER Alerts are such powerful tools because they can be issued within minutes of an abduction and reach a wide public audience.

Statistics show that children in the most dangerous abduction cases have precious little time until their safety is compromised.

According to a study by the U.S. Department of Justice, 74 percent of children who were abducted, and later found murdered, are killed in the first hours after being taken.

Simply put, we need more AMBER Alerts because they may be the best tool law enforcement has to save kidnaped children facing imminent danger.

The National AMBER Alert Network Act has three key components.

First, the legislation would authorize $20 million to the Department of Transportation and $5 million to the Department of Justice in FY 2004 to provide grants for the development of AMBER Alert systems, electronic message boards, and training and education programs in states that do not have AMBER Alerts.

To date, AMBER Alert systems exist in 34 states and a total of 85 local, regional and state jurisdictions. This bill would help the expansion of AMBER Alerts to new jurisdictions.

Second, the bill would build upon the President's Executive Order by authorizing a national coordinator for AMBER Alerts in the Department of Justice to expand the network of AMBER Alert systems and to coordinate the issuance of region-wide AMBER Alerts.

Third, the bill provides a framework for the Department of Justice to establish minimum standards for the regional coordination of AMBER alerts. The Department of Justice, working with the National Center for Missing and Exploited Children and other private organizations with expertise in this area, would build upon the best standards currently in place.

The effectiveness of AMBER Alerts depends on the continued judicious use of the system so that the public does not grow to ignore the warnings.

Furthermore, it is the specific intent of this bill not to interfere with the operation of the 85 AMBER plans that are working today.

Participation in regional AMBER plans is voluntary, and any plan that wishes to go it alone may still do so.

I urge members to support this bill because AMBER Alerts have a proven track record.

Nationally, since 1996, the AMBER Alert has been credited with the safe return of 43 children to their families, including one case in which an abductor reportedly released the child after hearing the alert himself.

I would like to briefly describe two of these cases: the rescues of 10-year-old Nichole Timmons from Riverside and four-year-old Jessica Cortez from Los Angeles.

Last fall, Nichole Timmons and her mother Sharon attended a hearing of the Senate Judiciary Subcommittee on Technology, Terrorism, and Government Information on the AMBER Alert program.

In moving testimony, Sharon described how Nichole was abducted from their Riverside home on August 20, 2002 and how an AMBER Alert brought her daughter back to her within hours of the abduction.

In Nichole's case, an Alert was issued not just in California, but in Nevada as well.

After learning about the Alert, a tribal police officer in Nevada spotted the truck of Nichole's abductor and stopped him within 24 hours of the abduction.

He was found with duct tape and a metal pipe. The AMBER Alert was the only reason that Nichole was able to return home to her mother—safe.

I can't think of any testimony in support of a bill more powerful than the sight of a mother sitting next to her daughter who she thought might be gone forever.

The second case I want to mention is that of Jessica Cortez. Jessica disappeared from Echo Park in Los Angeles on August 11, 2002.

But when Jessica's abductor took her to a clinic for medical care, receptionist Denise Leon recognized Jessica from the AMBER Alert and notified law enforcement.

Without the publicity generated by the Alert, Jessica could have been lost to her parents forever.

Through this legislation, we will extend to every corner of the nation a network of AMBER Alerts that will protect our children.

This program will increase the odds that an abducted child will return to his or her family safely.

But importantly, it will deter potential abductors from taking a child in the first place.

As Marc Klaas said at a hearing on the bill last fall, this legislation will ''save kid's lives.''•

Mr. LEAHY. Madam President, I yield back whatever time remains on this side.

Mr. HATCH. Madam President, I yield back whatever time we have, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Kansas (Mr. BROWNBACK) is necessarily absent.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN) the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

I further announce that, if present and voting, the Senator from Arkansas (Mrs. LINCOLN) would vote ''Aye''.

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

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—92

Akaka	Dole	McCain
Alexander	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Miller
Baucus	Edwards	Murkowski
Bayh	Ensign	Murray
Bennett	Enzi	Nelson (FL)
Biden	Feingold	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Hatch	Santorum
Cantwell	Hutchison	Sarbanes
Carper	Inhofe	Schumer
Chafee	Inouye	Sessions
Chambliss	Jeffords	Shelby
Clinton	Johnson	Smith
Cochran	Kennedy	Snowe
Coleman	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Kyl	Stevens
Cornyn	Landrieu	Sununu
Corzine	Lautenberg	Talent
Craig	Leahy	Thomas
Crapo	Levin	Voinovich
Dayton	Lieberman	Warner
DeWine	Lott	Wyden
Dodd	Lugar	

NOT VOTING—8

Bingaman	Feinstein	Hollings
Brownback	Graham (FL)	Lincoln
Daschle	Harkin	

The bill (S. 121) was passed, as follows:

S. 121

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 ''National AMBER Alert Network Act of 2003''.

SEC. 2. NATIONAL COORDINATION OF AMBER ALERT COMMUNICATIONS NETWORK.

(a) COORDINATION WITHIN DEPARTMENT OF JUSTICE.—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the AMBER Alert communications network regarding abducted children. The officer so designated shall be known as the AMBER Alert Coordinator of the Department of Justice.

(b) DUTIES.—In acting as the national coordinator of the AMBER Alert communications network, the Coordinator shall—

(1) seek to eliminate gaps in the network, including gaps in areas of interstate travel;

(2) work with States to encourage the development of additional elements (known as local AMBER plans) in the network;

(3) work with States to ensure appropriate regional coordination of various elements of the network; and

(4) act as the nationwide point of contact for—

(A) the development of the network; and

(B) regional coordination of alerts on abducted children through the network.

(c) CONSULTATION WITH FEDERAL BUREAU OF INVESTIGATION.—In carrying out duties under subsection (b), the Coordinator shall notify and consult with the Director of the Federal Bureau of Investigation concerning each child abduction for which an alert is issued through the AMBER Alert communications network.

(d) COOPERATION.—The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

SEC. 3. MINIMUM STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH AMBER ALERT COMMUNICATIONS NETWORK.

(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Subject to subsection (b), the AMBER Alert Coordinator of the Department of Justice shall establish minimum standards for—

(1) the issuance of alerts through the AMBER Alert communications network; and

(2) the extent of the dissemination of alerts issued through the network.

(b) LIMITATIONS.—(1) The minimum standards established under subsection (a) shall be adoptable on a voluntary basis only.

(2) The minimum standards shall, to the maximum extent practicable (as determined by the Coordinator in consultation with State and local law enforcement agencies), provide that the dissemination of an alert through the AMBER Alert communications network be limited to the geographic areas most likely to facilitate the recovery of the abducted child concerned.

(3) In carrying out activities under subsection (a), the Coordinator may not interfere with the current system of voluntary coordination between local broadcasters and State and local law enforcement agencies for purposes of the AMBER Alert communications network.

(c) COOPERATION.—(1) The Coordinator shall cooperate with the Secretary of Transportation and the Federal Communications Commission in carrying out activities under this section.

(2) The Coordinator shall also cooperate with local broadcasters and State and local law enforcement agencies in establishing minimum standards under this section.

SEC. 4. GRANT PROGRAM FOR NOTIFICATION AND COMMUNICATIONS SYSTEMS ALONG HIGHWAYS FOR RECOVERY OF ABDUCTED CHILDREN.

(a) PROGRAM REQUIRED.—The Secretary of Transportation shall carry out a program to provide grants to States for the development or enhancement of notification or communications systems along highways for alerts and other information for the recovery of abducted children.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

(1) the development or enhancement of electronic message boards along highways and the placement of additional signage along highways; and

(2) the development or enhancement of other means of disseminating along highways alerts and other information for the recovery of abducted children.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Secretary shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Secretary shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Transportation $20,000,000 for fiscal year 2004 to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

SEC. 5. GRANT PROGRAM FOR SUPPORT OF AMBER ALERT COMMUNICATIONS PLANS.

(a) PROGRAM REQUIRED.—The Attorney General shall carry out a program to provide grants to States for the development or enhancement of programs and activities for the support of AMBER Alert communications plans.

(b) ACTIVITIES.—Activities funded by grants under the program under subsection (a) may include—

(1) the development and implementation of education and training programs, and associated materials, relating to AMBER Alert communications plans;

(2) the development and implementation of law enforcement programs, and associated equipment, relating to AMBER Alert communications plans; and

(3) such other activities as the Secretary considers appropriate for supporting the AMBER Alert communications program.

(c) FEDERAL SHARE.—The Federal share of the cost of any activities funded by a grant under the program under subsection (a) may not exceed 50 percent.

(d) DISTRIBUTION OF GRANT AMOUNTS ON GEOGRAPHIC BASIS.—The Attorney General shall, to the maximum extent practicable, ensure the distribution of grants under the program under subsection (a) on an equitable basis throughout the various regions of the United States.

(e) ADMINISTRATION.—The Attorney General shall prescribe requirements, including application requirements, for grants under the program under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Justice $5,000,000 for fiscal year 2004 to carry out this section.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) shall remain available until expended.

Mr. STEVENS. Madam President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003—Continued

AMENDMENT NO. 27

Mr. STEVENS. Madam President, I ask for regular order on amendment No. 27, the LIHEAP amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is now pending.

Mr. STEVENS. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. For the information of the Senate, this is the LIHEAP amendment. The statements concerning the amendment will be after—

Mr. REED. Madam President, I ask unanimous consent that there be 1 minute for myself and Senator COLLINS to explain the amendment.

Mr. STEVENS. Madam President, that would be in order. I have no problem with that. I ask for 1 minute on each side to explain this amendment.

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

Mr. REED. Madam President, this amendment would direct the President to release $300 billion for the Low-Income Home Energy Assistance Program. It will be offset by using unexpended emergency LIHEAP funds which were already appropriated in the 2001 Supplemental Appropriations Act. Today, as the temperatures freeze, people throughout the country—people in the Northeast, the Midwest, many parts of the country—are freezing. This includes low-income seniors. With rising oil prices, a declining economy, and cold temperatures, it is the ''perfect storm'' for those people. We can help them with this amendment.

The amendment will also provide assistance to address the scorching heats of summer in other parts of the country. I urge passing.

I yield the remaining time to my colleague Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, when I left Maine earlier today, the forecast was for temperatures with a wind chill of 40 below zero tonight. We are facing a ''perfect storm'' of exceedingly cold winter weather, high energy prices, and a difficult economy.

This amendment is a modest amendment with very little budget impact. But it is an amendment that will make a real difference in the lives of low-income families in Maine and States across the Nation.

No one should have to choose between being warm in the winter, buying prescription drugs, or buying the food they need to remain healthy. This amendment will address the needs of thousands of low-income families across this Nation so that they will not be faced with those choices.

Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. STEVENS. We are prepared to accept this amendment, but I think the sponsors wish a vote.

The PRESIDING OFFICER. The yeas and nays have been ordered. The question is on agreeing to the amendment of the Senator from Rhode Island, Mr. REED.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL, I announce that the Senator from Kansas (Mr. BROWNBACK) is necessarily absent.

Mr. REID, I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Dakota (Mr. DASCHLE), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) and the Senator from Arkansas (Mrs. LINCOLN) would each vote ''aye''.

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

The result was announced—yeas 88, nays 4, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—88

Akaka	Dodd	McCain
Alexander	Dole	McConnell
Allard	Domenici	Mikulski
Allen	Dorgan	Miller
Baucus	Durbin	Murkowski
Bayh	Edwards	Murray
Bennett	Enzi	Nelson (FL)
Biden	Feingold	Nelson (NE)
Bond	Fitzgerald	Pryor
Boxer	Frist	Reed
Breaux	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Hutchison	Schumer
Carper	Inhofe	Shelby
Chafee	Inouye	Smith
Chambliss	Jeffords	Snowe
Clinton	Johnson	Specter
Cochran	Kennedy	Stabenow
Coleman	Kerry	Stevens
Collins	Kohl	Sununu
Conrad	Landrieu	Talent
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Voinovich
Craig	Levin	Warner
Crapo	Lieberman	Wyden
Dayton	Lott	
DeWine	Lugar	

NAYS—4

Ensign	Nickles
Kyl	Sessions

NOT VOTING—8

Bingaman	Feinstein	Hollings
Brownback	Graham (FL)	Lincoln
Daschle	Harkin	

The amendment (No. 27) was agreed to.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, it was my hope that we could debate and vote on the confirmation of the Ridge nomination during today's session. It is my understanding that the other side of the aisle will require approximately an hour and 40 minutes for debate. In a discussion a few minutes ago, we agreed that we would at least begin that debate tonight.

Shortly, I will be asking for unanimous consent to outline what the proposal is.

It is an important nomination. I believe all of us would like to address and vote on the nomination as soon as possible. We will be conducting that vote tomorrow.

I encourage our colleagues who have statements to make those tonight, if at all possible.

As in executive session, I ask unanimous consent that following the stacked votes on Wednesday morning, the Senate proceed to executive session for the consideration of Calendar No. 1, the nomination of Tom Ridge to be Secretary of Homeland Security. Further, I ask that the debate time be limited as follows: Senator DORGAN, 15 minutes; Senator BYRD, 15 minutes; Senator CARPER, 15 minutes; Senator FEINSTEIN, 10 minutes; Senator LAUTENBERG, 20 minutes; Senator LIEBERMAN, 15 minutes; Senator DASCHLE, 10 minutes; and Senator COLLINS to be in control of 1 hour and 40 minutes. I further ask unanimous consent that following the use or yielding back of the debate time the Senate proceed to a vote on the confirmation of the nomination with no intervening action or debate; further, that following the vote, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

Mr. REID. Reserving the right to object, Mr. President, if I could, through the Chair, direct a question to the majority leader, it is my understanding that the majority leader is contemplating two votes in the morning.

Mr. FRIST. That is correct.

Mr. REID. And once that consent is done, it is my understanding we would have a couple votes, is that right, at 9:15 or 9:30 in the morning. Following that, this debate would take place, and we would vote on this matter prior to the normal party caucuses; is that right?

Mr. FRIST. That is correct. I understand that Senator CARPER may be willing to use his time tonight. I would encourage others to do so, once the unanimous consent request is agreed to. Shortly, we will enter into an agreement for two stacked votes for tomorrow morning at approximately 9:30. Following those votes, we will begin consideration of the Ridge nomination. I expect the vote will occur prior to the policy luncheons tomorrow afternoon, as outlined.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the second vote tomorrow morning be a 10-minute vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FRIST. Mr. President, I remind my colleagues that late nights are to be expected for the remainder of this week as we continue to work through amendments to the appropriations bill. I believe the amendments have been filed at this juncture. I look forward to having the opportunity of looking through the amendments so we can give our colleagues a better idea of the schedule over the course of this week. It is my hope we will be able to complete the bill this week as early as possible. I think after looking over the amendments that have been given to the managers we will have a much better idea in that regard.

Mr. President, I ask unanimous consent that Senator COLLINS be yielded 10 minutes at this juncture.

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

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2003—Continued

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the LIHEAP amendment just adopted: Senators GRASSLEY, SPECTER, LIEBERMAN, KOHL, BAUCUS, and LINCOLN.

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

Ms. COLLINS. I thank the Chair.

Mr. President, Senator JACK REED and I have offered an amendment that provides for the immediate release of $300 million in funds for the Low Income Home Energy Assistance Program, also known as LIHEAP.

I thank the chair and ranking member of the Labor-HHS Appropriations Subcommittee, Senators SPECTER and HARKIN, for their efforts in support of this critical program. Despite the extremely difficult fiscal constraints facing our Nation, Senators SPECTER and HARKIN have managed to provide $1.7 billion in regular-year LIHEAP funds in the Omnibus Appropriations Act. This is $300 million more than the administration's request.

Unfortunately, while the bill before us provides more regular LIHEAP funds than the administration requested, the total funding, which includes both regular funding and emergency funding, is considerably less than was provided in fiscal year 2002. In fact, total LIHEAP funding in this bill falls $300 million below the total funding provided in fiscal year 2002. It is also $300 million below the total funds provided in the Labor-HHS appropriations bill which passed the Senate Appropriations Committee on July 18, 2002, by a vote of 29 to 0.

Mr. President, the amendment that Senator REED of Rhode Island and I have offered would provide for the immediate release of an additional $300 million for low-income heating assistance by designating emergency funds provided in the Supplemental Appropriations Act of 2001 as regular-year funds for fiscal year 2003.

For that reason, our amendment is fiscally responsible. Because these funds were already made available, our amendment does not increase total spending in the omnibus appropriations bill. These are funds that were already approved. The effect of our amendment is for this $300 million to be released immediately.

Some might argue that these funds should not be released unless the President declares an emergency. Anyone who thinks that we don't currently have an emergency in home heating assistance should visit with a low-income family in Houlton, ME. Houlton recently experienced the coldest temperature of any place in the lower 48 States. A few days ago, temperatures in Houlton were 19 degrees below zero. Tonight, the forecast, with windchill, is for the temperature range to be from 20 to 40 below in some parts of my home State. When the temperature is that cold, and you do not have money in your budget to heat your home, that is an emergency.

Adding to the problem of exceptionally cold winter weather, energy prices have escalated dramatically. The cessation of oil exports from Venezuela, as well as the prospect of a war in the Middle East, have pushed the price of crude oil up by nearly $6 per barrel in the last month. Home heating oil inventories are near 5-year lows, and prices are 20 percent higher than last winter. The Energy Information Administration predicts that home heating oil prices could rise 45 percent by the time winter is over. The price of natural gas, kerosene, and other fuels are facing similar pressures.

In addition to a cold winter and high energy prices, we are also facing difficult economic times. Unemployment has reached an 8-year high. In Maine, as in many States, low-income and unemployed workers are struggling. Just last week, Great Northern Paper, the largest employer in northern Maine, filed for bankruptcy and laid off its workforce of more than 1,000 employees.

In short, we are facing a ''perfect storm'' of high energy prices, exceedingly cold weather, and a difficult economy. With little prospect for a quick resolution of the crises in Iraq and Venezuela, continued forecasts for a cold winter, and the dubious prospects for a very quick economic rebound, all of us living in cold weather climates will face challenges in order to heat our homes this winter.

This combination of factors strains everyone's pocketbook, but, of course, it places a particular burden on seniors living on limited incomes and on our low-income families. These families already carry a higher energy burden than most Americans. They can spend up to 20 or 25 percent of their entire income just paying their home energy bills. No one should have to choose between heating their homes or putting food on the table, having prescriptions in the medicine cabinet, or even staying in their homes altogether.

Experience has shown, however, that pressures to pay energy bills and the inability to pay have resulted in increased medical expenses for our elderly, malnutrition for our children, and even homelessness. As an indicator of just how difficult this winter has been in my home State, let me tell you that 10,000 more people in Maine have applied for low-income heating assistance this year compared to last year.

Unfortunately, even as the need has increased, the amount of assistance has declined. In Maine, the average household benefit has seen a steady decline over the last four winters. In the winter of 1999 to 2000, the average LIHEAP benefit for a Maine family was $491. The next year, it had fallen to $433. By last winter, the number had further declined to $358. Fortunately, with the approval of the Reed-Collins amendment, we can reverse this decline or at least ensure that more Maine families will be helped; otherwise, low-income Maine families struggling to heat their homes will only receive between $330 and $350 this winter, not nearly enough to help.

I would like to say a word about the history of the LIHEAP funds that our amendment addresses. The Supplemental Appropriations Act of 2001 provided an extra $300 million in LIHEAP funds in order to help low income families deal with high energy prices. Report language specifically directed that at least $150 million of these funds were to be used to address unmet needs resulting from high energy prices. The other half of the money was directed to be used to meet the most critical needs arising from energy cost increases and increases in unemployment, among other things.

I have been working for the better part of 2 years to secure the release of these funds. On August 13, 2001, I joined Senator REED, Senator KENNEDY, and a number of my colleagues in sending a letter to the President requesting the release of the very same $300 million in emergency funds from the fiscal year 2001 supplemental appropriations bill. On September 10, 2001, I again joined many of my colleagues in sending a letter to OMB director Mitch Daniels requesting the immediate release of these funds. On October 26, 2001, 17 Senators joined Senator REED and me in a letter to the Senate Minority and Majority leader requesting legislative language to require the release of these funds. On October 30, 2001, I offered an amendment to the fiscal year 2002 Labor, Health and Human Services appropriations bill expressing the sense of the Senate that these funds should be released immediately. That amendment was supported by Senators SPECTER and HARKIN and passed the Senate as part of the fiscal year 2002 Labor-HHS bill.

On February 12, 2002, I joined my colleague Senator SNOWE in sending a letter to the President again requesting the release of these same funds. On September 23, 2002, Senator REED and I were joined by Senator SPECTER, Senator HARKIN, and 35 of our colleagues in a letter to the President requesting the release of $200 million in emergency funds that were made available as part of the fiscal year 2002 Labor-HHS Appropriations Bill. These funds expired without ever being spent. Finally, on December 23, 2002, half of our colleagues joined Senator REED and me in sending a letter to the administration requesting a total of $2 billion in fiscal year 2003 funding—which is the same amount made available by combining the $300 million in my amendment with the $1.7 billion already in the bill.

The LIHEAP program is essential in helping many low-income families get through the winter months. This has been an unusually cold winter. This has been a year where home heating prices have soared. This has been a year where the economy has been difficult. The combination of those three factors calls out for us to provide this additional assistance.

I am very pleased that our colleagues have joined together with an overwhelming vote. I hope very much this provision will be retained in the final conference report.

Mr. President, I yield back the remainder of my time.

Mr. SARBANES. Mr. President, I come to the floor today to talk about the HUD/VA appropriations bill contained in the omnibus package currently under consideration by the Senate. I want to commend Senators MIKULSKI and BOND for recognizing the importance of providing Americans with the opportunity to live in decent, safe, and affordable housing. However, despite their efforts, housing programs suffer from a lack of adequate funding in this bill.

The Appropriations Committee faced tough choices in revising their fiscal year 2003 bills, due to the decision to cut domestic programs substantially across the board. Senate appropriations were forced to cut almost $10 billion from their earlier spending decisions for fiscal year 2003. More than $1 billion of this cut comes from critical housing programs. While the Senate bill before us today is far superior to the House appropriations bill, it does not provide adequate resources. Now is not the time to cut $1 billion from the social safety net. Over 100,000 people lost their jobs last month, and unemployment continues to be high. Working families deserve our support, and instead of providing it to them, we continue to cut programs that help people provide for their families.

While the administration is asking us to provide a tax cut of $674 billion, primarily for the wealthiest Americans, over $1 billion in funding is being cut from programs that help low-income families afford housing. The problem of affordable housing has become a crisis for many working families all across America. According to a recent study, 14 percent of families pay over half of their income in rent or live in substandard housing. The significant gap between the wages of low-income workers and housing costs makes evident that housing assistance is necessary for many working families. On average, a family in this country needs to earn almost $15 an hour to afford a modest two-bedroom apartment. This is almost three times the minimum wage.

When millions of American families are unable to afford decent and safe housing, the consequences are serious and far-reaching. When children do not have stable home environments, their health suffers as does their educational attainment. In addition, housing assistance can help people transition from welfare to work. Recent studies have found that people leaving welfare who receive housing assistance retain employment for longer and make more than those who do not receive such assistance. Unfortunately, this bill does not do enough to ensure that working and elderly families in this country can afford safe and decent housing.

Just last week, HUD announced that housing authorities around the country will be facing drastic cuts in their operating funding. These cuts are due to HUD's error in estimating public housing needs. Because of HUD's mistake, there was a $250 million shortfall in the operating fund in fiscal year 2002. Upon learning of this shortfall, HUD indicated that it would seek additional funding from Congress. Unfortunately, HUD never asked for these funds. Instead, HUD will use fiscal year 2003 funds; to make up for the shortfall. This means that we are starting out with a $250 million cut in the program this year. This cut will leave housing authorities with no choice but to scale back their programs, lay off staff and put off needed repairs.

HUD should request, and we should provide additional funding to make sure that families in public housing are adequately housed. In addition, HUD must provide as much funding as possible to PHAs under the current budget situation. Housing authorities are currently receiving only 70 percent of their funding. This is an unnecessary and irresponsible cut. Even assuming a loss of $250 million from fiscal year 2003 funds, HUD should be able to provide at least 90 percent of operating costs to public house authorities. If HUD intends to fund public housing at higher levels later in the year, as they have announced, they should do so now, thereby helping PHAs avoid unnecessarily cutting off assistance to needy families.

In addition to under-funding the public housing operating account, the HUD appropriations bill cuts $160 million from the Public Housing Capital Fund, which is used to repair and modernize public housing. Over 1.5 million families reside in public housing, housing that is generally safe and decent. However, this older housing stock is in need of constant maintenance. Capital needs in public housing grow by $2.3 billion every year, and the backlog of needed capital repairs is over $20 billion. If we do not adequately fund the Public Housing Capital Fund, this backlog will continue to grow, threatening the homes of 1.5 million American families and the Federal Government's substantial investment in this housing.

While I strongly oppose the cuts in the public housing program, there are some important provisions contained in this bill that I wholeheartedly support. This bill fixes a serious problem created by the House Committee and ensures that Section 8 housing vouchers, a critical housing resource, are not lost. The House appropriations bill, H.R. 5605, will result in the immediate loss of over 125,000 vouchers and will lead to the continued loss of housing vouchers over time. Though the bill before us today cuts funding from the voucher program, it does so in a way that guarantees that all vouchers in use will be funded, and ensures that housing authorities can serve as many families as possible with the vouchers they are allocated. This is an important provision, and I want to commend Senators BOND and MIKULSKI for including this in the HUD/VA appropriations bill.

I am also pleased that the Senate retains $100 million in interest reduction payments for housing uses. Unfortunately, the House bill complies with the administration's request to rescind this $100 million which should be used to rehabilitate affordable housing. Given the great need for housing around the country, it is remarkable that we would rescind funding which could be used to increase housing opportunities. The Senate bill rightly requires that HUD use these funds to modernize affordable housing. Unfortunately, HUD has refused to take any action to use these IRP funds for their intended purpose, and I urge HUD to quickly comply with congressional intent and distribute these needed dollars.

Affordable, stable housing is the bedrock of stable, vibrant communities. Unfortunately, too many Americans find themselves in precarious housing situations in neighborhoods of despair. The continued cuts to housing programs supported by the current administration will hurt the millions of Americans who live in public housing or received housing vouchers, and the millions more Americans who are in need of housing assistance. These cuts will be felt all around the country. I hope that the administration will recognize this and the growing housing needs around the country and I urge them to fully fund Federal housing programs in the fiscal year 2004 budget. I am also hopeful that the Senate bill, which ensures the viability of the housing voucher program, prevails at conference with the House.

DEMOCRACY PROGRAMS

Mr. MCCONNELL. Mr. President, the ranking member of the Foreign Operations Subcommittee and I intended to

include the following section in the report accompanying the FY 2003 Foreign Operations, Export Financing, and Related Programs appropriations bill. I ask unanimous consent that it be printed in the RECORD following the remarks of the Senator from Vermont.

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

(See exhibit 1.)

Mr. LEAHY. My friend from Kentucky and I agreed to include this section in the report, but we regret that it was not included before the report hit the printing presses. It is our hope and expectation that it be considered as if included in the fiscal year 2003 Foreign Operations report, as originally printed in the RECORD last week.

EXHIBIT 1

DEMOCRACY OVERSIGHT AND COORDINATION

The Committee strongly supports programs and activities that advance democracy and freedom abroad, and has included funding in this Act for specific democracy programs it believes are important to United States security interests. The Committee believes that democracy promotion abroad can be an effective bulwark against terrorism, if properly established and implemented.

However, the Committee remains concerned with the inconsistent application of democracy programs by State and USAID, and the apparent lack of coordination of these programs within, and between, the agencies. For example, while the Committee applauds State's comprehensive review of Middle East democracy programs, it is perplexed by its lack of leadership and support for the advancement of democracy in Burma.

In order to address these concerns, the Committee recommends that State and USAID jointly conduct a comprehensive review of democracy programs, and consider centralizing oversight and coordination within the Bureau of Democracy, Human Rights, and Labor. The Committee will review the progress made in this endeavor as it considers action on the fiscal year 2004 foreign operations appropriations bill.

NOMINATION OF GOVERNOR RIDGE

Mr. CARPER. Mr. President, apparently within the next 24 hours we will have the opportunity to vote on the President's nominee to head our new Department of Homeland Security. The President has made an excellent choice. It is hard for me to imagine a better choice to undertake this responsibility than Governor Ridge.

Twenty years ago this month, Governor Ridge and I stood with about 80 other freshmen Congressmen and women at the other end of this building and raised our right hand and took an oath of office to defend our Constitution and country. He and I then served together in the House for the next 10 years and actually helped to lead one of the Banking Committee subcommittees as ranking Democrat and Republican.

Later we served as Governors in the neighboring States of Pennsylvania and Delaware. Even before we came to Washington, we served in the Armed Forces of our country where he served with real distinction in the U.S. Army during the Vietnam war.

I will always be especially grateful for a breakfast Governor Ridge came to almost 20 years ago. I had just been elected the at large Congressman from Delaware and ended the campaign with a little bit of debt. We decided to have a fundraising breakfast to help take care of the debt, and Senator BIDEN, then the junior Senator from Delaware, was good enough to come and speak at our breakfast. We had a whole host of Democratic colleagues from the House, new freshmen who wanted to show their support for their new colleague. One Republican stopped by that breakfast, and it was the freshman Congressman from Erie, PA.

I will always be grateful for that appearance and for the friendship that has spanned some 20 years. I will be pleased to vote with my colleagues and join, I suspect all of them, in making him a unanimous choice for Secretary of the Department of Homeland Security.

While I believe Governor Ridge is more than qualified for the job, the task he faces is daunting. Congress has given him a Department that at least on paper should be able to prevent and respond to terrorist attacks more effectively than Federal Government and State governments can today. We have authorized the transfers of literally dozens of agencies and tens of thousands of workers. We have outlined a skeleton organization that should be able to pull together under one roof information on threats and vulnerabilities and to use that information to improve security and better prepare our first responders.

Very little of what we have outlined, though, will be in place on day 1, and day 1 is tomorrow for all intents and purposes. A number of outstanding questions remain. Both in the Committee on Governmental Affairs where I serve and on the Senate floor, we have had a healthy debate over the details of how the transition to a new Department of Homeland Security should work. I know some of my colleagues are uncomfortable with what we have. I have a few concerns of my own.

That being said, I think it is important now that we put aside our disagreements and do what we need to do to enable this Department to do what it needs to do, to protect American lives.

Let me take a few minutes to discuss a couple of the issues I hope Governor Ridge will address early on during his tenure as Secretary of this Department.

First, let me touch on the subject of rail security. Now that the Transportation Security Administration has for the most part achieved the goals we set for them, it is time for them and for the Department of Homeland Security to focus on other modes that have received less attention, especially rail. As I said before, our failure more than a year after September 11 to act to improve the security of our rail infrastructure is an Achilles' heel in our Nation's effort to secure our total transportation system.

In New York City today, hundreds of thousands of people on their way to work pass through tunnels that are badly lit, poorly ventilated, and from which escape is very difficult. In fact, there is even a rail tunnel that goes under the Supreme Court and congressional offices just a couple of hundred yards from where we are gathered this evening. Every day thousands of people pass through that tunnel under this Capitol on their way to work or to home.

Passenger safety demands a real investment, but to ask Amtrak to do more with respect to security without providing more resources is, in my view, an unfunded mandate, not a solution. I thank Governor Ridge for understanding the importance of improving rail security, not just for passenger rail but for freight rail as well.

I also thank Governor Ridge for acknowledging at our hearing last week that Amtrak is likely to need some additional financial assistance, if it is expected to make the security enhancements that need to be made.

Let me also touch on the matter of first responders. States and localities are in desperate need of additional new resources to help prepare their police, their fire, and emergency personnel for any future terrorist attacks. At the same time, most State and local governments are suffering through extraordinary fiscal crises that are forcing some to raise taxes or cut services. We see that in Delaware, in Tennessee, and a host of other States as well.

I am disappointed that the omnibus appropriations bill on the floor this evening and today and again tomorrow probably does not provide State and localities with the level of first responder aid that they need. In the future, I hope Governor Ridge, soon to be Secretary Ridge, and our colleagues in Congress and the President will heed the calls from back home for more first responder aid.

I also hope Governor Ridge works quickly in the coming weeks to set up a communications link between the new Department and first responders so their needs can be heard and information on what they need to do to protect their communities makes its way down to them.

When the Committee on Governmental Affairs first marked up the Homeland Security Act and again when a modified version of the bill reached the floor, Senators COLLINS and FEINGOLD and I offered an amendment to create an office of State and local coordination within the new Department. That would place a homeland security liaison office within each State. Our language, unfortunately, was not included in the final bill, but I do hope Governor Ridge will consider setting up something like what we recommended once this new Department is in place and he and his employees have gotten their sea legs.

I want to close with some comments on relations with employees. A matter that held up final passage of this legislation when we created the new Department last month was really relations with employees, what kinds of rights they have under the collective bargaining laws and under the merit rules of the civil service rules of our country.

Recently, ADM James Loy, head of the Transportation Security Administration—I am told a very able person—used the authority Congress granted him under the airline security legislation we passed after September 11 to forbid airport screeners from joining unions. He cited his view that the screeners perform sensitive national security work as the reason for his decision.

The admiral's decision may or may not have been the right one. Whether it was or not, it has not done much to improve relations between the administration and thousands of unionized employees who are being transferred to this new Department, who perform work just as sensitive as—or in some cases even more sensitive than—that performed by the screeners.

As he works with the Office of Personnel Management to develop a human resources management system for this new Department, I urge Governor Ridge to work swiftly to repair the strained relationship between the administration and the public employees' union. He will benefit by doing that, the employees of that Department will benefit, and I believe our Nation will, too.

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

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

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 2

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 9:20 a.m. on Wednesday, the Senate resume consideration of the Inhofe amendment No. 86, and it be modified in order to be a first-degree amendment; further, I ask unanimous consent that there be 10 minutes for debate equally divided between Senators INHOFE and EDWARDS; I further ask consent that following the use or yielding back of time, the Senate proceed to a vote in relation to the Inhofe amendment, to be followed immediately by a vote in relation to the Edwards amendment No. 67, with no amendments in order to either amendment prior to that vote.

Mr. REID. I have no objection.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business and that Senators be permitted to speak therein for up to 10 minutes each.

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

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred May 3, 2001 in Los Angeles, CA. An African-American man was shot by an Hispanic man, Carlos Garcia. Garcia shot and critically wounded the victim after telling him that he ''did not like black men associating with Hispanic women,'' according to police. After the incident, the gunman hijacked a bus and caused a deadly crash as he was fleeing from police.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

TRIBUTE TO JENNIFER CHARTRAND

Mr. LEAHY. Mr. President, I rise today to pay tribute to Ms. Jennifer Chartrand, who is leaving the Republican staff of the Foreign Operations Subcommittee.

Jennifer hails from Brooklyn and graduated from Fordham University. She began her career in the Senate with the Ethics Committee and went on to become a legislative assistant for Senator CONRAD BURNS. Jennifer's next move was to join the Foreign Operations Subcommittee, where my staff members got to know her well. She served both in the majority and the minority and was a valuable source of institutional knowledge on a range of issues.

While she was a tenacious fighter for Republican priorities, she always worked for good ideas, irrespective of which Senator came up with it. Perhaps most importantly, she always fought for the institutional prerogatives of both the Appropriations Committee and the Senate as a whole. Jennifer also recently staffed a congressional delegation to Europe which I was a part of. I truly appreciate all of her hard work in putting together that trip.

While I hate to see Jennifer leave, the good news is that she is only moving across the hall to the Defense Subcommittee. I hope that Senators STEVENS and INOUYE will not mind if we borrow her from time to time.

ADDITIONAL STATEMENTS

TRIBUTE TO UCONN HUSKIES WOMEN'S BASKETBALL RECORD-BREAKING STREAK

• Mr. LIEBERMAN. Mr. President, it is my pleasure to rise in tribute to the University of Connecticut Huskies women's basketball team, which on Saturday, January 18th made Division I history by winning their 55th consecutive game. In doing so, they surpassed the 54-game streak set by Virginia Tech between 1980 and 1982 and delighted fans all across my state.

Fifty-five straight wins would be an incredible accomplishment in any sport at any time. But it's especially impressive in women's college basketball today because this is an era of true parity in the sport. There are so many strong teams able to compete with and, on any given night, beat a great team like the Huskies. But the Huskies keep on working, and they keep on winning, at home and on the road, in blowouts and in squeakers. Sometimes they win with defense. Sometimes with three-point shooting. Sometimes with pure hustle. But they always find a way.

It's no wonder the Huskies have an admirer in legendary UCLA coach John Wooden, whose UCLA men's basketball teams in the early 1970's set an all-time Division I record with 88 straight wins. Coach Wooden said of what the Huskies have accomplished, ''It's a tremendous feat in any era. I think they play the pure game, more so than the men. The best college basketball in my opinion is played by the better women's teams.''

Of course, last year the very best team in the nation was UConn, which racked up a perfect 39–0 season en route to the national championship. The players on that team—led by All-American seniors Sue Bird, Tamika Williams, Swin Cash and Asjha Jones—built the bulk of this record streak.

And this season, a team led by All-American junior Diana Taurasi and many terrific young players is in the hunt for the championship again. There will be tons of tough games to play. Just this Monday, January 20th, they matched up against Notre Dame and extended the streak to 56. And on February 1st, they will play Duke, now ranked first in the country.

Mr. President, competition isn't about perfection. It's about perseverance. I'm reminded of the words of Michael Jordan, who said, ''I have missed more than 9,000 shots in my career. I have lost almost 300 games. On 26 occasions I have been entrusted to take the game winning shot . . . and I missed. I have failed over and over and over

again in my life. And that's precisely why I succeed.'' So even if—if—the team should lose someday, the real measure of their character will be how they bounce back, what they learn, how they become an even better team because of it.

So much of the credit for this team's success goes to coach Geno Auriemma, who has built the best program in the Nation during his 18 years in Storrs. Assistant Coach Chris Dailey has also played a pivotal part in the remarkable run. The Huskies have won three national championships over the last 7 years. They have made 14 straight NCAA tournament appearances and won a combined 23 Big East regular and tournament championships. Over the last 3 years, they've amassed an astounding 123–4 record.

I wish them luck in the weeks and months to come as they seek to extend the streak further. This has been a month of history in women's college basketball. Tennessee coach Pat Summit just won her 800th game—and the Huskies won their 55th straight victory. It is a golden time for the sport, and for all the fans who love it.●

BILL ROSENDAHL'S 15TH ANNIVERSARY AS A HOST AND PRODUCER AT ADELPHIA

● Mrs. BOXER. Mr. President, I rise today in honor of Bill Rosendahl, who has just marked his 15th anniversary of producing a variety of shows for Adelphia Communications. I would like to take a few moments to recognize Bill's many successes.

I have been a guest on Bill's shows many times. Recently I appeared on his ''One-on-One'' interview program and enjoyed a discussion with Bill ranging from the possible war in Iraq to our Nation's environment and energy policies. Bill is extremely knowledgeable about issues facing our Nation and world. His questions are intelligent, insightful, and penetrating.

Since 1987, Bill has produced 2,600 shows. For 15 years, viewers have tuned in to watch interviews with leaders including former Vice President Al Gore, my colleague Senator DIANNE FEINSTEIN, California Governor Gray Davis, Prince El Hassan Bin Talal of Jordan, and former Prime Minister of Israel Ehud Barak.

In addition to his role at Adelphia, Bill serves as Chairman of the California Cable Telecommunications Association, Chairman of the California Commission on Tax Policy in the New Economy, and on boards of the California Channel and Cable Positive.

Prior to his career in the cable industry, Bill Rosendahl was a White House appointee to the State Department as Chief of Operations for the U.S. Trade and Development Program and an associate in philanthropic work for John D. Rockefeller III. He has been involved in many presidential, gubernatorial, and senatorial campaigns. Bill has also traveled to more than 50 countries throughout the world.

It is clear that Bill Rosendahl deserves our warmest wishes on this special occasion. Because of Bill's work, Californians are more informed about issues facing our State, Nation and world. He provides a forum for an engaging exchange of ideas, perspectives and outlooks on the future. I am certain that the next 15 years will be just as exciting as the first.●

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.)

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–570. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Motor Vehicle Inspection and Maintenance Program—Request for Delay in the Incorporation of On-Board Diagnostics Testing (FRL7436–9)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–571. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Florida: Approval of Revisions to the Florida State Implementation Plan (FRL7439–2)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–572. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Idaho Designation of Areas for Air Quality Planning Purpose: Idaho (FRL7422–3)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–573. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of Volatile Organic Compounds From Solvent Cleaning Operations (FRL7437–5)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–574. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revision to the Control of Volatile Organic Compound emissions from Screen Printing and Digital Imaging (FRL7420–8)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–575. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sulfur Dioxide attainment Demonstration for the Warren county Nonattainment Area Permit Emission Limitations for Two Individual Sources in Warren County (FRL7421–1)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–576. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Oregon (FRL7429–5)'' received on January 10, 2003; to the Committee on Environment and Public Works.

EC–577. A communication from the Chairman, Federal Accounting Standards Advisory Board, transmitting, pursuant to law, the report entitled ''Eliminating the Category National Defense Property, Plant and Equipment''; to the Committee on Governmental Affairs.

EC–578. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report entitled ''Federal Managers' Financial Integrity Act Report—2002''; to the Committee on Governmental Affairs.

EC–579. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report relative to the compliance of the Commission with the Inspector General Act of 1978 (IG Act) and the Federal Managers' Financial Integrity Act (FMFIA); to the Committee on Governmental Affairs.

EC–580. A communication from the Chief Executive Officer, Corporation for National & Community Service, transmitting, pursuant to law, the report of the Inspector General's Semi-Annual Report to Congress covering the six month period from April 1, 2002 through September 30, 2002 along with the Corporation's Report on the Final Action; to the Committee on Governmental Affairs.

EC–581. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the Department of Interior covering the 6-month period of April 1, 2002 through September 30, 2002; to the Committee on Governmental Affairs.

EC–582. A communication from the Attorney General, transmitting, pursuant to law, the Attorney General's Semiannual Management Report to Congress: April 1, 2002 to September 30, 2002 and the Office of the Inspector General Semiannual Report to Congress for April 1, 2002 to September 30, 2002; to the Committee on Governmental Affairs.

EC–583. A communication from the District of Columbia Auditor, transmitting, the report entitled ''Certification of the Fiscal Year 2003 Revenue Estimate in Support of the District's $374,200,000 Multimodal General Obligation Bonds (Series 2002A and 2002B)''; to the Committee on Governmental Affairs.

EC–584. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the twenty-seventh Semiannual Report to Congress on Audit Follow-Up, covering the period from April 1,

2002 to September 30, 2002; to the Committee on Governmental Affairs.

EC–585. A communication from the Inspector General, Department of Housing and Urban Development, transmitting, pursuant to law, the report relative to the inventory of commercial activities for the year 2002; to the Committee on Governmental Affairs.

EC–586. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report relative to the plan describing the new strategic goals, objectives, strategies and measures for fiscal years 2002–2007; to the Committee on Governmental Affairs.

EC–587. A communication from the administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Semiannual Report of the Inspector General of NASA for the period ending September 30, 2002; to the Committee on Governmental Affairs.

EC–588. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, the report of the National Mediation Board Documentation of Management Control Plan; to the Committee on Governmental Affairs.

EC–589. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, the report on the District of Columbia Courts' Master Plan for Facilities, including the Family Court and on the Family Court's use of Newly appointed magistrate judges in child abuse and neglect matters; to the Committee on Governmental Affairs.

EC–590. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program (KY–234–FOR)'' received on January 11, 2003; to the Committee on Energy and Natural Resources.

EC–591. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program (KY–240–FOR)'' received on January 11, 2003; to the Committee on Energy and Natural Resources.

EC–592. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oklahoma Regulatory Program (OK–028–FOR)'' received on January 11, 2003; to the Committee on Energy and Natural Resources.

EC–593. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the Department of Labor's Alternative Fuel Vehicles (AFV) Reports for Fiscal Years 1999–2001; to the Committee on Energy and Natural Resources.

EC–594. A communication from the President of the United States, transmitting, pursuant to law, the report relative to the intent of the President to add Afghanistan to the list of least-developed beneficiary developing countries under the Generalized System of Preferences (GSP); to the Committee on Finance .

EC–595. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 2003–9—Bureau of Labor Statistics Price Indexes for Department Stores—November 2002'' received on January 10, 2003; to the Committee on Finance.

EC–596. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Implementation of section 644 of EGTRRA—procedure for waiver of 60 day rollover requirement (Rev. Proc. 2003–7)'' received on January 10, 2003; to the Committee on Finance.

EC–597. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Private Foundation Transfer of Assets (Rev. Rul. 2003–13)'' received on January 10, 2003; to the Committee on Finance.

EC–598. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Census Tracts—2003 (Rev. Proc. 2003–15)'' received on January 10, 2003; to the Committee on Finance.

EC–599. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Indian Tribal Government Trusts for Minors (Rev. Proc. 2003–14)'' received on January 10, 2003; to the Committee on Finance.

EC–600. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''1259 Reestablished Positions (Rev. Rul. 2003–1, 2003–3 I.R.B.__,(01–21–2003)[RR–144425–02]'' received on January 10, 2003; to the Committee on Finance.

EC–601. A communication from the Chief Counsel, Bureau of the Public Debt, Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR parts 321, 351, 352, 353, 359, 360, Offerings of United States Savings Bonds, Series EE, HH and I; Regulations Governing United States Savings Bonds, Series EE, HH, and I; Payments by Banks and Other Financial Institutions of the United States Savings Bonds and United States Savings Notes (Freedom Shares)'' received on January 14, 2003; to the Committee on Finance.

EC–602. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Fire and Safety Requirements for Certain Health Care Facilities (RIN0938–AK35)'' received on January 11, 2003; to the Committee on Finance.

EC–603. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the report relative to Medicare+Choice organizations; to the Committee on Finance.

EC–604. A communication from the Secretary of the Navy, transmitting, pursuant to law, the report relative to the Cessation of Training at Vieques Naval Training Range; to the Committee on Armed Services.

EC–605. A communication from the Principle Deputy, Personnel and Readiness, Office of the Under Secretary of Defense, Department of Defense, transmitting, pursuant to law, the annual report describing host nation laws and treaty obligations of the United States, and the conditions within host nations, that necessitate restrictions on purchases in overseas commissaries and exchange stores; to the Committee on Armed Services.

EC–606. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Extension of DoD Pilot Mentor-Protege Program (DFARS Case 2002–DO29)'' received on January 10, 2003; to the Committee on Armed Services.

EC–607. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Trade Agreements Act—Exception for U.S.-Made End Products (DFARS Case 2002–D008)'' received on January 10, 2003; to the Committee on Armed Services.

EC–608. A communication from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Deputy Under Secretary of Defense for Personnel & Readiness, received on January 9, 2003; to the Committee on Armed Services.

EC–609. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Classification for Medical Washers and Medical Washer-Disinfector (Doc. No. 01N–0339)'' received on January 10, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–610. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices, Reclassification of the Cutaneous Carbon Dioxide and the Cutaneous Oxygen Monitor (Doc. No. 01N–0576)'' received on January 10, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–611. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Rehabilitative Training: Rehabilitation Long-Term Training Program—Vocational Rehabilitation Counseling (RIN1820–ZA16)'' received on January 10, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–612. A communication from the Acting Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitle ''Extension of Tolerances for Emergency Exemptions (Multiple Chemical) (FRL7284–8)'' received on January 10, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–613. A communication from the Finance Specialist, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Rural Empowerment Zones and Enterprise Communities (RIN0503-AA20)'' received on January 11, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–614. A communication from the Acting Director, Office of Regulatory Law, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Extension of the Presumptive Period for Compensation for Gulf War Veterans' Undiagnosed Illnesses (RIN2900–AK98)'' received on January 10, 2003; to the Committee on Veterans' Affairs.

EC–615. A communication from the Deputy General Counsel, Veterans Health Administration, Department of Veterans Affairs , transmitting, pursuant to law, the report of a rule entitled ''Health Care for Certain Children of Vietnam Veterans—Covered Birth Defects and Spina Bifida (RIN2900–AK88)'' received on January 10, 2003; to the Committee on Veterans' Affairs.

EC–616. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Univair Aircraft Corp Models 415c, cd, d, e, g, and f-1, f-1A airplanes docket no. 2000–CE–79 (RIN2120–AA64) (2003–0070)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–617. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Surface Area at Indian Springs Air Force Auxiliary Field: Indian Springs, NV; Docket no. 02–AWP–2 (2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.; to the Committee on Commerce, Science, and Transportation.

EC–618. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Withdrawal—Modification of Class E Airspace; Zanesville, OH; Docket no. 01–AGL–21 (2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–619. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; and Amendment of Class E5 Airspace; Greenville, SC: Docket No. 02–ASO–4 (2120–AA66)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–620. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757–200, 200CB, and 300 Series; Docket no. 2000–NM–392; Docket No. 2000–NM–392 (2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–621. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Rotax GmbH 912 F and 912 S Series Reciprocating Engines; Docket No. 2002–NE–18 (2120–AA64)'' received on January 14, 2003; to the Committee on Commerce, Science, and Transportation.

EC–622. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Henderson Airport; Las Vegas, NV; Doc. No. 02–AWP–4 (2120–AA66)(2003–0016)'' received on January 14 , 2003; to the Committee on Commerce, Science, and Transportation.

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. SMITH (for himself, Ms. STABENOW, and Mr. SANTORUM):

S. 198. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 199. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada; to the Committee on Environment and Public Works.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 200. A bill for the Relief of Ashley Ross Fuller; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. SARBANES):

S. Res. 24. A resolution designating the week beginning May 4, 2003, as ''National Correctional Officers and Employees Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. DASCHLE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 16, a bill to protect the civil rights of all Americans, and for other purposes.

S. 35

At the request of Mr. DASCHLE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 35, a bill to provide economic security for America's workers.

S. 54

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 54, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 87

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 87, a bill to provide for homeland security block grants.

S. 121

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 121, a bill to enhance the operation of the AMBER Alert communications network in order to facilitate the recovery of abducted children, to provide for enhanced notification on highways of alerts and information on such children, and for other purposes.

S. 121

At the request of Mrs. HUTCHISON, the names of the Senator from Oregon (Mr. SMITH), the Senator from Texas (Mr. CORNYN), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Missouri (Mr. TALENT), the Senator from Ohio (Mr. DEWINE), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Washington (Ms. CANTWELL), and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 121, supra.

S. 121

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 121, supra.

S. 138

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 144

At the request of Mr. CRAIG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 144, a bill to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 173

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 173, a bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund.

AMENDMENT NO. 26

At the request of Mr. LOTT, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of amendment No. 26 intended to be proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 27

At the request of Mr. CHAFEE, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 27

At the request of Mr. SCHUMER, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mrs. MURRAY, her name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Ms. MIKULSKI, her name was added as a cosponsor of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 27

At the request of Mr. REED, the names of the Senator from Illinois (Mr.

FITZGERALD), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Wisconsin (Mr. KOHL), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Montana (Mr. BAUCUS), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 27 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 40

At the request of Mr. BAUCUS, his name was added as a cosponsor of amendment No. 40 proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 40

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 40 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 40

At the request of Mr. SARBANES, his name was added as a cosponsor of amendment No. 40 proposed to H.J. Res. 2, supra.

AMENDMENT NO. 51

At the request of Mr. FITZGERALD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of amendment No. 51 intended to be proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 55

At the request of Mr. NELSON of Florida, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of amendment No. 55 intended to be proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

AMENDMENT NO. 55

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 55 intended to be proposed to H.J. Res. 2, supra.

AMENDMENT NO. 61

At the request of Ms. MIKULSKI, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 61 intended to be proposed to H.J. Res. 2, a joint resolution making further continuing appropriations for the fiscal year 2003, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself, Ms. STABENOW, and Mr. SANTORUM):

S. 198. A bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today with Senators STABENOW and SANTORUM to introduce the New Homestead Economic Opportunity Act. This legislation will create a single-family housing tax credit for developers who build in low income areas, and allow more Americans to reach their dreams of homeownership. It will also encourage developers of single family units to invest in low income areas and improve our communities.

Currently, there are no tax credits available to developers of new or rehabilitated, affordable single-family housing. The low-income housing tax credit provides tax credits to owners of low-income rental units, but does not provide a solution to the problem of a lack of affordable homes. The quality of life in distressed neighborhoods can be improved dramatically by increasing home ownership. Existing buildings in these neighborhoods often need extensive renovation before they can provide decent owner-occupied housing. It is also difficult for renovations to occur because the costs involved exceed the prices at which the housing units could be sold. Similarly, the costs of new construction may exceed its market value. Properties sit vacant and neighborhoods remain devastated. The New Homestead Economic Opportunity Act bridges the gap between development costs and market prices and will revitalize these areas.

Our legislation will create a single-family housing tax credit of $1.75 per resident which will be made available annually to States. In my home State of Oregon, the most recent Census estimates State or local housing credit agencies will award these credits to housing units, including condominiums and cooperatives planned for development of single-family housing in census tracts with median incomes of 80 percent or less of area median income. The value of the credits could not exceed 50 percent of the qualifying cost of the unit. Rules similar to the current law rules for the Low Income Housing Tax Credit will apply to determine eligible costs of individual units.

The owner of the housing unit being sold to a qualified buyer will be eligible to claim the single-family housing tax credit over a 5-year period beginning on that date. Eligible home buyers must have incomes at 80 percent or less of applicable median family income. They would not have to be first time homebuyers, and rules similar to the mortgage revenue bond provisions will apply to determine applicable median family income.

In Oregon, rising housing costs are prohibiting working families from being able to afford homes. With a lack of affordable housing, costs are rising, and families are unable to gain the stability and equity homeownership provides. In its first year, the New Homestead Economic Opportunity Act would support more than 360 new affordable homes, probably more if credits are used in connection with less costly rehabilitations. A family of three or more with an income of $30,000 will be a qualified buyer in Oregon. This legislation will affect real working Americans.

I am proud to sponsor this legislation that will further the dream of so many Americans through homeownership. I urge my colleagues to join me in supporting the New Homestead Economic Opportunity Act.

I ask unanimous consent that the New Homestead Economic Opportunity Act be printed in the RECORD.

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

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''New Homestead Economic Opportunity Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. COMMUNITY HOMEOWNERSHIP CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after section 42 the following new section:

''SEC. 42A. HOMEOWNERSHIP CREDIT.

''(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the amount of the homeownership credit determined under this section for any taxable year in the credit period shall be an amount equal to the applicable percentage of the eligible basis of each qualified residence.

''(b) APPLICABLE PERCENTAGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the month in which the taxpayer and the homeownership credit agency enter into an agreement with respect to such residence (which is binding on such agency, the taxpayer, and all successors in interest) as to the homeownership credit dollar amount to be allocated to such residence.

''(2) METHOD OF PRESCRIBING PERCENTAGE.—The percentage prescribed by the Secretary for any month shall be the percentage which will yield over a 5-year period amounts of credit under subsection (a) which have a present value equal to 50 percent of the eligible basis of a qualified residence.

''(3) METHOD OF DISCOUNTING.—The present value under paragraph (2) shall be determined—

''(A) as of the last day of the 1st year of the 5-year period referred to in paragraph (2),

''(B) by using a discount rate equal to 72 percent of the annual Federal mid-term rate applicable under section 1274(d)(1) to the month applicable under paragraph (1) and compounded annually, and

''(C) by assuming that the credit allowable under this section for any year is received on the last day of such year.

''(c) QUALIFIED RESIDENCE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified residence' means any residence—

''(A) which is located—

''(i) in a census tract which has a median gross income which does not exceed 80 percent of the greater of area or state-wide median gross income, or

''(ii) in an area of chronic economic distress, and

''(B) which is purchased by a qualified buyer.

For purposes of clause (ii) of subparagraph (A), an area is an area of chronic economic distress if it is approved for designation as such under section 143(j)(3), except that such designation shall not require the approval of the Secretary and shall cease to apply after the end of the 5th calendar year after the calendar year in which the designation is made.

''(2) RESIDENCE.—For purposes of paragraph (1), the term 'residence' means—

''(A) a single-family home containing 1 to 4 housing units,

''(B) a condominium unit,

''(C) stock in a cooperative housing corporation (as defined in section 216(b)), or

''(D) any factory-made housing which is permanently affixed to real property.

In the case of a single-family home described in subparagraph (A) which contains more than 1 housing unit, the term 'residence' shall not include any new residence and shall include only the portion of such home which is to be occupied by the owner thereof (based on the percentage of the total area of such home which is to be occupied by the owner).

''(3) TIMING OF DETERMINATION.—For purposes of paragraph (1), the determination of whether a residence is a qualified residence shall be made at the time a binding commitment for an allocation of credit is awarded by the homeownership credit agency, except that the determination of whether a buyer is a qualified buyer shall be made at the time the residence is sold.

''(4) MEDIAN GROSS INCOME.—For purposes of this section, median gross income shall be determined consistent with section 143(f)(2).

''(d) ELIGIBLE BASIS.—For purposes of this section—

''(1) NEW QUALIFIED RESIDENCES.—

''(A) IN GENERAL.—The eligible basis of a new qualified residence is—

''(i) in the case of a qualified residence which is sold in a transaction which meets the requirements of subparagraph (B), its adjusted basis (excluding land) immediately before such sale, and

''(ii) zero in any other case.

''(B) REQUIREMENTS.—A sale of a qualified residence meets the requirements of this subparagraph if—

''(i) the buyer acquires the qualified residence by purchase (as defined in section 179(d)(2)),

''(ii) the buyer of the qualified residence is not a related person with respect to the seller, and

''(iii) the buyer's debt financing is originated by a 3rd party who is not a related person with respect to the seller.

''(2) EXISTING QUALIFIED RESIDENCES.—

''(A) IN GENERAL.—The eligible basis of an existing qualified residence is—

''(i) in the case of a qualified residence which is sold in a transaction which meets the requirements of subparagraph (B), the adjusted basis of the rehabilitation expenditures with respect to the qualified residence which are paid or incurred in connection with such sale, and

''(ii) zero in any other case.

''(B) REQUIREMENTS.—A sale of a qualified residence meets the requirements of this subparagraph if—

''(i) the buyer acquires the qualified residence by purchase (as defined in section 179(d)(2)),

''(ii) the qualified residence has undergone substantial rehabilitation in connection with the sale described in clause (i),

''(iii) the buyer of the qualified residence is not a related person with respect to the seller, and

''(iv) the buyer's debt financing is originated by a 3rd party who is not a related person with respect to the seller.

''(C) SUBSTANTIAL REHABILITATION.—

''(i) IN GENERAL.—For purposes of subparagraph (B), substantial rehabilitation means rehabilitation expenditures paid or incurred with respect to a qualified residence which are at least $25,000.

''(ii) INFLATION ADJUSTMENT.—In the case of a calendar year after 2003, the dollar amount contained in clause (i) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase under this clause which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.

''(3) EFFECT OF SUBSEQUENT SALE, ETC.—A subsequent sale, assignment, rental, or refinancing of the qualified residence by the buyer or the subsequent sale, assignment, or pooling of the buyer's financing by the originator shall not be considered in determining whether or not the prior sales transaction satisfied the requirements of subparagraph (B) of paragraph (1) or (2).

''(4) SPECIAL RULES RELATING TO DETERMINATION OF ADJUSTED BASIS.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the adjusted basis of any qualified residence (or any rehabilitation expenditures in respect thereof)—

''(i) shall not include so much of the basis of such qualified residence (or rehabilitation expenditures) as is determined by reference to the basis of other property held at any time by the person acquiring the residence, and

''(ii) shall be determined without regard to the adjusted basis of any property which is not part of such qualified residence.

''(B) BASIS OF PROPERTY IN COMMON AREAS, ETC., INCLUDED.—The adjusted basis of any qualified residence shall be determined by taking into account (on a pro rata basis) the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residences within a project.

''(5) SPECIAL RULES FOR DETERMINING ELIGIBLE BASIS.—

''(A) RELATED PERSON, ETC.—For purposes of this section, a person (in this clause referred to as the 'related person') is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

''(B) NONRESIDENTIAL SPACE EXCLUDED.—No portion of the eligible basis of a qualified residence shall include costs attributable to nonresidential space.

''(C) LIMITATION.—The eligible basis of any residence may not exceed the mortgage limit for Federal Housing Administration insured mortgages in the area in which such residence is located.

''(e) DEFINITION AND SPECIAL RULES RELATING TO CREDIT PERIOD.—

''(1) CREDIT PERIOD DEFINED.—For purposes of this section, the term 'credit period' means, with respect to any qualified residence, the period of 5 taxable years beginning with the taxable year in which the sale of the qualified residence occurs satisfying the requirements of subsection (d)(1)(B) or (d)(2)(B).

''(2) SPECIAL RULE FOR 1ST YEAR OF CREDIT PERIOD.—

''(A) IN GENERAL.—The credit allowable under subsection (a) with respect to any qualified residence for the 1st taxable year of the credit period shall be determined by multiplying the eligible basis under subsection (d) by the fraction—

''(i) the numerator of which is the sum of the number of remaining whole months in such 1st taxable year after the sale of the qualified residence, and

''(ii) the denominator of which is 12.

''(B) DISALLOWED 1ST YEAR CREDIT ALLOWED IN 6TH YEAR.—Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

''(f) LIMITATION ON AGGREGATE CREDIT ALLOWABLE WITH RESPECT TO QUALIFIED RESIDENCES LOCATED IN A STATE.—

''(1) CREDIT MAY NOT EXCEED CREDIT DOLLAR AMOUNT ALLOCATED TO QUALIFIED RESIDENCE.—

''(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any qualified residence shall not exceed the homeownership credit dollar amount allocated to such qualified residence under this subsection.

''(B) TIME FOR MAKING ALLOCATION.—

''(i) GENERAL RULE.—An allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the qualified residence is sold, and only if the qualified residence is sold within 1 year after the residence (or the rehabilitation expenditures, as applicable) is completed.

''(ii) EARLIER ALLOCATION BY AGENCY.—A homeownership credit agency may allocate available homeownership credit dollar amounts to a qualified residence prior to the year of sale of such qualified residence if—

''(I) the taxpayer owns fee title or a leasehold interest of not less than 50 years in the site of the qualified residence as of the later of the date which is 6 months after the date that the allocation was made or the close of the calendar year in which the allocation is made, and

''(II) such qualified residence is completed not later than the close of the 2nd calendar year following the calendar year in which the allocation was made.

''(C) VESTED RIGHT TO CREDIT DOLLAR AMOUNT.—Once a homeownership credit allocation is received by a taxpayer, the right to such credit is vested in such taxpayer and is not subject to recapture, except as provided in paragraph (4)(B).

''(2) HOMEOWNERSHIP CREDIT DOLLAR AMOUNT FOR AGENCIES.—

''(A) IN GENERAL.—The aggregate homeownership credit dollar amount which a homeownership credit agency may allocate for any calendar year is the portion of the State homeownership credit ceiling allocated under this paragraph for such calendar year to such agency.

''(B) STATE CEILING INITIALLY ALLOCATED TO STATE HOMEOWNERSHIP CREDIT AGENCIES.—Except as provided in subparagraphs (D) and (E), the State homeownership credit ceiling for each calendar year shall be allocated to the homeownership credit agency of such State. If there is more than 1 homeownership

credit agency of a State, all such agencies shall be treated as a single agency.

''(C) STATE HOMEOWNERSHIP CREDIT CEILING.—The State homeownership credit ceiling applicable to any State for any calendar year before 2003 shall be zero and for any calendar year after 2002 shall be an amount equal to the sum of—

''(i) the unused State homeownership credit ceiling (if any) of such State for the preceding calendar year,

''(ii) the greater of—

''(I) $1.75 multiplied by the State population, or

''(II) $2,000,000,

''(iii) the amount of State homeownership credit ceiling returned in the calendar year, plus

''(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (i), the unused State homeownership credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (ii) through (iv) over the aggregate homeownership credit dollar amount allocated for such year, except that such amount shall be zero for 2003. For purposes of clause (iii), the amount of State homeownership credit ceiling returned in the calendar year equals the homeownership credit dollar amount previously allocated within the State to any qualified residence with respect to which an allocation is canceled by mutual consent of the homeownership credit agency and the allocation recipient.

''(D) UNUSED HOMEOWNERSHIP CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(i) IN GENERAL.—The unused homeownership credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

''(ii) UNUSED HOMEOWNERSHIP CREDIT CARRYOVER.—For purposes of this subparagraph, the unused homeownership credit carryover of a State for any calendar year is the excess (if any) of the unused State homeownership credit ceiling for such year (as defined in subparagraph (C)(i)) over the excess (if any) of—

''(I) the unused State homeownership credit ceiling for the year preceding such year, over

''(II) the aggregate homeownership credit dollar amount allocated for such year.

''(iii) FORMULA FOR ALLOCATION OF UNUSED HOMEOWNERSHIP CREDIT CARRYOVERS AMONG QUALIFIED STATES.—The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused homeownership credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year.

''(iv) QUALIFIED STATE.—For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State—

''(I) which allocated its entire State homeownership credit ceiling for the preceding calendar year, and

''(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

''(E) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

''(F) POPULATION.—For purposes of this paragraph, population shall be determined in accordance with section 146(j).

''(G) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of a calendar year after 2003, the $2,000,000 and $1.75 amounts in subparagraph (C) shall each be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—

''(I) In the case of the $2,000,000 amount, any increase under clause (i) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

''(II) In the case of the $1.75 amount, any increase under clause (i) which is not a multiple of 5 cents shall be rounded to the next lowest multiple of 5 cents.

''(3) LIMITATION ON ALLOCATIONS TO AREAS OF CHRONIC ECONOMIC DISTRESS.—Not more than 50 percent of a homeownership credit agency's portion of the State homeownership credit ceiling for a calendar year may be allocated to residences located in areas which are designated as areas of chronic economic distress in accordance with paragraph (1) of subsection (c).

''(4) SPECIAL RULES.—

''(A) RESIDENCE MUST BE LOCATED WITHIN JURISDICTION OF CREDIT AGENCY.—A homeownership credit agency may allocate its aggregate homeownership credit dollar amount only to qualified residences located in the jurisdiction of the governmental unit of which such agency is a part.

''(B) AGENCY ALLOCATIONS IN EXCESS OF LIMIT.—If the aggregate homeownership credit dollar amounts allocated by a homeownership credit agency for any calendar year exceed the portion of the State homeownership credit ceiling allocated to such agency for such calendar year, the homeownership credit dollar amounts so allocated shall be reduced (to the extent of such excess) for residences in the reverse of the order in which the allocations of such amounts were made.

''(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) COMPLETED.—The term 'completed' means the point in time where a qualified residence is first placed in a condition or state of readiness and availability for occupancy.

''(2) PROJECT.—The term 'project' means 1 or more residences together with functionally related and subordinate facilities developed and made available to inhabitants of such residences, including recreational facilities and parking areas. To constitute a project, each residence must—

''(A) be developed by the same taxpayer pursuant to common planning and feasibility studies,

''(B) be financed through a common plan of construction financing, and

''(C) have common ownership prior to sale.

For purposes of this paragraph, it is not necessary that all residences within a project be contiguous or that all residences consist only of either new residences or existing residences and it is not necessary that each residence within a project be a qualified residence.

''(3) QUALIFIED BUYER.—

''(A) IN GENERAL.—The term 'qualified buyer' means a buyer if at the time of the acquisition of the qualified residence, the buyer—

''(i) is 1 or more individuals whose income does not exceed 80 percent of the area median gross income (70 percent for families of less than 3 members), and

''(ii) intends to occupy the residence as the buyer's principal residence (within the meaning of section 121).

''(B) SPECIAL RULES IN QUALIFIED CENSUS TRACTS.—With respect to residences located in qualified census tracts (as defined in section 42), subparagraph (A) shall be applied by substituting '100 percent' for '80 percent' and '90 percent' for '70 percent'.

''(C) DETERMINATION OF INCOME.—For purposes of this paragraph, a buyer's income shall be determined in accordance with section 143(f)(4).

''(4) NEW QUALIFIED RESIDENCE.—The term 'new qualified residence' means a qualified residence the original ownership of which begins with the taxpayer.

''(5) EXISTING QUALIFIED RESIDENCE.—The term 'existing qualified residence' means any qualified residence which is not a new qualified residence.

''(6) HOMEOWNERSHIP CREDIT AGENCY.—The term 'homeownership credit agency' means any agency authorized to carry out this section.

''(7) POSSESSIONS TREATED AS STATES.—The term 'State' includes the District of Columbia and a possession of the United States.

''(8) APPLICATION TO ESTATES AND TRUSTS.—In the case of an estate or trust, the amount of the credit determined under subsection (a) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

''(h) REDUCTION IN TAX BENEFITS.—

''(1) RECAPTURE OF CREDIT.—If within the first 3 years after the original purchase of a qualified residence, the residence is sold by the qualified buyer to a buyer who does not qualify as a qualified buyer, the qualified buyer—

''(A) shall deduct and withhold an amount equal to the recapture amount from the amount realized on such sale, and

''(B) shall transfer such amount to the homeownership credit agency which allocated the homeownership credit dollar amount to such residence.

''(2) RECAPTURE AMOUNT.—For purposes of paragraph (1), the recapture amount is an amount equal to 50 percent of the gain resulting from such resale, reduced by 1/36th for each month the resale occurs after the original purchase.

''(3) DENIAL OF DEDUCTIONS IF CONVERTED TO RENTAL HOUSING.—If a qualified residence is converted to rental housing within the first 3 years after the original purchase, no deduction under this chapter shall be permitted to offset rental income with respect to such residence during such period.

''(i) APPLICATION OF AT-RISK RULES.—For purposes of this section, rules of section 465 shall not apply in determining the eligible basis of any qualified residence.

''(j) REPORTS TO THE SECRETARY.—

''(1) FROM THE TAXPAYER.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

''(A) the eligible basis for the taxable year of each qualified residence with respect to which the taxpayer is claiming a credit under this section,

''(B) the amount of all homeownership credit allocations received by the taxpayer from any and all State homeownership credit agencies, and

''(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

''(2) FROM HOMEOWNERSHIP CREDIT AGENCIES.—Each agency which allocates any homeownership credit dollar amount to any residence for any calendar year shall submit to the Secretary (at such time and in such

form and manner as the Secretary shall prescribe) an annual report specifying—

''(A) the amount of the homeownership credit dollar amount allocated to each residence for such year,

''(B) sufficient information to identify each such residence and the taxpayer initially entitled to claim the credit under this section with respect thereto, and

''(C) such other information as the Secretary may require.

''(k) RESPONSIBILITIES OF HOMEOWNERSHIP CREDIT AGENCIES.—

''(1) PLANS FOR ALLOCATION OF CREDIT AMONG RESIDENCES.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, the homeownership credit dollar amount with respect to any qualified residence shall be zero unless such amount was allocated pursuant to a qualified allocation plan of the homeownership credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part.

''(B) QUALIFIED ALLOCATION PLAN.—For purposes of this paragraph, the term 'qualified allocation plan' means any plan which sets forth the homeownership development priorities of the homeownership credit agency.

''(C) CERTAIN HOMEOWNERSHIP DEVELOPMENT PRIORITIES MUST BE USED.—The development priorities set forth in a qualified allocation plan must include—

''(i) contribution of the development to community stability and revitalization,

''(ii) community and local government support for the development,

''(iii) need for homeownership development within the area,

''(iv) sponsor capability, and

''(v) long-term sustainability of the project as owner-occupied residences.

''(2) CREDIT ALLOCATED TO RESIDENCE NOT TO EXCEED AMOUNT NECESSARY TO ASSURE FEASIBILITY.—

''(A) IN GENERAL.—The homeownership credit dollar amount allocated to a residence shall not exceed the amount the homeownership credit agency determines is necessary for the feasibility of the residence.

''(B) AGENCY EVALUATION.—In making the determination under subparagraph (A), the homeownership credit agency shall consider—

''(i) the sources and uses of funds and the total financing planned for the residence,

''(ii) any proceeds or receipts expected to be generated by reason of tax benefits,

''(iii) the anticipated appraised value of the residence, and

''(iv) the reasonableness of the developmental costs of the residence.

''(C) DETERMINATION MADE WHEN CREDIT DOLLAR AMOUNT APPLIED FOR.—A determination under subparagraph (A) shall be made as of each of the following times:

''(i) The application for the homeownership credit dollar amount.

''(ii) The allocation of the homeownership credit dollar amount.

''(3) LIEN FOR RECAPTURE AMOUNT.—A homeownership credit dollar amount may be allocated by a homeownership credit agency to a residence only if such agency has a lien on such residence for the payment of any amount potentially required to be paid under subsection (h) to such agency.

''(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) dealing with—

''(A) projects which include more than 1 residence or only a portion of a residence, and

''(B) buildings which are completed in portions,

''(2) providing for the application of this section to short taxable years,

''(3) preventing the avoidance of the rules of this section, and

''(4) providing the opportunity for homeownership credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CURRENT YEAR BUSINESS CREDIT CALCULATION.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the homeownership credit determined under section 42A(a).''.

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) NO CARRYBACK OF HOMEOWNERSHIP CREDIT BEFORE EFFECTIVE DATE.—No amount of unused business credit available under section 42A may be carried back to a taxable year beginning on or before the date of the enactment of this paragraph.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 55(c)(1) is amended by inserting ''or subsection (h) or (i) of section 42A'' after ''section 42''.

(2) Subsections (i)(3)(D), (i)(6)(B)(i), and (k)(1) of section 469 are each amended by inserting ''or 42A'' after ''section 42''.

(3) Section 772(a) is amended by striking ''and'' at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

''(11) the homeownership credit determined under section 42A, and''.

(4) Section 774(b)(4) is amended by inserting '', 42A(h),'' after ''section 42(j)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 42 the following:

''Sec. 42A. Homeownership credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified residences sold after December 31, 2002.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. 199. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to carry out certain authorities relating to the importation of municipal solid waste under the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Canadian Waste bill be printed in the RECORD.

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

S. 199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANADIAN TRANSBOUNDARY MOVEMENT OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

''SEC. 4011. CANADIAN TRANSBOUNDARY MOVEMENT OF MUNICIPAL SOLID WASTE.

''(a) DEFINITIONS.—In this section:

''(1) AGREEMENT.—The term 'Agreement' means—

''(A) the Agreement Concerning the Transboundary Movement of Hazardous Waste between the United States and Canada, signed at Ottawa on October 28, 1986 (TIAS 11099); and

''(B) any regulations promulgated to implement and enforce that Agreement.

''(2) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term in the Agreement.

''(b) PROHIBITION.—It shall be unlawful for any person to import, transport, or export municipal solid waste, for final disposal or incineration, in violation of the Agreement.

''(c) AUTHORITY OF ADMINISTRATOR.—

''(1) IN GENERAL.—Beginning immediately after the date of enactment of this section, the Administrator shall—

''(A) perform the functions of the Designated Authority of the United States described in the Agreement with respect to the importation and exportation of municipal solid waste under the Agreement; and

''(B) implement and enforce the Agreement (including notice and consent provisions of the Agreement).

''(2) CONSENT TO IMPORTATION.—In considering whether to consent to the importation of municipal solid waste under article 3(c) of the Agreement, the Administrator shall—

''(A) give substantial weight to the views of each State into which the municipal solid waste is to be imported; and

''(B) consider the impact of the importation on—

''(i) continued public support for, and adherence to, State and local recycling programs;

''(ii) landfill capacity, as provided in comprehensive waste management plans;

''(iii) air emissions resulting from increased vehicular traffic;

''(iv) road deterioration resulting from increased vehicular traffic; and

''(v) public health and the environment.

''(d) COMPLIANCE ORDERS.—

''(1) IN GENERAL.—If, on the basis of any information, the Administrator determines that a person has violated or is in violation of this section, the Administrator may—

''(A) issue an order that—

''(i) assesses a civil penalty against the person for any past or current violation of the person; or

''(ii) requires compliance by the person with this section immediately or by a specified date; or

''(B) bring a civil action against the person for appropriate relief (including a temporary or permanent injunction) in the United States district court for the district in which the violation occurred.

''(2) SPECIFICITY.—

''(A) IN GENERAL.—Any order issued under paragraph (1) for a violation of this subsection shall state with reasonable specificity the nature of the violation.

''(B) PENALTIES.—

''(i) MAXIMUM PENALTY.—Any penalty assessed by an order issued under paragraph (1) shall not exceed $25,000 per day of noncompliance for each violation.

''(ii) CONSIDERATIONS.—In assessing a penalty under this section, the Administrator shall take into account—

''(I) the seriousness of the violation for which the penalty is assessed; and

''(II) any good faith efforts of the person against which the penalty is assessed to comply with applicable requirements.

''(e) PUBLIC HEARING.—

''(1) IN GENERAL.—Any order issued under this section shall become final unless, not later than 30 days after the date of issuance of the order, the person or persons against which the order is issued submit to the Administrator a request for a public hearing.

''(2) HEARING.—On receipt of a request under paragraph (1), the Administrator shall promptly conduct a public hearing.

''(3) SUBPOENAS.—In connection with any hearing under this subsection, the Administrator may—

''(A) issue subpoenas for—

''(i) the attendance and testimony of witnesses; and

''(ii) the production of relevant papers, books, and documents; and

''(B) promulgate regulations that provide for procedures for discovery.

''(f) VIOLATION OF COMPLIANCE ORDERS.—If a person against which an order is issued fails to take corrective action as specified in the order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.''.

(b) TABLE OF CONTENTS.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following:

''Sec. 4011. Canadian transboundary movement of municipal solid waste.''.

Ms. STABENOW. Mr. President, I am pleased to join with Senator LEVIN in reintroducing this bill to address the growing problem of Canadian waste shipments to Michigan.

In 2001, Michigan imported almost 3.6 million tons of municipal solid waste, more than double the amount that was imported in 1999. This gives Michigan the unwelcome distinction of being the third largest importer of waste in the United States.

My colleagues may be surprised to know that the biggest source of this waste was not another state, but our neighbor to the north, Canada. More than half the waste that was shipped to Michigan in 2001 was from Ontario, Canada, and these imports are growing rapidly. On January 1, 2003, as another Ontario landfill closed its doors, the city of Toronto switched from shipping two-thirds of its trash, to shipping all of its trash, 1.1 million tons, to Michigan landfills. Experts predict that soon there will be virtually no local disposal capacity in Ontario, which could mean even more waste being shipped across the border to Michigan.

Not only does this waste dramatically decrease Michigan's own landfill capacity, but it has a tremendous negative impact on Michigan's environment and the public health of its citizens. The Canadian waste also hampers the effectiveness of Michigan's State and local recycling efforts, since Ontario does not have a bottle law requiring recycling.

Currently, 110–130 truckloads of waste come into Michigan each day from Canada. These trucks cross the Ambassador Bridge and Blue Water Bridge and travel through the busiest parts of Metro Detroit, causing traffic delays, and filling our air with the stench of exhaust and garbage. These trucks also present a security risk at our Michigan-Canadian border, since by their nature trucks full of garbage are harder for Customs agents to inspect than traditional cargo.

Michigan already has protections contained in an international agreement between the United States and Canada, but they are being ignored. Under the Agreement Concerning the Transboundary Movement of Hazardous Waste, which was entered into in 1986, shipments of waste across the Canadian-U.S. border require government-to-government notification. The Environmental Protection Agency, EPA, as the designated authority for the United States would receive the notification and then would have 30 days to consent or object to the shipment. Not only have these notification provisions not been enforced, but the EPA has indicated that they would not object to the municipal waste shipments.

This legislation will give Michigan residents the protection they are entitled to under this bilateral treaty. The bill would give EPA the authority to implement and enforce this treaty, and would create civil penalties for those who ship waste in violation of the treaty. In addition, it would create criteria for the EPA's determination of whether or not to consent to a shipment, such as the State's views on the shipment, and the shipment's impact on landfill capacity, air emissions, public health and the environment. These waste shipments should no longer be accepted without an examination of how it will affect the health and welfare of Michigan families.

Again, I thank my colleague, Senator LEVIN, for introducing this bill and I look forward to working with him to move it through the Senate.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 24—DESIGNATING THE WEEK BEGINING MAY 4, 2003, AS ''NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK''

Mr. BYRD (for himself and Mr. SARBANES) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 24

Whereas the operation of correctional facilities represents a crucial component of the criminal justice system of the United States;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody, and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK.

That the Senate—

(1) designates the week beginning May 4, 2003, as ''National Correctional Officers and Employees Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 67. Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, Mr. REID, Mr. DASCHLE, and Mr. SCHUMER) proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes.

SA 68. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 69. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 70. Mr. FRIST submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 71. Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. EDWARDS, Mr. DAYTON, Mr. CORZINE, Mr. KERRY, Mr. REID, Mr. REED, Mrs. CLINTON, Mr. BINGAMAN, Mr. JOHNSON, and Mr. SCHUMER) proposed an amendment to the joint resolution H.J. Res. 2, supra.

SA 72. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 73. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 74. Mr. STEVENS (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 75. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 76. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 77. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 78. Mr. GREGG proposed an amendment to the joint resolution H.J. Res. 2, supra.

SA 79. Mr. DASCHLE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 80. Mr. DAYTON (for himself, Mr. JOHNSON, and Mr. COLEMAN) proposed an amendment to the joint resolution H.J. Res. 2, supra.

SA 81. Mr. DAYTON (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 82. Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, and Mr. REID) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 83. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 84. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 85. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 86. Mr. INHOFE proposed an amendment to amendment SA 67 proposed by Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, Mr. REID, Mr. DASCHLE, and Mr. SCHUMER) to the joint resolution H.J. Res. 2, supra.

SA 87. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 88. Mr. WARNER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 89. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. BINGAMAN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 90. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 91. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 92. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 93. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 94. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 95. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 96. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 97. Mr. NELSON, of Florida (for himself, Mr. DASCHLE, Mr. LEAHY, Mr. DURBIN, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra.

SA 98. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 99. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 100. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 101. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 102. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 103. Mr. LEAHY (for himself, Mr. HARKIN, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 104. Mr. LEAHY (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 105. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 107. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 108. Ms. CANTWELL (for herself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 109. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 110. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 111. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 112. Mr. BUNNING (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 113. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 114. Mr. JEFFORDS (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 115. Mr. JEFFORDS (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 116. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 117. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 118. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 119. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 120. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 121. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 122. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 123. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 124. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 125. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 126. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 127. Mr. DURBIN (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. KENNEDY, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Ms. MIKULSKI, Mr. LEAHY, Mr. KOHL, Mrs. CLINTON, Mr. BIDEN, Ms. LANDRIEU, Mr. CORZINE, Mr. EDWARDS, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 128. Mr. LEVIN (for himself, Mr. FITZGERALD, Mr. DEWINE, Mr. VOINOVICH, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 129. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 130. Mr. CONRAD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 131. Mr. HARKIN (for himself, Mr. DURBIN, Ms. LANDRIEU, and Mr. BREAUX) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 132. Mr. HARKIN (for himself, Mr. FEINGOLD, and Mr. DODD) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 133. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 134. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 135. Mr. TALENT (for himself and Mr. LUGAR) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 136. Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. KERRY, Mr. JEFFORDS, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 137. Mr. LIEBERMAN (for himself, Ms. LANDRIEU, Mr. HOLLINGS, and Mr. GRAHAM, of Florida) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 138. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 139. Mr. GRAHAM, of Florida (for himself, Mr. NELSON, of Florida, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 140. Mr. REID (for himself, Mr. WYDEN, Mr. ENSIGN, Mr. HARKIN, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the joint resolution H.J.

Res. 2, supra; which was ordered to lie on the table.

SA 141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 142. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 143. Mr. REID (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 144. Mr. SANTORUM submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 145. Ms. SNOWE submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 146. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 147. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 148. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 149. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 150. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 151. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 152. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 153. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 154. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 155. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 156. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 157. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 158. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 159. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 160. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 161. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 162. Mr. FITZGERALD (for himself, Mrs. CLINTON, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 163. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 164. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 165. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 166. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 167. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 168. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 169. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 170. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 171. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 172. Ms. LANDRIEU (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 173. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 174. Mr. AKAKA (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 175. Mr. SCHUMER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 176. Mr. SCHUMER (for himself, Mr. GRAHAM, of Florida, Mr. KENNEDY, Mr. REID, Mrs. CLINTON, Mr. JOHNSON, Mr. CONRAD, Mr. KERRY, Mr. DASCHLE, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 177. Mr. SCHUMER (for himself, Ms. MIKULSKI, Mr. SMITH, Mr. KENNEDY, Mr. SARBANES, Mrs. MURRAY, Mr. LAUTENBERG, Ms. CANTWELL, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 178. Mr. NELSON, of Florida (for himself, Mr. DASCHLE, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 179. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 180. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 181. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 182. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 183. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 184. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 185. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 186. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 187. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 188. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 189. Mr. INOUYE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 190. Mrs. BOXER (for herself and Mr. DORGAN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 191. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 192. Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 193. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 194. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 195. Mr. DAYTON submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 196. Mr. DAYTON submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 197. Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. BOXER, Mr. LIEBERMAN, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 198. Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. BOXER, Mr. LIEBERMAN, Mr. LEAHY , and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 199. Mr. DURBIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 200. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 201. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 202. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 203. Mr. ALLEN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 204. Mr. COCHRAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 205. Mr. McCONNELL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 206. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 207. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 208. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 209. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 210. Mr. NICKLES submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 211. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 212. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 213. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 214. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 215. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 216. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 217. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 218. Mr. HATCH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 219. Mr. HATCH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 220. Mrs. BOXER (for herself, Mr. ENSIGN, and Mr. SPECTER) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 221. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 222. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 223. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 224. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 225. Ms. LANDRIEU (for herself and Mr. BREAUX) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 226. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 227. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 228. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 229. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 230. Mr. McCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 231. Mr. GRAHAM, of Florida (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 232. Mr. GRAHAM, of Florida (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 233. Mr. CORZINE (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 234. Mr. CORZINE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 235. Mr. CORZINE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 236. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 237. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 238. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 239. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 240. Mr. SMITH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 241. Mr. CHAFEE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 242. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 243. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 244. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

SA 245. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 67. Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, Mr. REID, Mr. DASCHLE, and Mr. SCHUMER) proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. NEW SOURCE REVIEW FINAL RULE.

(a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to determine, not later than September 1, 2003, whether and to what extent the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002), would allow or could result in—

(1) any increase in air pollution (in the aggregate or at any specific site); or

(2) any adverse effect on human health.

(b) DELAYED EFFECTIVE DATE.—The final rule described in subsection (a) shall not take effect before September 15, 2003.

SA 68. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. MODIFICATION OF FUNDING REQUIREMENTS FOR CERTAIN PLANS.

(a) FUNDING RULES FOR CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the minimum funding rules under paragraph (2) shall apply for any plan year beginning after December 31, 2002, in the case of a defined benefit plan which—

(A) was established by an air carrier which was granted a conditional loan guarantee by the Air Transport Stabilization Board on July 10, 2002, and which filed for protection under chapter 11 of title 11, United States Code, on August 11, 2002, and

(B) is maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement.

(2) SPECIAL FUNDING RULE.—

(A) IN GENERAL.—In the case of a plan described in paragraph (1), the minimum funding requirements under this paragraph shall be the requirements set forth in Treasury Regulation section 1.412(c)(1)–3 (as in effect on the date of the enactment of this section).

(B) RULES OF SPECIAL APPLICATION.—In applying the requirements of Treasury Regulation section 1.412(c)(1)–3 for purposes of paragraph (1)—

(i) the plan shall be treated as having met the requirements of Treasury Regulation section 1.412(c)(1)–3(a)(2),

(ii) the payment schedules shall be determined—

(I) by using the maximum amortization period permitted under section 1.412(c)(1)–3, and

(II) on the basis of the actuarial valuation of the accrued liability and the current liability of the plan as of January 1, 2003, less the actuarial value of the plan assets on that date,

(iii) the payments under a restoration payment schedule shall be made in level amounts over the payment period, and

(iv) the actuarial value of assets shall be the fair market value of such assets as of January 1, 2003, with prospective investment returns in excess of or less than the assumed return phased in over 5 years.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2002.

SA 69. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, after line 13, insert the following new section:

''SEC. 423. From amounts previously appropriated under the heading ''Emergency Response Fund'' in Public Law 107–038, $90,000,000 shall be made ava lable, until expended, for the Federal Emergency Management Agency to administer baseline and follow-up screening and clinical examinations and long-term health monitoring and analysis for emergency services personnel and rescue and recovery personnel, of which not less that $25,000,000 shall be made available for such services for current and retired firefighters.''.

SA 70. Mr. FRIST submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place add the following:

United States Postal Service

The United States Postal Service (USPS) is required under Title 5, Chapter 83 United States Code, to fund civil service Retirement System benefits attributable to USPS employment since 1971;

The Office of Personnel Management has reviewed the USPS financing of the civil Service Retirement System and determined current law payments overfund USPS liability;

Therefore, It is the Sense of the Senate that the Congress should address the USPS funding of the Civil Service Retirement System pension benefits.

SA 71. Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. EDWARDS, Mr. DAYTON, Mr. CORZINE, Mr. KERRY, Mr. REID, Mr. REED, Mrs. CLINTON, Mr. BINGAMAN, Mr. JOHNSON, and Mr. SCHUMER) proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

On page 1052, line 25, strike ''budget).'' and insert the following: ''budget).

TITLE ____—FUNDING EDUCATION FOR CHILDREN WITH DISABILITIES

SEC. ____. HELPING CHILDREN SUCCEED BY FUNDING THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA).

Congress makes the following findings:

(1) All children deserve a quality education.

(2) In Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania (334 F. Supp. 1247)(E. Dist. Pa. 1971), and Mills vs. Board of Education of the District of Columbia (348 F. Supp. 866)(Dist. D.C. 1972), the courts found that children with disabilities are entitled to an equal opportunity to an education under the 14th amendment of the Constitution.

(3) In 1975, Congress passed what is now known as the Individuals with Disabilities Education Act (referred to in this section as ''IDEA'') (20 U.S.C. 1400 et seq.) to help States provide all children with disabilities a free, appropriate public education in the least restrictive environment. At full funding, Congress contributes 40 percent of the average per pupil expenditure for each child with a disability served.

(4) Before 1975, only ⅕ of the children with disabilities received a formal education. At that time, many States had laws that specifically excluded many children with disabilities, including children who were blind, deaf, or emotionally disturbed, from receiving such an education.

(5) IDEA currently serves an estimated 200,000 infants and toddlers, 600,000 preschoolers, and 5,400,000 children 6 to 21 years of age.

(6) IDEA enables children with disabilities to be educated in their communities, and thus, has assisted in dramatically reducing the number of children with disabilities who must live in State institutions away from their families.

(7) The number of children with disabilities who complete high school has grown significantly since the enactment of IDEA.

(8) The number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA.

(9) The overall effectiveness of IDEA depends upon well trained special education and general education teachers, related services personnel, and other school personnel. Congress recognizes concerns about the nationwide shortage of personnel serving students with disabilities and the need for improvement in the qualifications of such personnel.

(10) IDEA has raised the Nation's awareness about the abilities and capabilities of children with disabilities.

(11) Improvements to IDEA in the 1997 amendments increased the academic achievement of children with disabilities and helped them to lead productive, independent lives.

(12) Changes made in 1997 also addressed the needs of those children whose behavior impedes learning by implementing behavioral assessments and intervention strategies to ensure that they receive appropriate supports in order to receive a quality education.

(13) IDEA requires a full partnership between parents of children with disabilities and education professionals in the design and implementation of the educational services provided to children with disabilities.

(14) While the Federal Government has more than doubled funding for part B of IDEA since 1995, the Federal Government has never provided more than 17 percent of the maximum State grant allocation for educating children with disabilities.

(15) By fully funding IDEA, Congress will strengthen the ability of States and localities to implement the requirements of IDEA.

SEC. ____. FUNDING FOR PART B OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, in addition to any amounts otherwise appropriated under this Act for part B of the Individuals with Disabilities Education Act, other than section 619 of such part, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, $1,500,000,000 for carrying out such part, other than section 619 of such part, to remain available through September 30, 2004.

(b) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsection (a) shall not result in a further across-the-board rescission under section 601 of Division N.''.

SA 72. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. ____. In addition to the funds provided elsewhere in this joint resolution, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2003: $10,000,000 to provide for grants as authorized by section 11027 of Public Law 107–273, to implement the Crime-free Rural States Program.

(b) The amount made available under the account for buildings and facilities of the Federal Prison System in this joint resolution is reduced by $10,000,000.

SA 73. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. ____. In addition to the funds provided elsewhere in this joint resolution, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for fiscal year 2003: $10,000,000 to provide for grants as authorized by section 11027 of Public Law 107–273, to implement the Crime-free Rural States Program.

SA 74. Mr. STEVENS (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table, as follows:

In Division L, Homeland Security Act of 2002 Amendments, in Section 101(1)(b)(2)(c), strike the first sentence and insert in lieu thereof:

''To the extent that exercising such discretion is in the interest of Homeland Security, and with respect to the designation of any

given university-based center for homeland security, the Security may except certain criteria as specified in 308(b)(2)(B) and consider additional criteria beyond those specified in 308(b)(2)(B).''

SA 75. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1037, strike lines 7 through 12 and insert the following:

SEC. 206. SPECIALTY CROPS.

(a) DEFINITION OF SPECIALTY CROP.—In this section, the term ''specialty crop'' means any agricultural commodity, other than wheat, feed grains, oilseeds, cotton, rice, peanuts, or tobacco.

(b) ASSISTANCE.—The Secretary shall use $500,000,000 of funds of the Commodity Credit Corporation to provide emergency financial assistance for each of crop years 2001 and 2002 to producers of specialty crops for losses incurred as a result of damaging weather or related condition.

SA 76. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes, which was ordered to lie on the table; as follows:

In Division A, at the appropriate place, insert the following new section:

''SEC. . There is hereby appropriated $6,000,000 for grants made available in accordance with section 7412 of Public Law 107–171.''

SA 77. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table, as follows:

In Division A, at the appropriate place, insert the following new section:

''SEC. . SUMMER FOOD PILOT PROJECTS.

(a) IN GENERAL.—Section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) is amended—

(1) in paragraph (1), by striking ''means a State'' and all that follows and inserting ''means each State.'';

(2) in paragraph (5)(A), by striking ''pilot project'' and inserting ''pilot projects carried out in eligible States that participated in the pilot project during fiscal year 2001''; and

(3) in paragraph (6)(A), by inserting ''in eligible States that participated in the pilot project during fiscal year 2001'' after ''carried out''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect immediately upon enactment of this Act.''

SA 78. Mr. GREGG proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003; and for other purposes; as follows:

At the appropriate place, add the following:

''SEC. . FUNDING FOR INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

In addition to any amounts otherwise appropriated under this Act for support of the Individuals with Disabilities Education Act the following sum is appropriated out of any money in the Treasury not otherwise appropriated for this fiscal year ending September 30, 2003, $1,500,000,000, which is to remain available through September 30, 2004, provided that, unless there is a separate and specific offset for any amounts that are appropriated under Title III of Division G for support of special education in excess of $9,691,424,000 for the individuals with Disabilities Education Act, the percentage amount of any across-the-board rescission provided under section 601 of Division of N of this Act shall be increased by the percentage amount necessary to rescind an amount of funds equal to the total amounts appropriated in excess of $9,691,424,000 for special education in Title III of Division G.''

SA 79. Mr. DASCHLE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1032, strike line 21 and all that follows through page 1040, line 25, and insert the following:

TITLE II—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Emergency Agricultural Disaster Assistance Act of 2003''.

SEC. 202. CROP DISASTER ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop losses for the 2001 or 2002 crop, or both, due to damaging weather or related condition, as determined by the Secretary.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(c) CROP INSURANCE.—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 203. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation as are necessary to make and administer payments for livestock losses to producers for 2001 or 2002 losses, or both, in a county that has received a corresponding emergency designation by the President or the Secretary, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

SEC. 204. FUNDING.

Of the funds of the Commodity Credit Corporation, the Secretary shall—

(1) use such sums as are necessary to carry out this title, to remain available until expended; and

(2) transfer to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to remain available until expended, an amount equal to the amount of funds under section 32 of that Act that—

(A) were made available before the date of enactment of this Act to provide assistance to livestock producers under the 2002 Livestock Compensation Program announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070); and

(B) were not otherwise reimbursed from another account used by the Secretary or the Commodity Credit Corporation.

SEC. 205. EMERGENCY DESIGNATION.

(a) IN GENERAL.—The entire amount made available under this title shall be available only to the extent that the President submits to Congress an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.).

(b) DESIGNATION.—The entire amount made available under this section is designated by Congress as an emergency requirement under sections 251(b)(2)(A) and 252(e) of that Act (2 U.S.C. 901(b)(2)(A), 902(e)).

SEC. 206. BUDGETARY TREATMENT.

Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105–217, the provisions of this title that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) were it included in an Act other than an appropriation Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

SA 80. Mr. DAYTON (for himself, Mr. JOHNSON, and Mr. COLEMAN) proposed an amendment to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. CONTRACTS WITH CORPORATE EXPATRIATES.

(a) SHORT TITLE.—This section may be cited as the ''Senator Paul Wellstone Corporate Patriotism Act of 2003''.

(b) LIMITATION ON WAIVERS.—Section 835 of the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking subsection (d) and inserting the following:

''(d) WAIVERS.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is essential to the national security.''.

(c) EXPANDED COVERAGE OF ENTITIES.—Section 835(a) of such Act is amended by inserting ''nor any directly or indirectly held subsidiary of such entity'' after ''subsection (b)''.

(d)Section 835(b)(1) of such act is amended by inserting ''before, on, or'' after ''completes''.

SA 81. Mr. DAYTON (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him

to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CONTRACTS WITH CORPORATE EXPATRIATES.

(a) SHORT TITLE.—This section may be cited as the ''Senator Paul Wellstone Corporate Patriotism Act of 2003''.

(b) LIMITATION ON WAIVERS.—Section 835 of the Homeland Security Act of 2002 (Public Law 107–296) is amended by striking subsection (d) and inserting the following:

''(d) WAIVERS.—The President may waive subsection (a) with respect to any specific contract if the President certifies to Congress that the waiver is essential to the national security.''.

(c) EXPANDED COVERAGE OF ENTITIES.—Section 835(a) of such Act is amended by inserting ''nor any directly or indirectly held subsidiary of such entity'' after ''subsection (b)''.

(d) Section 835(b)(1) of such act is amended by inserting ''before, on, or'' after ''completes''.

SEC. This provision shall take effect 1 day after enactment.

SA 82. Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, and Mr. REID) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NEW SOURCE REVIEW FINAL RULE.

(a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to determine, not later than September 1, 2003, whether and to what extent the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002), would allow or could result in—

(1) any increase in air pollution (in the aggregate or at any specific site); or

(2) any adverse effect on human health.

(b) DELAYED EFFECTIVE DATE.—The final rule described in subsection (a) shall not take effect before September 16, 2003.

SA 83. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . Notwithstanding any other provision of law, the National Nuclear Security Administration is prohibited from taking any actions adversely affecting employment at its Nevada Operations Office for a period of not less than 365 days. During this period, the National Nuclear Security Administration is directed to establish a Financial Services Center of Excellence to be maintained and operated in its offices in Las Vegas, Nevada.

SA 84. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

SEC. . NORTH LAS VEGAS WATER REUSE PROJECT.

(a) AUTHORIZATION.—The Secretary of the Interior, in cooperation with the appropriate local authorities, may participate in the design, planning, and construction of the North Las Vegas Water Reuse Project (hereinafter referred to as the 'Project') to reclaim and reuse water in the service area of the North Las Vegas Utility Division Service Area of the city North Las Vegas and country of Clark, Nevada.

(b) COST SHARE.—The Federal share of the cost of the Project shall not exceed 25 percent of the total cost.

(c) LIMITATION.—Funds provided by the Secretary shall not be used for the operation or maintenance of the Project.

(d) FUNDING.—Funds appropriated pursuant to section 1631 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–13) may be used for the Project.

SEC. . Reclamation Wastewater and Groundwater Study and Facilities Act.—Design, planning, and construction of the Project authorized by this Act shall be in accordance with, and subject to the limitations contained in, the Reclamation Wastewater and Groundwater Study and Facilities Act (106 Stat. 4663–4669, 43 U.S.C. 390th et seq.), as amended.

SA. 85. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . The Secretary of the Interior, and the heads of other participating Federal agencies, may participate in the CALFED Bay-Delta Authority established by the California Bay-Delta Act (2002 Cal. Stat. Chap. 812), to the extent not inconsistent with other law. The Secretary of the Interior, in carrying out CALFED activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Enlargement, In-Delta Storage, and Upper San Joaquin Storage Projects.

SA 86. Mr. INHOFE proposed an amendment to amendment SA 67 proposed by Mr. EDWARDS (for himself, Mr. LIEBERMAN, Mr. JEFFORDS, Mrs. CLINTON, Mr. REID, Mr. DASCHLE, and Mr. SCHUMER) to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

On page 1, strike all after ''Sec.'' and insert the following:

'' . (a) COOPERATIVE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall enter into a cooperative agreement with the National Academy of Sciences to evaluate the impact of the final rule relating to prevention of significant deterioration and nonattainment new source review, published at 67 Fed. Reg. 80186 (December 31, 2002). The study shall include—

(1) increases or decreases in emissions of pollutants regulated under the New Source Review program;

(2) impacts on human health;

(3) pollution control and prevention technologies installed after the effective date of the rule at facilities covered under the rulemaking;

(4) increases or decreases in efficiency of operations, including energy efficiency, at covered facilities; and

(5) other relevant data.

(b) DEADLINE.—The NAS shall submit an interim report to Congress no later than March 3, 2004, and shall submit a final report on implementation of the rules.

SA 87. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky,'' after ''Illinois,''.

(b) The amendment made by subsection (a) takes effect on January 1, 2003.

SA 88. Mr. WARNER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAP.

(a) IN GENERAL.—The map described in subsection (b) is replaced, in the maps depicting the Coastal Barrier Resources System that are referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), by the map entitled ''Plum Tree Island Unit VA–59P, Long Creek Unit VA–60/VA–60P'' and dated May 1, 2002.

(b) DESCRIPTION OF REPLACED MAP.—The map referred to in subsection (a) is the map that—

(1) relates to Plum Island Unit VA–59P and Long Creek Unit VA–60/VA–60P located in Poquoson and Hampton, Virginia; and

(2) is included in a set of maps entitled 'Coastal Barrier Resources System'', dated October 24, 1990, revised on October 23, 1992, and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)).

(c) AVAILABILITY.—The Secretary of the Interior shall keep the replacement map described in subsection (b) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

SA 89. Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. BINGAMAN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION O—MEDICARE AND MEDICAID PROVISIONS

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Health Care Improvement Act of 2003''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this division an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) BIPA.—In this division, the term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(d) TABLE OF CONTENTS.—The table of contents of this division is as follows:

DIVISION O—MEDICARE AND MEDICAID PROVISIONS

Sec. 1. Short title; amendments to Social Security Act; references to BIPA; table of contents.

TITLE I—MEDICARE PROVISIONS

Sec. 101. Revision of acute care hospital payment updates.
Sec. 102. Extension of level of adjustment for Indirect Costs of Medical Education (IME).
Sec. 103. Hospital outpatient department outlier payments.
Sec. 104. Hospital outpatient department transitional payments.
Sec. 105. Application of rules for determining provider-based status for certain entities.
Sec. 106. Extension of treatment of certain physician pathology services.
Sec. 107. Extension of the authorization for appropriations for Medicare Rural Grant Program.
Sec. 108. Extension of enhanced payments for psychiatric hospitals.
Sec. 109. Additional delay in application of 15 percent reduction on payment limits for home health services.
Sec. 110. Extension of temporary increase for home health services furnished in a rural area.
Sec. 111. Extension of temporary increase in adjusted Federal per diem rate under PPS for skilled nursing facilities.
Sec. 112. Extension of increase in nursing component of PPS Federal rate under PPS for skilled nursing facilities.
Sec. 113. Increase in renal dialysis composite rate for services furnished in 2003.
Sec. 114. Extension of the authorization for appropriations for vaccines outreach expansion.
Sec. 115. Extension of moratorium on therapy caps.
Sec. 116. Increase in the conversion factor for payments under the medicare physician fee schedule.
Sec. 117. Revision of Medicare+Choice minimum percentage increase.

TITLE II—MEDICAID PROVISIONS

Sec. 201. Extension of medicare cost-sharing for part B premium for certain additional low-income medicare beneficiaries.
Sec. 202. Medicaid DSH allotments.

TITLE III—APPLICATION AND BUDGET SCOREKEEPING

Sec. 301. Application of provisions of division.
Sec. 302. Budget Scorekeeping.

TITLE I—MEDICARE PROVISIONS

SEC. 101. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

Subclause (XVIII) of section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended by striking ''minus 0.55 percentage points''.

SEC. 102. EXTENSION OF LEVEL OF ADJUSTMENT FOR INDIRECT COSTS OF MEDICAL EDUCATION (IME).

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI) by inserting ''and fiscal year 2003'' after ''2002''; and

(2) in subclause (VII), by striking ''2002'' and inserting ''2003''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section 102 of the Health Care Improvement Act of 2003'' after ''2000''.

SEC. 103. HOSPITAL OUTPATIENT DEPARTMENT OUTLIER PAYMENTS.

(a) IN GENERAL.—Section 1833(t)(5) (42 U.S.C. 1395*l*(t)(5)) is amended—

(1) in subparagraph (C)—

(A) in clause (i), by striking ''exceed the applicable'' and inserting ''exceed a percentage specified by the Secretary that is not less than the applicable minimum percentage or greater than the applicable maximum''; and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) APPLICABLE PERCENTAGES.—For purposes of clause (i)—

''(I) the term 'applicable minimum percentage' for a year means zero percent for years before 2003 and 2.0 percent for years after 2002; and

''(II) the term 'applicable maximum percentage' for a year means 2.5 percent for years before 2003 and 3.0 percent for years after 2002.''; and

(2) in subparagraph (D)—

(A) in the heading, by striking ''TRANSITIONAL AUTHORITY'' and inserting ''FLEXIBILITY''; and

(B) in the matter preceding clause (i), by striking ''for covered OPD services furnished before January 1, 2002,''.

SEC. 104. HOSPITAL OUTPATIENT DEPARTMENT TRANSITIONAL PAYMENTS.

Section 1833(t)(7) (42 U.S.C. 1395*l*(t)(7)) is amended—

(1) in subparagraph (B)—

(A) in the heading, by inserting ''AND 2003'' after ''2002''; and

(B) by inserting ''and 2003'' after ''furnished during 2002'' in the matter preceding clause (i); and

(2) in subparagraph (C)—

(A) in the heading, by striking ''2003'' and inserting ''2004''; and

(B) by striking ''2003'' and inserting ''2004'' in the matter preceding clause (i); and

(3) in subparagraph (D)(i), by striking ''2004'' and inserting ''2005''.

SEC. 105. APPLICATION OF RULES FOR DETERMINING PROVIDER-BASED STATUS FOR CERTAIN ENTITIES.

Section 404 of BIPA (114 Stat. 2763A–506) is amended by striking ''2002'' and inserting ''2003'' each place it appears.

SEC. 106. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of BIPA (114 Stat. 2763A–550) is amended by striking ''2-year period'' and inserting ''3-year period''.

SEC. 107. EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR MEDICARE RURAL GRANT PROGRAM.

Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by striking ''2002'' and inserting ''2003''.

SEC. 108. EXTENSION OF ENHANCED PAYMENTS FOR PSYCHIATRIC HOSPITALS.

Section 1886(b)(2)(E)(i) (42 U.S.C. 1395ww(b)(2)(E)(i)) is amended—

(1) in subclause (I), by striking ''and'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(III) only in the case of a hospital or unit described in clause (ii)(I), for a cost reporting period beginning on or after October 1, 2002, and before September 30, 2003, 2 percent.''.

SEC. 109. ADDITIONAL DELAY IN APPLICATION OF 15 PERCENT REDUCTION ON PAYMENT LIMITS FOR HOME HEALTH SERVICES.

Section 1895(b)(3)(A)(i) (42 U.S.C. 1395fff(b)(3)(A)(i)) is amended—

(1) by redesignating subclause (III) as subclause (IV);

(2) in subclause (IV), as redesignated, by striking ''described in subclause (II)'' and inserting ''described in subclause (III)''; and

(3) by inserting after subclause (II) the following new subclause:

''(III) For the 12-month period beginning after the period described in subclause (II), such amount (or amounts) shall be equal to the amount (or amounts) determined under subclause (II), updated under subparagraph (B).''.

SEC. 110. EXTENSION OF TEMPORARY INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—Section 508(a) BIPA (114 Stat. 2763A–533) is amended—

(1) by striking ''24-MONTH INCREASE BEGINNING APRIL 1, 2001'' and inserting ''IN GENERAL''; and

(2) by striking ''April 1, 2003'' and inserting ''October 1, 2003''.

(b) CONFORMING AMENDMENT.—Section 547(c)(2) of BIPA (114 Stat. 2763A–553) is amended by striking ''the period beginning on April 1, 2001, and ending on September 30, 2002,'' and inserting ''a period under such section''.

SEC. 111. EXTENSION OF TEMPORARY INCREASE IN ADJUSTED FEDERAL PER DIEM RATE UNDER PPS FOR SKILLED NURSING FACILITIES.

Section 101(d)(1) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–325), as enacted into law by section 1000(a)(6) of Public Law 106–113, is amended—

(1) in the heading, by striking ''AND 2002'' and inserting '', 2002, AND 2003''; and

(2) by striking ''and 2002'' and inserting '', 2002, and 2003''.

SEC. 112. EXTENSION OF INCREASE IN NURSING COMPONENT OF PPS FEDERAL RATE UNDER PPS FOR SKILLED NURSING FACILITIES.

Section 312(a) of BIPA (114 Stat. 2763A–498) is amended by striking ''October 1, 2002'' and inserting ''October 1, 2003''.

SEC. 113. INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED IN 2003.

Notwithstanding any other provision of law, with respect to payment under part B of title XVIII of the Social Security Act for renal dialysis services furnished in 2003, the composite payment rate otherwise established under section 1881(b)(7) of such Act (42 U.S.C. 1395rr(b)(7)) shall be increased by 1.2 percent.

SEC. 114. EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS FOR VACCINES OUTREACH EXPANSION.

Section 4107(b) of the Balanced Budget Act of 1997 (42 U.S.C. 1395x note) is amended by striking ''2002'' and inserting ''2003''.

SEC. 115. EXTENSION OF MORATORIUM ON THERAPY CAPS.

Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, and 2003''.

SEC. 116. INCREASE IN THE CONVERSION FACTOR FOR PAYMENTS UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

(a) IN GENERAL.—Section 1848(d)(5)(A) of the Social Security Act (42 U.S.C. 1395w–4(d)(5)(A)), as added by section 402 of title IV of division N of this Act, is amended by inserting ''increased by 2 percent'' after ''2002''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 402.

SEC. 117. REVISION OF MEDICARE+CHOICE MINIMUM PERCENTAGE INCREASE.

Section 1853(c)(1)(C) (42 U.S.C. 1395w–23(c)(1)(C)) is amended by striking clause (iv) and inserting the following:

''(iv) For 2002, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2001.

''(v) For 2003, 104 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for 2002.

''(vi) For 2004 and each succeeding year, 102 percent of the annual Medicare+Choice capitation rate under this paragraph for the area for the previous year.''.

TITLE II—MEDICAID PROVISIONS

SEC. 201. EXTENSION OF MEDICARE COST-SHARING FOR PART B PREMIUM FOR CERTAIN ADDITIONAL LOW-INCOME MEDICARE BENEFICIARIES.

Section 136 of Public Law 107–229, as added by section 5 of Public Law 107–240, is amended by striking ''60 days after the date specified in section 107(c) of Public Law 107–229, as amended'' and inserting ''September 30, 2003''.

SEC. 202. MEDICAID DSH ALLOTMENTS.

(a) CONTINUATION OF BIPA RULE FOR DETERMINATION OF ALLOTMENTS FOR FISCAL YEAR 2003.—

(1) IN GENERAL.—Section 1923(f)(4) (42 U.S.C. 1396r–4(f)(4)) is amended—

(A) in the paragraph heading, by striking ''AND 2002'' and inserting ''THROUGH 2003'';

(B) in subparagraph (A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) fiscal year 2003, shall be the DSH allotment determined under clause (ii) increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average) for fiscal year 2002.''; and

(C) in subparagraph (C)—

(i) in the subparagraph heading, by striking ''2002'' and inserting ''2003''; and

(ii) by striking ''2003'' and inserting ''2004''.

(2) CONFORMING AMENDMENTS.—Section 1923(f)(3) (42 U.S.C. 1396r–4(f)(3)) is amended—

(A) in the paragraph heading, by striking ''2003'' and inserting ''2004''; and

(B) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The DSH allotment for any State—

''(i) for fiscal year 2004, is equal to the DSH allotment determined for the State for fiscal year 2002 under the table set forth in paragraph (2), increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for fiscal year 2004; and

''(ii) for fiscal year 2005 and each succeeding fiscal year, is equal to the DSH allotment determined for the State for the preceding fiscal year under this paragraph, increased, subject to subparagraph (B) and paragraph (5), by the percentage change in the Consumer Price Index for all urban consumers (all items; U.S. city average), for the previous fiscal year.''.

(b) INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2003.—Section 1923(f)(5) (42 U.S.C. 1396r–4(f)(5)) is amended—

(1) by striking ''fiscal year 1999'' and inserting ''fiscal year 2001'';

(2) by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(3) by striking ''August 31, 2000'' and inserting ''August 31, 2002'';

(4) by striking ''1 percent'' each place it appears and inserting ''3 percent''; and

(5) by striking ''fiscal year 2001'' and inserting ''fiscal year 2003 (as determined under paragraph (4)(A)(iii))''.

TITLE III—APPLICATION AND BUDGET SCOREKEEPING

SEC. 301. APPLICATION OF PROVISIONS OF DIVISION.

(a) APPLICATION ONLY TO LAST 6 MONTHS OF FISCAL YEAR 2003.—Except for the amendments made by sections 116 and 201, the provisions of, and amendments made by, this division shall only apply to the Social Security Act, the Balanced Budget Act of 1997, the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113, and BIPA during the period that begins on April 1, 2003, and ends on September 30, 2003.

(b) NO EFFECT ON PERIODS BEYOND SEPTEMBER 30, 2003.—All provisions of, and amendments made by, this division shall not apply after September 30, 2003, and, after such date, the Social Security Act, the Balanced Budget Act of 1997, the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–321), as enacted into law by section 1000(a)(6) of Public Law 106–113, and BIPA shall be applied and administered as if the provisions of, and amendments made by, this division had not been enacted.

SEC. 302. BUDGET SCOREKEEPING.

Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of this division that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of the House and Senate Budget Committees, as appropriate, under the Congressional Budget Act of 1974.

SA 90. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 506, strike lines 3 through 9 and insert the following:

''servation activities, $936,593,000, to remain available until expended: *Provided,* That $322,300,000 shall be for use in energy conservation grant programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507(3)): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 (15 U.S.C. 4502(d)(2)), such sums shall be allocated to the eligible programs as follows: $277,300,000 for weath-''.

SA 91. Mrs. CLINTON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Homeland Security Block Grant Act of 2003''.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Grants to States, units of general local government and Indian tribes; authorizations.
Sec. 5. Statement of activities and review.
Sec. 6. Activities eligible for assistance.
Sec. 7. Allocation and distribution of funds.
Sec. 8. State and regional planning communication systems.
Sec. 9. Nondiscrimination in programs and activities.
Sec. 10. Remedies for noncompliance with requirements.
Sec. 11. Reporting requirements.
Sec. 12. Consultation by Secretary.
Sec. 13. Interstate agreements or compacts; purposes.
Sec. 14. Matching requirements; suspension of requirements for economically distressed areas.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) In the wake of the September 11, 2001, terrorist attacks on our country, communities all across American now find themselves on the front lines in the war against terrorism on United States soil.

(2) We recognize that these communities will be forced to shoulder a significant portion of the burden that goes along with that responsibility. We believe that local governments should not have to bear that responsibility alone.

(3) Our homeland defense will only be as strong as the weakest link at the State and local level. By providing our communities with the resources and tools they need to bolster emergency response efforts and provide for other emergency response initiatives, we will have a better-prepared home front and a stronger America.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Homeland Security.

(2) CITY.—The term ''city'' means—

(A) any unit of general local government that is classified as a municipality by the United States Bureau of the Census; or

(B) any other unit of general local government that is a town or township and which, in the determination of the Secretary—

(i) possesses powers and performs functions comparable to those associated with municipalities;

(ii) is closely settled; and

(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census that have not entered into cooperation agreements with such town or township to undertake or to assist in the performance of homeland security objectives.

(3) FEDERAL GRANT-IN-AID PROGRAM.—The term ''Federal grant-in-aid program'' means a program of Federal financial assistance other than loans and other than the assistance provided by this Act.

(4) INDIAN TRIBE.—The term ''Indian tribe'' 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.

(5) METROPOLITAN AREA.—The term ''metropolitan area'' means a standard metropolitan statistical area as established by the Office of Management and Budget.

(6) METROPOLITAN CITY.—

(A) IN GENERAL.—The term ''metropolitan city'' means—

(i) a city within a metropolitan area that is the central city of such area, as defined and used by the Office of Management and Budget; or

(ii) any other city, within a metropolitan area, which has a population of not less than 50,000.

(B) PERIOD OF CLASSIFICATION.—Any city that was classified as a metropolitan city for at least 2 years pursuant to subparagraph (A) shall remain classified as a metropolitan city. Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this Act, if it elects to have its population included in an urban county under subsection (d).

(C) ELECTION BY A CITY.—Notwithstanding subparagraph (B), a city may elect not to retain its classification as a metropolitan city. Any unit of general local government that was classified as a metropolitan city in any year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this Act if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 5(e) as an urban county.

(7) NONQUALIFYING COMMUNITY.—The term ''nonqualifying community'' means an area that is not a metropolitan city or part of an urban county and does not include Indian tribes.

(8) POPULATION.—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 of time.

(9) STATE.—The term ''State'' means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(10) UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''unit of general local government'' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; a combination of such political subdivisions is recognized by the Secretary; and the District of Columbia.

(11) URBAN COUNTY.—The term ''urban county'' means any county within a metropolitan area.

(b) BASIS AND MODIFICATION OF DEFINITIONS.—Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Secretary may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

(c) DESIGNATION OF PUBLIC AGENCIES.—One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of general local government to undertake activities assisted under this Act.

(d) LOCAL GOVERNMENTS, INCLUSION IN URBAN COUNTY POPULATION.—With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 2002 under section 4, the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(11) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant as a separate entity, unless the urban county does not receive a grant for any year during such three-year period.

(e) URBAN COUNTY.—Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government, which is included therein and is eligible to elect to have its population excluded from that of an urban county, of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).

SEC. 4. GRANTS TO STATES, UNITS OF GENERAL LOCAL GOVERNMENT AND INDIAN TRIBES; AUTHORIZATIONS.

(a) AUTHORIZATION.—The Secretary is authorized to make grants to States, units of general local government, and Indian tribes to carry out activities in accordance with the provisions of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $3,000,000,000 for each of fiscal years 2003 through 2006, and such sums as may be necessary thereafter, for the purpose of carrying out the provisions under section 7.

(2) STATE, REGIONAL, AND LOCAL PLANNING, TRAINING, AND COMMUNICATION SYSTEMS.—There are authorized to be appropriated $500,000,000 for each of fiscal years 2003 through 2006, and such sums as may be necessary thereafter, for the purpose of carrying out the provisions under section 8.

SEC. 5. STATEMENT OF ACTIVITIES AND REVIEW.

(a) APPLICATION.—

(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant under section 7(b) by any metropolitan city or urban county, section 7(i) by any State, or section 7(i)(3) by any unit of general local government, the grantee shall—

(i) indicate its interest in receiving funds by preparing a statement of homeland security objectives and projected use of funds; and

(ii) provide the Secretary with the certifications required under paragraph (2) and, where appropriate, subsection (b).

(2) GRANTEE STATEMENT.—

(A) CONTENTS.—

(i) LOCAL GOVERNMENT.—In the case of metropolitan cities or urban counties receiving grants under section 7(b) and units of general local government receiving grants under section 7(i)(3), the statement of projected use of funds shall consist of proposed homeland security activities.

(ii) STATES.—In the case of States receiving grants under section 7(d), the statement of projected use of funds shall consist of the method by which the States will distribute funds to units of general local government.

(B) CONSULTATION.—In preparing the statement, the grantee shall consult with appropriate law enforcement agencies and emergency response authorities.

(C) FINAL STATEMENT.—A copy of the final statement and the certifications required under paragraph (3) and, where appropriate, subsection (b) shall be furnished to the Secretary and the Attorney General.

(D) MODIFICATIONS.—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 for the preparation and submission of such statement.

(3) CERTIFICATION OF ENUMERATED CRITERIA BY GRANTEE TO SECRETARY.—Any grant under section 7 shall be made only if the grantee certifies to the satisfaction of the Secretary that—

(A) it has developed a homeland security plan pursuant to section 6(a)(8) that identifies both short- and long-term homeland security needs that have been developed in accordance with the primary objective and requirements of this Act; and

(B) the grantee will comply with the other provisions of this Act and with other applicable laws.

(b) SUBMISSION OF ANNUAL PERFORMANCE REPORTS, AUDITS AND ADJUSTMENTS.—

(1) IN GENERAL.—Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report concerning the use of funds made available under section 7, 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)(2).

(2) UNIFORM REPORTING REQUIREMENTS.—

(A) RECOMMENDATIONS BY NATIONAL ASSOCIATIONS.—The Secretary shall encourage and assist national associations of grantees eligible under section 7, national associations of States, and national associations of units of general local government in nonqualifying areas to develop and recommend to the Secretary, within 1 year after the effective date of this Act, uniform recordkeeping, performance reporting, evaluation reporting, and auditing requirements for such grantees, States, and units of general local government, respectively.

(B) ESTABLISHMENT OF UNIFORM REPORTING REQUIREMENTS.—Based on the Secretary's approval of the recommendations submitted pursuant to subparagraph (A), the Secretary shall establish uniform reporting requirements for grantees, States, and units of general local government.

(3) REVIEWS AND AUDITS.—The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(A) in the case of grants made under section 7(b), whether the grantee has carried out its activities and, where applicable, whether the grantee has carried out those activities and its certifications in accordance with the requirements and the primary

objectives of this Act and with other applicable laws, and whether the grantee has a continuing capacity to carry out those activities in a timely manner; and

(B) in the case of grants to States made under section 7(i), whether the State has distributed funds to units of general local government in a timely manner and in conformance to the method of distribution described in its statement, whether the State has carried out its certifications in compliance with the requirements of this Act and other applicable laws, and whether the State has made such reviews and audits of the units of general local government as may be necessary or appropriate to determine whether they have satisfied the applicable performance criteria described in subparagraph (A).

(4) ADJUSTMENTS.—The Secretary may make appropriate adjustments in the amount of the annual grants in accordance with the Secretary's findings under this subsection. With respect to assistance made available to units of general local government under section 7(i)(3), the Secretary may adjust, reduce, or withdraw such assistance, or take other action as appropriate in accordance with the Secretary's reviews and audits under this subsection, except that funds already expended on eligible activities under this Act shall not be recaptured or deducted from future assistance to such units of general local government.

(c) AUDITS.—Insofar as they relate to funds provided under this Act, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

(d) METROPOLITAN CITY AS PART OF URBAN COUNTY.—In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of submitting a statement under section 5 and carrying out activities under this Act.

SEC. 6. ACTIVITIES ELIGIBLE FOR ASSISTANCE.

(a) IN GENERAL.—Activities assisted under this Act may include—

(1) funding additional law enforcement, fire, and emergency resources, including covering overtime expenses;

(2) purchasing and refurbishing personal protective equipment for fire, police, and emergency personnel and acquire state-of-the-art technology to improve communication and streamline efforts;

(3) improving cyber and infrastructure security by improving—

(A) security for water treatment plants, distribution systems, other water infrastructure, nuclear power plants, and other power infrastructure;

(B) security for tunnels and bridges;

(C) security for oil and gas pipelines and storage facilities; and

(D) security for chemical plants and transportation of hazardous substances;

(4) assisting Local Emergency Planning Committees so that local public agencies can design, review, and improve disaster response systems;

(5) assisting communities in coordinating their efforts and sharing information with all relevant agencies involved in responding to terrorist attacks;

(6) establishing timely notification systems that enable communities to communicate with each other when a threat emerges;

(7) improving communication systems to provide information to the public in a timely manner about the facts of any threat and the precautions the public should take; and

(8) devising a homeland security plan, including determining long-term goals and short-term objectives, evaluating the progress of the plan, and carrying out the management, coordination, and monitoring of activities necessary for effective planning implementation.

(b) COSTS COVERED.—Grants received under section 7 may be used to cover any costs related to the eligible activities listed in this section that were incurred on or after September 11, 2001.

SEC. 7. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) SET-ASIDE FOR INDIAN TRIBES.—

(1) IN GENERAL.—For each fiscal year, of the amount appropriated for grants pursuant to section 4(b)(1) (excluding the amounts provided for use in accordance with section 6), the Secretary shall reserve 1 percent of the amount so appropriated for grants to Indian tribes.

(2) SELECTION OF INDIAN TRIBES.—

(A) IN GENERAL.—The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts.

(B) RULEMAKING.—The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—

(1) ALLOCATION PERCENTAGE.—Of the amount remaining after allocations have been made to Indian tribes pursuant to subsection (a), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties.

(2) ENTITLEMENT.—Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant, to the extent authorized beyond fiscal year 2006, from such allocation in an amount not exceeding its basic amount computed pursuant to this subsections (c) and (d).

(c) COMPUTATION OF AMOUNT ALLOCATED TO METROPOLITAN CITIES.—

(1) COMPUTATION RATIOS.—The Secretary shall determine the amount to be allocated to each metropolitan city, which shall bear the same ratio to the allocation for all metropolitan cities as the weighted average of—

(A) the population of the metropolitan city divided by the population of all metropolitan cities;

(B) the potential risk, as it pertains to chemical security, of the metropolitan city divided by the potential risk, as it pertains to chemical security, of all metropolitan cities;

(C) the proximity of the metropolitan city to the nearest operating nuclear power plant and the proximity of all metropolitan cities to the nearest operating nuclear power plant to each such city;

(D) the proximity of the metropolitan city to the nearest United States land or water port and the proximity of all metropolitan cities to the nearest United States land or water port to each such city;

(E) the proximity of the metropolitan city to the nearest international border and the proximity of all metropolitan cities to the nearest international border to each such city; and

(F) the proximity of the metropolitan city to the nearest Disaster Medical Assistance Team (referred to in this subsection as ''DMAT'') and the proximity of all metropolitan cities to the nearest DMAT to each such city.

(2) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the average of the ratios under paragraph (1), the ratio involving population shall constitute 50 percent of the formula in calculating the allocation and the remaining factors shall be equally weighted.

(B) POTENTIAL RISK AS IT PERTAINS TO CHEMICAL SECURITY.—If a metropolitan city is within the vulnerable zone of a worst-case chemical release, as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument developed by the Environmental Protection Agency or the Homeland Security Department that captures the same information for the same facilities, the ratio under paragraph (1)(B) shall be 1 divided by the total number of metropolitan cities that are within such a zone.

(C) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a metropolitan city is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(C) shall be 1 divided by the total number of metropolitan cities, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(D) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a metropolitan city is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraph (1)(D) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of a United States land or water port.

(E) PROXIMITY TO INTERNATIONAL BORDERS.—If a metropolitan city is located within 50 miles of an international border, the ratio under paragraph (1)(E) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of an international border.

(F) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAMS.—If a metropolitan city is located within 50 miles of a DMAT, as organized by the National Disaster Medical System through the Department of Public Health, the ratio under paragraph (1)(F) shall be 1 divided by the total number of metropolitan cities that are located within 50 miles of a DMAT.

(d) COMPUTATION OF AMOUNT ALLOCATED TO URBAN COUNTIES.—

(1) COMPUTATION RATIOS.—The Secretary shall determine the amount to be allocated to each urban county, which shall bear the same ratio to the allocation for all urban counties as the weighted average of—

(A) the population of the urban county divided by the population of all urban counties;

(B) the potential risk, as it pertains to chemical security, of the urban county divided by the potential risk, as it pertains to chemical security, of all urban counties;

(C) the proximity of the urban county to the nearest operating nuclear power plant and the proximity of all urban counties to the nearest operating nuclear power plant to each such city;

(D) the proximity of the urban county to the nearest United States land or water port and the proximity of all urban counties to

the nearest United States land or water port to each such city;

(E) the proximity of the urban county to the nearest international border and the proximity of all urban counties to the nearest international border to each such city; and

(F) the proximity of the urban county to the nearest Disaster Medical Assistance Team (referred to in this subsection as ''DMAT'') and the proximity of all urban counties to the nearest DMAT to each such city.

(3) CLARIFICATION OF COMPUTATION RATIOS.—

(A) RELATIVE WEIGHT OF FACTORS.—In determining the average of the ratios under paragraph (1), the ratio involving population shall constitute 50 percent of the formula in calculating the allocation and the remaining factors shall be equally weighted.

(B) POTENTIAL RISK AS IT PERTAINS TO CHEMICAL SECURITY.—If a urban county is within the vulnerable zone of a worst-case chemical release, as specified in the most recent risk management plans filed with the Environmental Protection Agency or another instrument developed by the Environmental Protection Agency or the Homeland Security Department that captures the same information for the same facilities, the ratio under paragraph (1)(B) shall be 1 divided by the total number of urban counties that are within such a zone.

(C) PROXIMITY AS IT PERTAINS TO NUCLEAR SECURITY.—If a urban county is located within 50 miles of an operating nuclear power plant, as identified by the Nuclear Regulatory Commission, the ratio under paragraph (1)(C) shall be 1 divided by the total number of urban counties, not to exceed 100, which are located within 50 miles of an operating nuclear power plant.

(D) PROXIMITY AS IT PERTAINS TO PORT SECURITY.—If a urban county is located within 50 miles of 1 of the 100 largest United States ports, as stated by the Department of Transportation, Bureau of Transportation Statistics, United States Port Report by All Land Modes, or within 50 miles of one of the 30 largest United States water ports by metric tons and value, as stated by the Department of Transportation, Maritime Administration, United States Foreign Waterborne Transportation Statistics, the ratio under paragraph (1)(D) shall be 1 divided by the total number of urban counties that are located within 50 miles of a United States land or water port.

(E) PROXIMITY TO INTERNATIONAL BORDERS.—If a urban county is located within 50 miles of an international border, the ratio under paragraph (1)(E) shall be 1 divided by the total number of urban counties that are located within 50 miles of an international border.

(F) PROXIMITY TO DISASTER MEDICAL ASSISTANCE TEAMS.—If a urban county is located within 50 miles of a DMAT, as organized by the National Disaster Medical System through the Department of Public Health, the ratio under paragraph (1)(F) shall be 1 divided by the total number of urban counties that are located within 50 miles of a DMAT.

(e) EXCLUSIONS.—

(1) IN GENERAL.—In computing amounts or exclusions under subsection (d) with respect to any urban county, there shall be excluded units of general local government located in the county the populations that are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

(A) is not part of any county;

(B) is not eligible for a grant;

(C) is contiguous to the urban county;

(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

(E) is not included as a part of any other unit of general local government for purposes of this section.

(2) INDEPENDENT CITIES.—Any independent city that is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence shall not be eligible to receive assistance under subsection (i) with respect to such fiscal year.

(f) INCLUSIONS.—

(1) LOCAL GOVERNMENT STRADDLING COUNTY LINE.—In computing amounts under subsection (d) with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if—

(A) the part of such unit of local government that is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section; and

(B) the part of such unit of local government that is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section.

(2) USE OF GRANT FUNDS OUTSIDE URBAN COUNTY.—Any amount received under this section by an urban county described under paragraph (1) may be used with respect to the part of such unit of local government that is outside the boundaries of such urban county.

(g) POPULATION.—

(1) EFFECT OF CONSOLIDATION.—Where data are available, the amount to be allocated to a metropolitan city that has been formed by the consolidation of 1 or more metropolitan cities within an urban county shall be equal to the sum of the amounts that would have been allocated to the urban county or cities and the balance of the consolidated government, if such consolidation had not occurred.

(2) LIMITATION.—Paragraph (1) shall apply only to a consolidation that—

(A) included all metropolitan cities that received grants under this section for the fiscal year preceding such consolidation and that were located within the urban county;

(B) included the entire urban county that received a grant under this section for the fiscal year preceding such consolidation; and

(C) took place on or after January 1, 2003.

(3) GROWTH RATE.—The population growth rate of all metropolitan cities defined in section 3(a)(6) shall be based on the population of—

(A) metropolitan cities other than consolidated governments the grant for which is determined under this paragraph; and

(B) cities that were metropolitan cities before their incorporation into consolidated governments.

(4) ENTITLEMENT SHARE.—For purposes of calculating the entitlement share for the balance of the consolidated government under this subsection, the entire balance shall be considered to have been an urban county.

(h) REALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), any amounts allocated to a metropolitan city or an urban county pursuant to this section that are not received by the city or county for a fiscal year because of failure to meet the requirements of subsections (a) and (b) of section 5, or that otherwise became available, shall be reallocated in the succeeding fiscal year to the other metropolitan cities and urban counties in the same metropolitan area that certify to the satisfaction of the Secretary that they would be adversely affected by the loss of such amounts from the metropolitan area.

(2) RATIO.—The amount of the share of funds reallocated under this paragraph for any metropolitan city or urban county shall bear the same ratio to the total of such reallocated funds in the metropolitan area as the amount of funds awarded to the city or county for the fiscal year in which the reallocated funds become available bears to the total amount of funds awarded to all metropolitan cities and urban counties in the same metropolitan area for that fiscal year.

(3) TRANSFER.—Notwithstanding paragraphs (1) and (2), the Secretary may upon request transfer responsibility to any metropolitan city for the administration of any amounts received, but not obligated, by the urban county in which such city is located if—

(A) such city was an included unit of general local government in such county prior to the qualification of such city as a metropolitan city;

(B) such amounts were designated and received by such county for use in such city prior to the qualification of such city as a metropolitan city; and

(C) such city and county agree to such transfer of responsibility for the administration of such amounts.

(i) ALLOCATION TO STATES ON BEHALF OF NON-QUALIFYING COMMUNITIES.—

(1) IN GENERAL.—Of the amount appropriated pursuant to section 4 that remains after allocations pursuant to subsections (a) and (b), 30 percent shall be allocated among the States for use in nonqualifying communities.

(2) ALLOCATION RATIO.—

(A) POPULATION-BASED.—The allocation for each State shall be based on the population of that State, relative to the populations of all States, excluding the population of qualifying communities.

(B) PRO-RATA REDUCTION.—The Secretary shall make a pro rata reduction of each amount allocated to the nonqualifying communities in each State under subparagraph (A) so that the nonqualifying communities in each State will receive the same percentage of the total amount available under this subsection as the percentage that such communities would have received if the total amount available had equaled the total amount allocated under subparagraph (A).

(3) DISTRIBUTION.—

(A) IN GENERAL.—Amounts allocated under this subsection shall be distributed to units of general local government located in nonqualifying areas of the State to carry out activities in accordance with the provisions of this Act—

(i) by a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts consistent with the statement submitted under section 5(a); or

(ii) by the Secretary, if the State has not elected to distribute such amounts.

(B) CERTIFICATION.—Before a State may receive or distribute amounts allocated under this subsection, the State must certify that—

(i) with respect to units of general local government in nonqualifying areas, the State—

(I) provides, or will provide, technical assistance to units of general local government in connection with homeland security initiatives;

(II) will not refuse to distribute such amounts to any unit of general local government on the basis of the particular eligible activity selected by such unit of general

local government to meet its homeland security objectives, except that this clause may not be considered to prevent a State from establishing priorities in distributing such amounts on the basis of the activities selected; and

(III) has consulted with local elected officials from among units of general local government located in nonqualifying areas of that State in determining the method of distribution of funds required by subparagraph (A); and

(ii) each unit of general local government to be distributed funds will be required to identify its homeland security objectives, and the activities to be undertaken to meet such objectives.

(4) MINIMUM AMOUNT.—Each State shall be allocated in each fiscal year authorized under this Act and under this section not less than 0.75 percent of the total amount appropriated in one fiscal year for grants made available to States under this section, except that the American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent.

(5) ADMINISTRATION.—

(A) IN GENERAL.—If a State receives and distributes amounts under paragraph (1), the State shall be responsible for the administration of funds so distributed. The State shall pay for all administrative expenses incurred by the State in carrying out its responsibilities under this Act, except that from the amounts received for distribution in nonqualifying areas, the State may deduct an amount to cover such expenses and its administrative expenses not to exceed the sum of $150,000 plus 50 percent of any such expenses under this Act in excess of $150,000. Amounts deducted in excess of $150,000 shall not exceed 2 percent of the amount received under paragraph (1).

(B) DISTRIBUTION.—If the Secretary distributes amounts under paragraph (1), the distribution shall be made in accordance with determinations of the Secretary pursuant to statements submitted and the other requirements of section 5 (other than subsection (c)) and in accordance with regulations and procedures prescribed by the Secretary.

(C) REALLOCATION.—

(i) FAILURE TO COMPLY.—Any amounts allocated for use in a State under paragraph (1) that are not received by the State for any fiscal year because of failure to meet the requirements of subsection (a) or (b) of section 5 shall be added to amounts allocated to all States under paragraph (1) for the succeeding fiscal year.

(ii) CLOSEOUT.—Any amounts allocated for use in a State under paragraph (1) that become available as a result of the closeout of a grant made by the Secretary under this section in nonqualifying areas of the State shall be added to amounts allocated to the State under paragraph (1) for the fiscal year in which such amounts become available.

(6) SINGLE UNIT.—Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 3(2) to be treated as a single unit of general local government for purposes of this subsection.

(7) DEDUCTION.—From the amounts received under paragraph (1) for distribution in nonqualifying areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments.

(8) APPLICABILITY.—Any activities conducted with amounts received by a unit of general local government under this subsection shall be subject to the applicable provisions of this Act and other Federal law in the same manner and to the same extent as activities conducted with amounts received by a unit of general local government under subsection (a).

(j) QUALIFICATIONS AND DETERMINATIONS.—The Secretary may fix such qualification or submission dates as he determines are necessary to permit the computations and determinations required by this section to be made in a timely manner, and all such computations and determinations shall be final and conclusive.

(k) PRO RATA REDUCTION AND INCREASE.—

(1) REDUCTION.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section is insufficient to provide the amounts to which metropolitan cities and urban counties would be entitled under this section, and funds are not otherwise appropriated to meet the deficiency, the Secretary shall meet the deficiency through a pro rata reduction of all amounts determined under this section.

(2) INCREASE.—If the total amount available for distribution in any fiscal year to metropolitan cities and urban counties under this section exceeds the amounts to which metropolitan cities and urban counties would be entitled under this section, the Secretary shall distribute the excess through a pro rata increase of all amounts determined under this section.

SEC. 8. STATE AND REGIONAL PLANNING; COMMUNICATIONS SYSTEMS.

(a) ALLOCATIONS.—Subject to appropriations authorized under section 4(b)(2), $500,000,000 shall be allocated to States, regional cooperations, and local communities, in accordance with subsection (b) for—

(1) homeland defense planning within the States;

(2) homeland defense planning within the regions;

(3) the development and maintenance of Statewide training facilities and homeland security best-practices clearinghouses; and

(4) the development and maintenance of communications systems that can be used between and among first responders, including law enforcement, fire, and emergency medical personnel.

(b) USE OF FUNDS.—Of the amount allocated under subsection (a)—

(1) $325,000,000 shall be used by the States for homeland defense planning and coordination within each State;

(2) $50,000,000 shall be used by regional cooperations and regional, multistate, or intrastate authorities for homeland defense planning and coordination within each region;

(3) $50,000,000 shall be used by the States to develop and maintain Statewide training facilities and best-practices clearinghouses; and

(4) $75,000,000 shall be used by the States and local communities to develop and maintain communications systems that can be used between and among first responders at the State and local level, including law enforcement, fire, and emergency personnel.

(c) ALLOCATIONS TO STATES.—

(1) IN GENERAL.—Funds under this section to be awarded to States shall be allocated among the States based upon the population for each State relative to the populations of all States.

(2) MINIMUM AMOUNT PROVISION.—The provision in section 7(i)(4) relating to a minimum amount shall apply to funds awarded under this section to States.

(3) LOCAL COMMUNICATIONS SYSTEMS.—Not less than 30 percent of the funds awarded under subsection (b)(4) shall be used for the development and maintenance of local communications systems.

(d) ALLOCATIONS TO REGIONAL COOPERATIONS.—Funds under this section to be awarded to regional cooperations and regional, multistate, or intrastate authorities, shall be allocated among the regional cooperations based upon the population of the areas covered by the cooperations.

SEC. 9. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any such program or activity.

SEC. 10. REMEDIES FOR NONCOMPLIANCE WITH REQUIREMENTS.

If the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Secretary shall—

(1) terminate payments to the recipient under this Act;

(2) reduce payments to the recipient under this Act by an amount equal to the amount of such payments which were not expended in accordance with this Act; or

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply.

SEC. 11. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the end of each fiscal year in which assistance is awarded under this Act, the Secretary shall submit to Congress a report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of such funds during the preceding fiscal year; and

(3) a description of the activities carried out under section 7.

(b) REPORTS TO SECRETARY.—The Secretary is authorized to require recipients of assistance under this Act to submit to such reports and other information as may be necessary in order for the Secretary to comply with subsection (a).

SEC. 12. CONSULTATION BY ATTORNEY GENERAL.

In carrying out the provisions of this Act including the issuance of regulations, the Secretary shall consult with the Attorney General and other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. 13. INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of the Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this Act as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 14. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) REQUIREMENT.—Grant recipients shall contribute from funds, other than those received under this Act, 10 percent of the total funds received under this Act. Such funds shall be used in accordance with the grantee's statement of homeland security objectives.

(b) ECONOMIC DISTRESS.—Grant recipients that are deemed economically distressed

shall be waived from the matching requirement set forth in this section.

SA 92. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 772, strike lines 10 through 23.

SA 93. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1037, line 8, insert ''(a) FRUITS AND VEGETABLES.—'' before ''The''.

On page 1037, between lines 12 and 13, insert the following:

(b) AVOCADO AND CITRUS PRODUCERS.—

(1) IN GENERAL.—The Secretary shall use $80,000,000 of funds of the Commodity Credit Corporation to make payments, as soon as practicable after the date of enactment of this Act, to avocado and citrus producers that suffered economic losses, including quality losses, as the result of the imposition of quarantines to prevent the introduction of fruit flies from Mexico into the State of California during the 2002 or 2003 crop year, or both.

(2) AMOUNT.—The amount of payments for which producers are eligible to receive payments under this subsection shall be based an the value of avocados and citrus, as determined by the Secretary.

(3) LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall not establish a payment limitation, or income eligibility limitation, with respect to payments made under this subsection.

(B) PAYMENT QUANTITIES.—The Secretary may establish a limitation on the maximum quantity of avocados or citrus for which a producer may receive payments under this subsection.

(4) OTHER FEDERAL ASSISTANCE.—A producer shall be ineligible for a payment under this subsection to the extent that the producer received compensation or assistance for the loss under any other Federal program, other than the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SA 94. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MORGANZA, LOUISIANA, TO THE GULF OF MEXICO, MISSISSIPPI RIVER AND TRIBUTARIES.

The project for hurricane and storm damage reduction, Morganza, Louisiana, to the Gulf of Mexico, Mississippi River and Tributaries, is authorized to be carried out by the Secretary of the Army substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated August 23, 2002, at a total cost of $680,000,000, with an estimated Federal cost of $442,000,000 and an estimated non-Federal cost of $238,000,000.

SA 95. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 313, line 14, strike the period and insert a colon and the following: ''*Provided*, That, of the funds made available pursuant to this section, not less than $6,000,000 shall be made available for the United States Agency for International Development to use in support of programs that—

''(1) promote the inclusion of a significant number of women in future legislative bodies to ensure that women's full range of human rights are included and upheld in any constitution or legal structures of Afghanistan;

''(2) promote the continuation and strengthening of the Ministry for Women's Affairs as the Government of Afghanistan makes the transition to a long-term government structure, and encourage the appointment of women to high-level positions within the ministries of the Government of Afghanistan;

''(3) ensure that a significant portion of United States development, humanitarian, and relief assistance is channeled to local and United States-based Afghan women's organizations;

''(4) provide technical assistance, training, and capacity-building for local women-based organizations to ensure that United States funded efforts will be both effective and sustainable;

''(5) promote multiyear women-centered economic development programs, including programs to assist widows, female heads of household, women in rural areas, and disabled women;

''(6) increase women's access to or ownership of productive assets such as land, water, agricultural inputs, credit, and property;

''(7) provide long-term financial assistance for primary, secondary, higher, nontraditional, and vocational education for Afghan girls, women, boys, and men;

''(8) provide financial assistance to build the health infrastructure and to deliver high-quality comprehensive health care programs, including primary, maternal, child, reproductive, and mental health care; and

''(9) provide, in close consultation with women's organizations in Afghanistan, training for the military and police forces on the protection, rights, and the particular needs of women, and emphasize that violations of women's rights are intolerable and should be prosecuted:

''*Provided further*, That one year after the date of enactment of this Act, the Administrator of the United States Agency for International Development shall submit a report to Congress that contains—

''(A) a detailed description of programs funded by the United States Agency for International Development that are carried out under the preceding proviso;

''(B) other programs of the United States Agency for International Development that directly or indirectly benefit women; and

''(C) barriers that remain for women in Afghanistan, specifically in the protection of basic human rights, education, reproductive health, legal rights, political participation, and economic opportunity, and what types of foreign assistance is necessary to ensure that these barriers might be eliminated.''.

SA 96. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 852, between lines 4 and 5, insert the following:

SEC. 4___. DESIGNATION OF NATHANIEL R. JONES FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) IN GENERAL.—The Federal building and United States courthouse located at 10 East Commerce Street in Youngstown, Ohio, shall be known and designated as the ''Nathaniel R. Jones Federal Building and United States Courthouse''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the Nathaniel R. Jones Federal Building and United States Courthouse.

SA 97. Mr. NELSON of Florida (for himself and Mr. DASCHLE, Mr. LEAHY, Mr. DURBIN, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC.___. In addition to amounts appropriated by this Act under the heading ''Public Law 480 Title II Grants'', there is appropriated, out of funds in the Treasury not otherwise appropriated, $600,000,000 for assistance for emergency relief activities: *Provided*, That the amount appropriated under this section shall remain available through September 30, 2004: *Provided further*, That the entire amount appropriated under this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SA 98. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 366, line 26, strike ''this heading'' and insert in lieu thereof: the heading ''Economic Support Fund''

SA 99. Mr. MCCONNELL (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 366, strike everything after ''the'' on line 3, through ''Agency'' on line 4 and insert in lieu thereof:

headings ''Trade and Development Agency'', ''International Military Education and Training'', ''Foreign Military Financing Program'', ''Migration and Refugee Assistance'', and ''Nonproliferation, Anti-Terrorism, Demining and Related Programs''

SA 100. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 107, line 5, insert ''of which $10,000,000 will be provided for the continuance of methamphetamine reduction efforts'' before the semicolon.

SA 101. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. ARMED FORCES MEMORIAL.

(a) DEFINITIONS.—In this section:

(1) MAP.—The term ''map'' means the map referred to in section 8902(a)(3) of title 40, United States Code.

(2) MEMORIAL.—The term ''memorial'' means the memorial authorized to be established under subsection (b)(1).

(b) AUTHORITY TO ESTABLISH MEMORIAL.—

(1) IN GENERAL.—The Pyramid of Remembrance Foundation may establish a memorial on Federal land in the area depicted on the map as ''Area II'' to honor members of the Armed Forces of the United States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations.

(2) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the establishment of the memorial shall be in accordance with chapter 89 of title 40, United States Code.

(B) EXCEPTION.—Subsections (b) and (c) of section 8903 of title 40, United States Code, shall not apply to the establishment of the memorial.

(c) FUNDS FOR MEMORIAL.—

(1) USE OF FEDERAL FUNDS PROHIBITED.—Except as provided by chapter 89 of title 40, United States Code, no Federal funds may be used to pay any expense incurred from the establishment of the memorial.

(2) DEPOSIT OF EXCESS FUNDS.—The Pyramid of Remembrance Foundation shall transmit to the Secretary of the Treasury for deposit in the account provided for in section 8906(b)(1) of title 40, United States Code—

(A) any funds that remain after payment of all expenses incurred from the establishment of the memorial (including payment of the amount for maintenance and preservation required under section 8906(b) of title 40, United States Code); or

(B) any funds that remain on expiration of the authority for the memorial under section 8903(e) of title 40, United States Code.

SA 102. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. VALUE-ADDED PROJECTS FOR AGRICULTURAL DIVERSIFICATION.

Of the amount of funds that are made available to producers in the State of Vermont under section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524) for fiscal year 2003, the Secretary of Agriculture shall make a grant of $200,000 to the Northeast Center for Food Entrepreneurship at the University of Vermont to support value-added projects that contribute to agricultural diversification in the State, to remain available until expended.

SA 103. Mr. LEAHY (for himself, Mr. HARKIN, and Ms. STABENOW) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1037, line 2, strike ''$250,000,000'' and insert ''$552,000,000''.

SA 104. Mr. LEAHY (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows;

In the division relating to agriculture—

(1) in the matter under the heading ''CHILD NUTRITION PROGRAMS (INCLUDING TRANSFERS OF FUNDS)'' under the heading ''FOOD AND NUTRITION SERVICE'' in title IV—

(A) strike ''$5,834,506,000'' and insert ''$6,386,506,000''; and

(B) strike ''$4,745,663,000'' and insert ''$4,193,663,000''; and

(2) strike section 205.

SA 105. Ms. LANDRIEU submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

SEC. ___. ESTABLISHMENT OF SPECIAL COMMITTEE ON THE ORGANIZATION OF THE SENATE.

(a) ESTABLISHMENT.—There is established a special committee of the Senate, to be known as the Special Committee on the Organization of the Senate (in this section referred to as the ''Special Committee'').

(b) PURPOSES.—The purposes of the Special Committee are—

(1) to assist the Senate in addressing its organizational structure in light of reorganization efforts in the Executive Branch and the House of Representatives; and

(2) to report to the Senate a set of recommendations as to necessary changes in the committee structure of the Senate.

(c) COMPOSITION.—

(1) IN GENERAL.—The Special Committee shall be composed of—

(A) the Majority Leader and the Minority Leader;

(B) 5 members of the Senate appointed by the Majority Leader; and

(C) 5 members of the Senate appointed by the Minority Leader.

(2) COCHAIRMEN.—The Majority and Minority Leaders of the Senate shall each designate 1 member of the Special Committee as cochairman.

(d) POWERS.—

(1) IN GENERAL.—For the purposes of this resolution, the Special Committee is authorized—

(A) to make investigations into any matter within its general purposes;

(B) to make expenditures from the contingent fund of the Senate;

(C) to employ personnel;

(D) to hold hearings;

(E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate;

(F) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946;

(G) to publish and report the findings of the Special Committee; and

(H) to take depositions and other testimony.

(2) ADMINISTRATION OF OATHS.—A cochairman of the Special Committee or any member thereof may administer oaths to witnesses.

(e) REPORTS.—

(1) TO THE SENATE.—Not later than 1 year after the date of enactment of this section, the Special Committee shall issue a final report of recommendations to the full Senate.

(2) PRELIMINARY REPORTS.—The Special Committee may issue such preliminary reports and recommendations as the cochairmen deem appropriate.

SA 106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows;

At the appropriate place, insert the following:

SEC. ___. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

(a) AMENDMENT TO THE HOMELAND SECURITY ACT.—Section 457 of the Homeland Security Act of 2002 (Public Law 107–296) is amended to read as follows:

''SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

''(a) AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.—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'.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Attorney General or the Secretary, as may be appropriate, such funds as may be necessary to compensate for the loss of any funds for adjudication services by reason of the operation of the amendment made by subsection (a), including funds necessary—

''(A) to carry out the provisions of sections 207 through 209 of the Immigration and Nationality Act (8 U.S.C. 1157–59); and

''(B) to provide fee waivers or exemptions to applicants and petitioners.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

''(c) STATUTORY CONSTRUCTION.—Nothing section 286(m) of the Immigration and Nationality Act, as amended by subsection (a), or any other provision of law, shall be construed to require the reduction of any fee, or the foregoing of any increase in any fee, for adjudication services that is otherwise authorized under such section 286(m) or any other provision of law, until the date that is 90 days after the date on which funds are specifically appropriated and made available under subsection (b) in an amount equal to the amount of such proposed reduction or foregone increase for any fiscal year.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall be effective as if it were included in the enactment of the Homeland Security Act of 2002 (Public Law 107–296).

SA 107. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for

other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

SEC. ___. RESTORATION OF PROVISION REGARDING FEES TO COVER THE FULL COSTS OF ALL ADJUDICATION SERVICES.

The Homeland Security Act of 2002 is amended by striking section 457, including the amendment made by such section.

SA 108. Ms. CANTWELL (for herself and Mr. NELSON) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 549, between lines 14 and 15, insert the following:

In addition to any amounts otherwise appropriated under this Act for title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), $678,551,000 is appropriated to carry out that Act, of which—

(1) $156,965,000 (which is available for obligation for the period April 1, 2003 through June 30, 2004) shall be for making allotments and grants in accordance with subparagraphs (B) and (C) of section 127(b)(1) of that Act (29 U.S.C. 2852(b)(1)) (relating to youth activities);

(2) $76,000,000 (which is available for obligation for the period July 1, 2003 through June 30, 2004) shall be for making allotments and grants in accordance with section 132(b)(1) of that Act (29 U.S.C. 2862(b)(1)) (relating to employment and training activities for adults);

(3) $206,096,000 (which is available for obligation for the period July 1, 2003 through June 30, 2004) shall be for making allotments and grants in accordance with section 132(b)(2) of that Act (29 U.S.C. 2862(b)(2)) (relating to employment and training activities for dislocated workers);

(4) $181,890,000 (which is available for obligation for the period April 1, 2003 through June 30, 2004) shall be for use under section 169 of that Act (29 U.S.C. 2914) (relating to youth opportunity grants); and

(5) $57,600,000 (which is available for obligation for the period July 1, 2003 through June 30, 2006) shall be for carrying out subtitle C of title I of that Act (29 U.S.C. 2881 et seq.) (relating to the Job Corps).

Notwithstanding any other provision of this Act, funds provided under the preceding sentence shall not result in a further across-the-board rescission under section 601 of division N.

SA 109. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. IMPERIAL PROJECT.

Notwithstanding any other provision of law, none of the funds provided by this Act or any other Act for any fiscal year may be used by the Secretary of the Interior to approve the plan of operations submitted by the Glamis Imperial Corporation for the Imperial project, an open-pit gold mine located on public land administered by the Bureau of Land Management in Imperial County, California.

SA 110. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING SOUTHERN CALIFORNIA OFFSHORE OIL LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are 36 undeveloped oil leases on land in the southern California planning area of the outer Continental Shelf that—

(A) have been under review by the Secretary of the Interior for an extended period of time, including some leases that have been under review for over 30 years; and

(B) have not been approved for development under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(2) the oil companies that hold the 36 leases—

(A) have expressed an interest in retiring the leases in exchange for equitable compensation; and

(B) are engaged in settlement negotiations with the Secretary of the Interior for the retirement of the leases; and

(3) it would be a waste of the taxpayer's money to continue the process for approval or permitting of the 36 leases while the Secretary of the Interior and the lessees are negotiating to retire the leases.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that no funds made available by this Act or any other Act for any fiscal year should be used by the Secretary of the Interior to approve any exploration, development, or production plan for, or application for a permit to drill on, the 36 undeveloped leases in the southern California planning area of the outer Continental Shelf during any period in which the lessees are engaged in settlement negotiations with the Secretary of the Interior for the retirement of the leases.

SA 111. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the division making appropriations for the Department of Agriculture, insert the following:

SEC. ___. ASSISTANCE TO AGRICULTURAL PRODUCERS THAT HAVE USED WATER FOR IRRIGATION FROM RIO GRANDE RIVER.

(a) IN GENERAL.—The Secretary of Agriculture shall use $10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande River that have suffered economic losses during the 2002 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington on February 3, 1944 (59 Stat. 1219; TS 944).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of actual losses described in subsection (a) that were incurred by the producers.

SA 112. Mr. BUNNING (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the general provisions relating to the Department of Health and Human Services, insert the following:

SEC. ___. GRANTS FOR PURCHASE OF ULTRASOUND EQUIPMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants for the purchase of ultrasound equipment. Such ultrasound equipment shall be used by the recipients of such grants to provide, under the direction and supervision of a licensed physician, free ultrasound examinations to pregnant woman needing medical services.

(b) ELIGIBILITY REQUIREMENTS.—An entity may receive a grant under subsection (a) only if the entity meets the following conditions:

(1) NONPROFIT, TAX EXEMPT ORGANIZATION.—The entity is a nonprofit private organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under section 501(a) of such Code.

(2) CLINIC.—The entity operates as a community-based pregnancy help medical clinic.

(3) QUALIFIED ENTITY.—The entity is legally qualified to provide medical services to pregnant women and is in compliance with all Federal, State, and local requirements for the provision of such services.

(4) PROCEDURES.—The entity agrees to comply with the following medical procedures:

(A) IMAGE AND DESCRIPTION.—Each pregnant woman upon whom the ultrasound equipment is used will be shown the visual image of the embryo or fetus involved from the ultrasound examination and will be given a general anatomical and physiological description of the characteristics of the embryo or fetus.

(B) AGE.—Each pregnant woman will be given, according to the best medical judgment of the physician or physician's agent performing the ultrasound examination, the approximate age of the embryo or fetus considering the number of weeks elapsed from the probable time of the conception of the embryo or fetus, based upon the information provided by the woman as to the time of her last menstrual period, her medical history, a physical examination, or appropriate laboratory tests.

(C) INFORMATION ON OPTIONS.—Each pregnant woman will be given information on abortion and alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will assist women choosing those alternatives.

(D) INSURANCE.—The entity will obtain and maintain medical malpractice insurance in an amount not less than $1,000,000, and such insurance will cover all activities relating to the use of the ultrasound machine purchased with the grant under subsection (a).

(5) MULTIPLE REVENUE SOURCES.—The entity does not receive more than 30 percent of its gross annual revenue from a single source or donor.

(c) LIMITATION ON INDIVIDUAL GRANT AMOUNT.—No grant made under subsection (a) may be made in an amount that exceeds the lesser of—

(1) an amount equal to 50 percent of the purchase price cost of the ultrasound machine involved; or

(2) $20,000.

(d) APPLICATION FOR GRANT.—To be eligible to receive a grant under subsection (a), an

entity shall submit an application to the Secretary in such form, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) ANNUAL REPORT TO SECRETARY.—The Secretary may make a grant under subsection (a) only if the applicant for the grant agrees to report on an annual basis to the Secretary, in such form and manner as the Secretary may require, on the ongoing compliance of the applicant with the eligibility conditions established in subsection (b).

(f) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED PREGNANCY HELP MEDICAL CLINIC.—The term ''community-based pregnancy help medical clinic'' means an entity that—

(A) provides free medical services to pregnant women under the direction and supervision of a licensed physician who serves as the medical director for such clinic; and

(B) does not charge for any services rendered to its clients, whether or not such services are for pregnancy-related matters.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(g) APPROPRIATIONS AND OFFSET.—

(1) APPROPRIATIONS.—There is appropriated to carry out this section $5,000,000 for fiscal year 2003.

(2) OFFSET.—Of the amount appropriated or otherwise made available by title III of division K for the National Aeronautics and Space Administration, the amount available for the Origins program under the Office of Space Sciences is hereby reduced by $5,000,000.

SA 113. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SAVINGS PROVISION OF CERTAIN TRANSFERS MADE UNDER THE HOMELAND SECURITY ACT OF 2002.

The transfer of functions under subtitle B of title XI of the Homeland Security Act of 2003 (Public Law 107–296) shall not affect any pending or completed administrative actions, including orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, or registrations, in effect on the date immediately prior to the date of such transfer, or any proceeding, unless and until amended, modified, superseded, terminated, set aside, or revoked. Pending civil actions shall not be affected by such transfer of functions.

SA 114. Mr. JEFFORDS (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in division I, insert the following:

SEC. ____. The amendments made by section 890 of the Homeland Security Act of 2002, relating to the Air Transportation Safety and Systems Stabilization Act, are repealed and the Air Transportation Safety and Systems Stabilization Act shall be applied as if such amendments had not been enacted.

SA 115. Mr. JEFFORDS (for himself and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 180, line 25, strike ''$566,500,000'' and insert ''$750,000,000''.

SA 116. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes, which was ordered to lie on the table, as follows:

At the appropriate place in Division A insert:

SEC. . Notwithstanding any other provision of law, the Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation to ensure that United States contributions for international humanitarian food assistance for each fiscal year 2003 and 2004 shall be no less than the previous five year average beginning on the date of enactment of this Act.

SA 117. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 602. The rescission requirements in section 601(a) shall not apply with respect to the budget authority provided for amounts appropriated by title I of division K for the Department of Veterans Affairs for the Veterans Health Administration for Medical Care, or to any amounts appropriated pursuant to that budget authority.

SA 118. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. TRANSFER OF FOREST LEGACY PROGRAM LAND.

Section 7(*l*) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c(*l*)) is amended by inserting after paragraph (2) the following:

''(3) TRANSFER OF FOREST LEGACY PROGRAM LAND.—

''(A) IN GENERAL.—Subject to any terms and conditions that the Secretary may require (including the requirements described in subparagraph (B)), the Secretary may, at the request of a participating State, convey to the State, by quitclaim deed, without consideration, any land or interest in land acquired in the State under the Forest Legacy Program.

''(B) REQUIREMENTS.—In conveying land or an interest in land under subparagraph (A), the Secretary may require that—

''(i) the deed conveying the land or interest in land include requirements for the management of the land in a manner that—

''(I) conserves the land or interest in land; and

''(II) is consistent with any other Forest Legacy Program purposes for which the land or interest in land was acquired;

''(ii) if the land or interest in land is subsequently sold, exchanged, or otherwise disposed of by the State, the State shall—

''(I) reimburse the Secretary in an amount that is based on the current market value of the land or interest in land in proportion to the amount of consideration paid by the United States for the land or interest in land; or

''(II) convey to the Secretary land or an interest in land that is equal in value to the land or interest in land conveyed.

''(C) DISPOSITION OF FUNDS.—Amounts received by the Secretary under subparagraph (B)(ii) shall be credited to the Forest Legacy Program account, to remain available until expended.''.

SA 119. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. In addition to amounts otherwise appropriated in this Act, there are appropriated $1,600,000,000 to enable the Department of Health and Human Services to enhance the preparedness of the United States to respond effectively to acts of bioterrorism, of which—

(1) $850,000,000 shall be made available for grants to States and local communities for the costs of smallpox vaccination programs; and

(2) $750,000,000 shall be made available to extend the Vaccine Injury Compensation Program under title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) to cover those individuals who experience injuries or other hardships resulting from the administration of vaccinia virus or other countermeasures against smallpox.

SA 120. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. In addition to amounts otherwise appropriated in this Act, there are appropriated $2,875,000,000 to enable the Department of Health and Human Services to enhance the preparedness of the United States to respond effectively to acts of bioterrorism, of which—

(1) $850,000,000 shall be made available for grants to States and local communities for the costs of smallpox vaccination programs;

(2) $750,000,000 shall be made available to extend the Vaccine Injury Compensation Program under title XXI of the Public Health Service Act (42 U.S.C. 300aa-1 et seq.) to cover those individuals who experience injuries or other hardships resulting from the administration of vaccinia virus or other countermeasures against smallpox;

(3) $1,250,000 shall be made available to improve the preparedness of hospitals for bioterrorism; and

(4) $25,000,000 shall be made available to the Centers for Disease Control and Prevention to enhance control of biological agents and toxins as described under section 351A of the Public Health Service Act.

SA 121. Mr. KENNEDY submitted an amendment intended to be proposed by

him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, between lines 19 and 20, insert the following:

SEC. 404. (a) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (V), by adding ''and'' at the end; and

(2) by striking subclauses (VI) and (VII) and inserting the following:

''(VI) on or after October 1, 2001, 'c' is equal to 1.6.''.

(b) Section 1886(d)(2)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or of section 404 of division N of the Joint Resolution entitled 'Joint Resolution making further continuing appropriations for the fiscal year 2003, and for other purposes' after ''2000''.

SA 122. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, insert before the period the following: '': *Provided further*, That an additional $13,603,766 shall be appropriated for the Food and Drug Administration and shall be made available for the review of medical devices, and such amount shall be in addition to any other amounts appropriated in this Act for such activities: *Provided further*, that amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Health and Human Services shall be reduced on pro rata basis by $13,603,766''.

SA 123. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) IN GENERAL.—In addition to amounts otherwise appropriated in this Act, there are appropriated $584,646,000, of which—

(1) $43,492,000 shall be made available to the National Center on Minority Health and Health Disparities;

(2) $21,015,000 shall be made available to the Office of Minority Health of the Department of Health and Human Services;

(3) $15,334,000 shall be made available to the Office for Civil Rights of the Department of Health and Human Services for discrimination-related enforcement and allocated to enforcement actions and the investigation of complaints and potential violations of law relating to discrimination and racial disparities in health care;

(4) $491,500,000 shall be made available to the Department of Health and Human Services for research and activities under the Minority HIV/AIDS initiative; and

(5) $13,305,000 shall be made available to the Health Resources and Services Administration for Health Professions Training for Diversity programs.

(b) OFFICE OF MINORITY HEALTH.—The amount appropriated under subsection (a)(2), shall be made available to the Office of Minority Health of the Department of Health and Human Services to be used for activities including—

(1) to undertake, through and in collaboration with the Public Health Service agencies, a coordinated Federal initiative to reduce racial and ethnic disparities in health, particularly in the six focus areas of infant mortality, cancer screening and management, cardiovascular disease, diabetes, HIV/AIDS, and immunizations;

(2) to increase funding for minority health initiatives and collaborations at the multi-State, State, and local level that employ proven public health strategies to reduce health disparities in specific minority populations;

(3) to expand Federal efforts and assist States in the collection and analysis of health status data that includes standard racial and ethnic data;

(4) to conduct or support research on effective health interventions in minority communities;

(5) to assist in the development and dissemination of cross cultural curricula for the training of health professionals;

(6) to provide technical assistance to States to improve public health infrastructures and outreach for health disparity populations; and

(7) to sponsor National Forums on African American Health Care, Latino Health Care, Asian American Health Care, and Native American Health Care.

SA 124. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 620, between lines 18 and 19, insert the following:

SEC. ____. PELL GRANT FUNDING.

(a) ADDITIONAL APPROPRIATIONS.—Notwithstanding any other provision of this Act, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, for an additional amount for ''Student Financial Assistance'' for carrying out subpart 1 of part A of title IV of the Higher Education Act of 1965, $1,350,000,000 to remain available through September 30, 2004.

(b) MAXIMUM PELL GRANT.—Notwithstanding any other provision of this Act, the maximum Pell Grant for which a student shall be eligible during award year 2003-2004 shall be $4,500.

(c) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsections (a) and (b) shall not result in a further across-the-board rescission under section 601 of Division N.

SA 125. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 620, between lines 18 and 19, insert the following:

SEC. ____. ADDITIONAL FUNDING FOR EDUCATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, in lieu of any amounts otherwise appropriated under this Act for part A of title II of the Elementary and Secondary Education Act of 1965, the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, $3,500,000,000 for carrying out such part, to remain available through September 30, 2004.

(b) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsection (a) shall not result in a further across-the-board rescission under section 601 of Division N.

SA 126. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003; and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''SEC. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting—

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.'';

(2) by inserting before section 273 (42 U.S.C. 6283) the following:)

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(3) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(4) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by amending the items relating to part D of title I to read as follows:

''PART D—NORTHWEST HOME HEATING OIL RESERVE

''Sec 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

''(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.''; and

(3) by striking the items relating to part D of title II.

(d) Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by inserting ''(considered as a heating season average)'' ''mid-October'' through March''.

(e) FULL CAPACITY.—The President shall—

(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) to full capacity as soon as practicable.

(2) acquire petroleum for the Strategic Petroleum Reserve by the most practicable and cost-effective means, including the acquisition of crude oil the United States is entitled to receive in kind as royalties from production on Federal lands; and

(3) ensure that the fill rate minimizes impacts on petroleum markets.

(b) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Congress a plan to—

(1) eliminate any infrastructure impediments that may limit maximum drawdown capability; and

(2) determine whether the capacity of the Strategic Petroleum Reserve on the date of enactment of this section is adequate in light of the increasing consumption of petroleum and the reliance on imported petroleum.

SA 127. Mr. DURBIN (for himself, Mr. DEWINE, Mr. DASCHLE, Mr. KENNEDY, Mrs. BOXER, Mrs. MURRAY, Mr. SCHUMER, Ms. MIKULSKI, Mr. LEAHY, Mr. KOHL, Mrs. CLINTON, Mr. BIDEN, Ms. LANDRIEU, Mr. CORZINE, Mr. EDWARDS, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 7 and 8, insert the following:

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

ADDITIONAL AMOUNT FOR GLOBAL HIV/AIDS PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, for child survival, health, and family planning/reproductive health activities, $180,000,000, to remain available until September 30, 2004: *Provided,* That of such amount, not less than $100,000,000 shall be made available for a United States contribution to the Global Fund to Fight AIDS, Tuberculosis and Malaria (in addition to amounts made available for contribution to such Fund under any other provision of this Act): *Provided, further,* That, of the additional amount appropriated under this heading, up to $25,000,000 (not to be derived from the amount made available for contribution under the preceding proviso) may be transferred to (and upon transfer shall be merged with) amounts appropriated for the Department of Health and Human Services for the Centers for Disease Control and Prevention for disease control, research, and training under title II of division G of this Act, which shall be made available for child survival, maternal health, and other disease programs and development activities to prevent, treat, care for, and address the impact and consequences of HIV/AIDS: *Provided, further,* That not more than seven percent of the total amount appropriated under this heading may be made available for administrative costs of departments and agencies of the United States that carry out programs for which funds are appropriated under this heading, but funds made available for such costs may not to be derived from amounts made available for contribution and transfer under the preceding provisos.

SA 128. Mr. LEVIN (for himself, Mr. FITZGERALD, Mr. DEWINE, Mr. VOINOVICH, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 259, line 19, strike ''projects:'' and insert ''projects; and of which $500,000 shall be available for dispersal barriers in the Chicago Ship and Sanitary Canal, Illinois:''.

SA 129. Mr. KERRY (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. USE OF EMERGENCY FUNDS FOR SMALL BUSINESS LOANS.

The matter under the heading ''BUSINESS LOANS PROGRAM ACCOUNT'' in chapter 2 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117) is amended by striking ''For emergency expenses'' and inserting the following: ''For loan guarantee subsidies under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or for emergency expenses''.

SA 130. Mr. CONRAD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1032, strike line 21 and all that follows through page 1041, line 13, and insert the following:

TITLE II—EMERGENCY AGRICULTURAL DISASTER ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Emergency Agricultural Disaster Assistance Act of 2003''.

SEC. 202. CROP DISASTER ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this title as the ''Secretary'') shall use such sums as are necessary, but not to exceed $2,250,000,000, of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop losses for the 2001 or 2002 crop, or both, due to damaging weather or related condition, as determined by the Secretary.

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(c) CROP INSURANCE.—In carrying out this section, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 203. LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation as are necessary, but not to exceed $720,000,000, to make and administer payments for livestock losses to producers for 2001 or 2002 losses, or both, in a county that has received a corresponding emergency designation by the President or the Secretary, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

SEC. 204. CROP AND PASTURE FLOOD COMPENSATION PROGRAM.

(a) DEFINITION OF COVERED LAND.—In this section:

(1) IN GENERAL.—The term ''covered land'' means land that—

(A) was unusable for agricultural production during the 2001 or 2002 crop year, or both, as the result of flooding;

(B) was used for agricultural production during at least 1 of the 1992 through 2000 crop years;

(C) is a contiguous parcel of land of at least 1 acre; and

(D) is located in a county in which producers were eligible for assistance under the 1998 or 2000 Flood Compensation Program established under part 1439 of title 7, Code of Federal Regulations.

(2) EXCLUSIONS.—The term ''covered land'' excludes any land for which a producer is insured, enrolled, or assisted during the 2001 or 2002 crop year (as applicable) under—

(A) a policy or plan of insurance authorized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program operated under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

(C) any crop disaster program established for the 2001 or 2002 crop year (as applicable);

(D) the conservation reserve program established under subchapter B of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.);

(E) the wetlands reserve program established under subchapter C of chapter 1 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3837 et seq.);

(F) any emergency watershed protection program or Federal easement program that prohibits crop production or grazing; or

(G) any other Federal or State water storage program, as determined by the Secretary.

(b) COMPENSATION.—The Secretary shall use not more than $12,000,000 of funds of the Commodity Credit Corporation to compensate producers with covered land for losses on the covered land from long-term flooding.

(c) PAYMENT RATE.—The payment rate for compensation provided to a producer under this section shall equal the average county cash rental rate per acre established by the National Agricultural Statistics Service for the 2001 or 2002 crop year (as applicable).

(d) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(e) of the Food Security

Act (7 U.S.C. 1308(e))) under this section may not exceed $40,000.

SEC. 205. FUNDING.

Of the funds of the Commodity Credit Corporation, the Secretary shall—

(1) use such sums as are necessary to carry out this title, to remain available until expended; and

(2) transfer to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to remain available until expended, an amount that does not exceed the greater of—

(A) $250,000,000; or

(B) the amount equal to the amount of funds under section 32 of that Act that—

(i) were made available before the date of enactment of this Act to provide assistance to livestock producers under the 2002 Livestock Compensation Program announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070); and

(ii) were not otherwise reimbursed from another account used by the Secretary or the Commodity Credit Corporation.

SEC. 206. REGULATIONS.

SA 131. Mr. HARKIN (for himself, Mr. DURBIN, Ms. LANDRIEU, and Mr. BREAUX) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, line 1, strike ''$329,397,000,'' and insert ''$348,397,000, of which $19,000,000 (referred to in this title as the 'supplemental legal assistance amount') is to provide supplemental funding for basic field programs, and related administration, to ensure that no service area (including a merged or reconfigured service area) receives less funding under the Legal Services Corporation Act for fiscal year 2003 than the area received for fiscal year 2002, due to use of data from the 2000 Census, and''.

On page 183, after line 25, add the following:

SEC. ____. The amount made available under each account in this division, other than the accounts relating to the Legal Services Corporation and the accounts contained in title III, for travel expenses, supplies, and printing expenses shall be reduced on a pro rata basis, so that the total of the reductions equals $19,000,000.

SA 132. Mr. HARKIN (for himself, Mr. FEINGOLD, and Mr. DODD) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. None of the funds made available in this Act may be used by the Secretary of the Treasury or his delegate to issue any rule or regulation which implements the proposed amendments to Internal Revenue Service regulations set forth in REG–209500–86 and REG–164464–02, filed December 10, 2002, or any amendments reaching results similar to such proposed amendments.

SA 133. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1037, strike line 18 and all that follows through page 1039, line 9.

SA 134. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1036, strike lines 15 through 22 and insert the following:

established by the Secretary for the Program; and

(2) effective beginning on the date of enactment

SA 135. Mr. TALENT (for himself, and Mr. LUGAR) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. CORN.

Notwithstanding any other provision of law, the Secretary of Agriculture shall consider the planting, prevented planting, and production of corn used to produce popcorn as the planting, prevented planting, and production of corn for the purposes of determining base acres and payment yields for direct and counter-cyclical payments under subtitle A of title I of Public Law 107–171.

SA 136. Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. KERRY, Mr. JEFFORDS, and Mrs. CLINTON) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes, which was ordered to lie on the table, as follows:

At the appropriate place in title II of division G, insert the following:

SEC. ____. (a) IN GENERAL.—In addition to amounts otherwise appropriated under this Act to carry out programs and activities under title VIII of the Public Health Service Act, there are appropriated an additional $20,000,000, to remain available until expended, to carry out programs and activities authorized under sections 831, 846, 846A, 851, 852, and 855 of such Act (as amended by the Nurse Reinvestment Act (Public Law 107–205)).

(b) OFFSET.—Amounts made available under this division for the administrative and related expenses for departmental management shall be reduced on pro rata basis by $20,000,000.

SA 137. Mr. LIEBERMAN (for himself, Ms. LANDRIEU, Mr. HOLLINGS, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ____. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

(a) DECREASED COST-SHARING REQUIREMENT.—Section 507(c) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 470a note) is amended—

(1) by striking ''(1) Except'' and inserting the following:

''(1) IN GENERAL.—Except'';

(2) by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)'';

(3) by striking ''(2) The Secretary'' and inserting the following:

''(2) WAIVER.—The Secretary'';

(4) by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (3)''; and

(5) by adding at the end the following:

''(3) EXCEPTION.—The Secretary shall not obligate funds made available under subsection (d)(2) for a grant with respect to a building or structure listed on, or eligible for listing on, the National Register of Historic Places unless the grantee agrees to provide, from funds derived from non-Federal sources, an amount that is equal to 30 percent of the total cost of the project for which the grant is provided.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 507(d) of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 470a note) is amended—

(1) by striking ''Pursuant to'' and inserting the following:

''(1) IN GENERAL.—Under''; and

(2) by adding at the end the following:

''(2) ADDITIONAL FUNDING.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated from the Historic Preservation Fund to carry out this section $10,000,000 for each of fiscal years 2003 through 2008.''.

SA 138. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriation for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, between lines 19 and 20, insert the following:

SEC. 404. Section 136 of Public Law 107–229, as added by section 5 of Public Law 107–240, is amended by striking ''60 days after the date specified in section 107(c) of Public Law 107–229, as amended'' and inserting ''September 30, 2003''.

SA 139. Mr. GRAHAM of Florida (for himself, Mr. NELSON of Florida, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was

On page 271, between lines 10 and 11, insert the following:

SEC. 1____. MODIFIED WATER DELIVERY PROJECT IN THE STATE OF FLORIDA.

The Corps of Engineers, using funds made available for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8), shall immediately carry out alternative 6D (including paying 100 percent of the cost of acquiring land or an interest in land) for the purpose of providing a flood protection system for the 8.5 square mile area described in the report entitled ''Central and South Florida Project, Modified Water Deliveries to Everglades National Park, Florida, 8.5 Square Mile Area, General Reevaluation Report and Final Supplemental Environmental Impact Statement'' and dated July 2000.

SA 140. Mr. REID (for himself, Mr. WYDEN, Mr. HARKIN, and Mr. CRAPO)

submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making furthur continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. CDBG FUNDS.—(a) Not later than 30 days after the date of enactment of this Act, funds made available for block grants lunder title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) for fiscal year 2002 may not be withheld from any metropolitan city that has satisfied the population criteria pursuant to the 2000 census and has satisfied all other required criteria, including the metropolitan cities listed in subsection (b).

(b) The metropolitan cities listed in this subsection are—

(1) Ames, Iowa;
(2) Bend, Oregon;
(3) Carson City, Nevada; and
(4) Idaho Falls, Idaho.

SA 141. Mrs. MURRAY submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert:

SEC. SENSE OF THE SENATE REGARDING THE CONTINUATION OF AMTRAK SERVICE.—It is the Sense of the Senate that the conferees on this joint resolution should approve the full $1,200,000,000 included in the Senate version of this resolution for Grants to the National Railroad Passenger Corporation (Amtrak) so as to ensure the continuation of passenger rail service along Amtrak's national passenger rail network, including the Northeast Corridor, for the remainder of the current fiscal year.

SA 142. Mr. REID submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. RESTORATION OF FISH, WILDLIFE, AND ASSOCIATED HABITATS IN WATERSHEDS OF CERTAIN LAKES.

(a) IN GENERAL.—In carrying out section 2507 of Public Law 107–171, the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) subject to paragraph (3), provide water and assistance under that section only for the Pyramid, Summit, and Walker Lakes in the State of Nevada;

(2) use $1,000,000 to provide a grant to the Walker River Paiute Tribe for the creation of a fish hatchery at Walker Lake; and

(3) use $2,000,000 to provide grants, to be divided equally, to the State of Nevada, the State of California, the Truckee Meadows Water Authority, and the Pyramid Lake Paiute Tribe, to implement the Truckee River Operating Agreement.

(b) RESTORATION OF LAKES.—Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of Reclamation, may take actions or initiate programs that will provide additional water to Pyramid, Summit, and Walker Lakes in the State of Nevada—

(1) to protect, restore, and enhance fish, wildlife, and associated habitats of the Lakes; and

(2) to protect, restore, and enhance fish, wildlife, and associated habitats in the watersheds of the Lakes if the actions or programs will result in the restoration of the Lakes.

(c) ADMINISTRATION.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107–171.

SA 143. Mr. REID (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. FEDERAL MILK MARKETING.

(a) EXEMPTION OF MILK PRODUCERS AND HANDLERS FROM OBLIGATION TO POOL MILK.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

''(M) OBLIGATION OF CERTAIN MILK PRODUCERS AND HANDLERS TO POOL MILK.—

''(i) DEFINITION OF COVERED PRODUCER OR HANDLER.—

''(I) IN GENERAL.—In this subparagraph, the term 'covered producer or handler' means a producer-handler, producer operating as a handler, or handler of Class I milk products—

''(aa) a plant of which is located within the boundaries of a marketing area (as those boundaries are in effect as of the date of enactment of this subparagraph) and covered by an order issued pursuant to this paragraph;

''(bb) that has packaged fluid milk product dispositions, or sales of packaged fluid milk products to other plants, in a milk marketing area located in a State that enforces minimum prices to handlers for milk purchases; and

''(cc) that is not otherwise obligated by an order under this paragraph, or a regulated milk pricing plan operated by a State, to pay minimum class prices for the raw milk presented by those milk dispositions or sales.

''(II) EXCLUSIONS.—The term 'covered producer or handler' does not include—

''(aa) a handler that operates an exempt plant (as defined in section 1000.8(e) of title 7, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph)); or

''(bb) a producer-handler that has route dispositions, and sales to other plants, of packaged fluid milk products equaling less than 6,000,000 pounds of milk in any 30-day period.**

''(ii) REQUIREMENT.—Notwithstanding any other provision of this subsection and without limiting the authority of the Secretary to otherwise regulate a noncovered producer or handler, a covered producer or handler shall be subject to all minimum price requirements of the Federal milk marketing order in which the plant of the covered producer or handler is located, at Federal order class prices for the county in which the plant is located.''.

(b) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (as amended by subsection (a)), is amended by adding at the end the following:

''(N) EXEMPTION OF MILK HANDLERS FROM MINIMUM PRICE REQUIREMENTS.—Notwithstanding any other provision of this subsection, no handler with distribution of Class I milk products in the Arizona-Las Vegas marketing area (Order No. 131) shall be exempt during any month from any minimum milk price requirement established by the Secretary under this subsection if the total distribution of Class I products within the Arizona-Las Vegas marketing area of any handler's own farm production exceeds the lesser of—

''(i) 3 percent of the total quantity of Class I products distributed in the Arizona-Las Vegas marketing area (Order No. 131); or

''(ii) 5,000,000 pounds.''.

(c) EXCLUSION OF NEVADA FROM FEDERAL MILK MARKETING ORDERS.—

(1) IN GENERAL.—Section 8c(11)(C) the Agricultural Adjustment Act (7 U.S.C. 608c(11)(C)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking the last sentence and inserting the following: ''In the case of milk and its products, no county located within the State of Nevada shall be within a marketing area defined in any order issued under this section.''.

(2) INFORMAL RULEMAKING.—The Secretary of Agriculture may modify an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to implement the amendment made by paragraph (1) by promulgating regulations, without regard to sections 556 and 557 of title 5, United States Code.

SA 144. Mr. SANTORUM submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, line 7, before the period at the end insert the following: ''*Provided further,* That, notwithstanding any other provision of law, the funds under this heading that are available for efforts relating to the treatment and prevention of HIV/AIDS shall also include family preservation efforts carried out through programs and initiatives that are designed to maintain and preserve the families of those persons afflicted with HIV/AIDS and to reduce the numbers of orphans created by HIV/AIDS''.

SA 145. Ms. SNOWE submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows;

On page 1047, between lines 19 and 20, insert the following:

SEC. 404. (a) EXTENDING AVAILABILITY OF SCHIP ALLOTMENTS FOR FISCAL YEARS 1998 THROUGH 2001.—

(1) RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEARS 1998 AND 1999.—Paragraphs (2)(A)(i) and (2)(A)(ii) of section 2104(g) of the Social Security Act (42 U.S.C. 1397dd(g)) are each amended by striking ''fiscal year 2002'' and inserting ''fiscal year 2004''.

(2) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2000.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2000 ALLOTMENT.—Paragraph (2) of such section 2104(g) is amended—

(i) in the heading, by striking ''AND 1999'' and inserting ''THROUGH 2000''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iii) FISCAL YEAR 2000 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g) is amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2000 by the end of fiscal year 2002,'' after ''fiscal year 2001,'';

(ii) in subparagraph (A), by striking ''1998 or 1999'' and inserting ''1998, 1999, or 2000'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (I),

(II) by striking the period at the end of subclause (II) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 1999'' and inserting '', 1999, or 2000'';

(v) in subparagraph (B), by striking ''with respect to fiscal year 1998 or 1999'';

(vi) in subparagraph (B)(ii)—

(I) by inserting ''with respect to fiscal year 1998, 1999, or 2000,'' after ''subsection (e),''; and

(II) by striking ''2002'' and inserting ''2004''; and

(vii) by adding at the end the following new subparagraph:

''(C) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2000.—For purposes of subparagraph (A)(i)(III)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(iii);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 1999'' and inserting '', 1999, AND 2000''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 1999'' and inserting '', fiscal year 1999, or fiscal year 2000''; and

(II) by striking ''or November 30, 2001'' and inserting ''November 30, 2001, or November 30, 2002'', respectively.

(3) EXTENSION AND REVISION OF RETAINED AND REDISTRIBUTED ALLOTMENTS FOR FISCAL YEAR 2001.—

(A) PERMITTING AND EXTENDING RETENTION OF PORTION OF FISCAL YEAR 2001 ALLOTMENT.—Paragraph (2) of such section 2104(g), as amended in paragraph (2)(A)(ii), is further amended—

(i) in the heading, by striking ''2000'' and inserting ''2001''; and

(ii) by adding at the end of subparagraph (A) the following:

''(iv) FISCAL YEAR 2001 ALLOTMENT.—Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.''.

(B) REDISTRIBUTED ALLOTMENTS.—Paragraph (1) of such section 2104(g), as amended in paragraph (2)(B), is further amended—

(i) in subparagraph (A), by inserting ''or for fiscal year 2001 by the end of fiscal year 2003,'' after ''fiscal year 2002,'';

(ii) in subparagraph (A), by striking ''1999, or 2000'' and inserting ''1999, 2000, or 2001'';

(iii) in subparagraph (A)(i)—

(I) by striking ''or'' at the end of subclause (II),

(II) by striking the period at the end of subclause (III) and inserting ''; or''; and

(III) by adding at the end the following new subclause:

''(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).'';

(iv) in subparagraph (A)(ii), by striking ''or 2000'' and inserting ''2000, or 2001'';

(v) in subparagraph (B)—

(I) by striking ''and'' at the end of clause (ii);

(II) by redesignating clause (iii) as clause (iv); and

(III) by inserting after clause (ii) the following new clause:

''(iii) notwithstanding subsection (e), with respect to fiscal year 2001, shall remain available for expenditure by the State through the end of fiscal year 2005; and''; and

(vi) by adding at the end the following new subparagraph:

''(D) AMOUNTS USED IN COMPUTING REDISTRIBUTIONS FOR FISCAL YEAR 2001.—For purposes of subparagraph (A)(i)(IV)—

''(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

''(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this title in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b); and

''(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).''.

(C) CONFORMING AMENDMENTS.—Such section 2104(g) is further amended—

(i) in its heading, by striking ''AND 2000'' and inserting ''2000, AND 2001''; and

(ii) in paragraph (3)—

(I) by striking ''or fiscal year 2000'' and inserting ''fiscal year 2000, or fiscal year 2001''; and

(II) by striking ''or November 30, 2002,'' and inserting ''November 30, 2002, or November 30, 2003,'', respectively.

(4) EFFECTIVE DATE.—This subsection, and the amendments made by this subsection, shall be effective as if this subsection had been enacted on September 30, 2002, and amounts under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.

(b) AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP FUNDS FOR MEDICAID EXPENDITURES.—Section 2105 of the Social Security Act (42 U.S.C. 1397ee) is amended by adding at the end the following:

''(g) AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—

''(1) STATE OPTION.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, with respect to allotments for fiscal years 1998, 1999, 2000, 2001, for fiscal years in which such allotments are available under subsections (e) and (g) of section 2104, a qualifying State (as defined in paragraph (2)) may elect to use not more than 20 percent of such allotments (instead of for expenditures under this title) for payments for such fiscal year under title XIX in accordance with subparagraph (B).

''(B) PAYMENTS TO STATES.—

''(i) IN GENERAL.—In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the total amount of funds described with respect to the State in subparagraph (A), the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under title XIX for expenditures of the State for the fiscal year described in clause (ii) if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)) of such expenditures.

''(ii) EXPENDITURES DESCRIBED.—For purposes of clause (i), the expenditures described in this clause are expenditures for such fiscal years for providing medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.

''(2) QUALIFYING STATE.—In this subsection, the term 'qualifying State' means a State that—

''(A) as of April 15, 1997, has an income eligibility standard with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or under a waiver under section 1115 implemented on January 1, 1994, that is up to 185 percent of the poverty line or above; and

''(B) satisfies the requirements described in paragraph (3).

''(3) REQUIREMENTS.—The requirements described in this paragraph are the following:

''(A) SCHIP INCOME ELIGIBILITY.—The State has a State child health plan that (whether implemented under title XIX or this title)—

''(i) as of January 1, 2001, has an income eligibility standard that is at least 200 percent of the poverty line or has an income eligibility standard that exceeds 200 percent of the poverty line under a waiver under section 1115 that is based on a child's lack of health insurance;

''(ii) subject to subparagraph (B), does not limit the acceptance of applications for children; and

''(iii) provides benefits to all children in the State who apply for and meet eligibility standards on a statewide basis.

''(B) NO WAITING LIST IMPOSED.—With respect to children whose family income is at or below 200 percent of the poverty line, the State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan.

''(C) ADDITIONAL REQUIREMENTS.—The State has implemented at least 4 of the following policies and procedures (relating to coverage of children under title XIX and this title):

''(i) UNIFORM, SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State uses the same uniform, simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for benefits under title XIX and this title.

''(ii) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under section 1902(l) or this title with respect to children.

''(iii) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children described in section 1902(a)(10)(A).

''(iv) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

''(v) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).''.

SA 146. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 720, beginning in line 5, strike ''*Provided further*, That none of the funds provided in this Act shall be available to compensate in excess of 37 active duty flag officer billets:''.

SA 147. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 136, beginning with line 10, strike through line 22.

SA 148. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, beginning with line 8, strike through line 12.

SA 149. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, beginning with line 11, strike through line 15.

SA 150. Ms. MURKOWSKI (for herself and Mr. STEVENS) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 432, line 10 after ''expended:'' insert the following:

''*Provided*, That subsection (t) of P.L. 93–153 is amended hereinafter in the first sentence by inserting ''or renew or extend'' before ''any'' the first place it appears and by inserting ''on or'' before ''before:''.

SA 151. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following new section:

''SEC. . CLARIFICATION OF ALASKA NATIVE SETTLEMENT TRUSTS.

''(A) Section of P.L. (43 U.S.C. 1629b) is amended:

''(1) at subsection (d)(1) by striking ''An'' and inserting in its place ''Except as otherwise set forth in subsection (d)(3) of this section, an'';

''(2) by creating the following new subsection:

''(d)(3) A resolution described in subsection (a)(3) of this section shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

''(A) a majority of the shares present or represented by proxy at the meeting relating to such resolution, or

''(B) an amount of shares greater than a majority of the shares present or represented by proxy at the meeting relating to such resolution (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.'';

''(3) by creating the following new subsection:

''(f) Substantially all of the assets. For purposes of this section and section 1629e of this title, a Native Corporation shall be considered to be transferring all or substantially all of its assets to a Settlement Trust only if such assets represent two-thirds or more of the fair market value of the Native Corporation's total assets.

''(B) Section of P.L. (43 U.S.C. 1629e) is amended by striking subsection (B) and inserting in its place the following:

''(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if:

''(i) the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable; and

''(ii) a shareholder vote on such transfer is required by (a)(4) of section 1629b of this title.''

SA 152. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1026, after line 22, add the following:

SEC. . Of the total amount appropriated under title IV of the Department of Defense Appropriations Act, 2003 (Public Law 107–248) for Ballistic Missile Defense Technology, $4,000,000 shall be available for a Phase III Small Business Innovation Research (SBIR) program that is based on the Missile Defense Agency's Phase II Small Business Innovation Research (SBIR) program for the use of an open atmosphere vapor deposition process for frequency adaptive electronics and high-density memory storage.

SA 153. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the followimg:

DIVISION ____—REFORM RELATING TO FEDERAL EMPLOYMENT

SEC. ____. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Federal Workforce Flexibility Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

DIVISION ____—REFORM RELATING TO FEDERAL EMPLOYMENT

Sec. ____. Short title; table of contents.

TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

Sec. 101. Streamlined personnel management demonstration projects.

Sec. 102. Effective date.

TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 201. Recruitment, relocation, and retention bonuses.

Sec. 202. Streamlined critical pay authority.

TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 301. Agency training.

Sec. 302. Annual leave enhancements.

TITLE I—FEDERAL HUMAN RESOURCES MANAGEMENT INNOVATIONS

SEC. 101. STREAMLINED PERSONNEL MANAGEMENT DEMONSTRATION PROJECTS.

Chapter 47 of title 5, United States Code, is amended—

(1) in section 4701—

(A) in subsection (a)—

(i) by striking ''(a)'';

(ii) by striking paragraph (1) and inserting the following:

''(1) 'agency' means an Executive agency and any entity that is subject to any provision of this title that could be waived under section 4703, but does not include—

''(A) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof which is designated by the President and which has as its principal function the conduct of foreign intelligence or counterintelligence activities; or

''(B) the General Accounting Office;'';

(iii) in paragraph (4), by striking ''and'' at the end;

(iv) by redesignating paragraph (5) as paragraph (6); and

(v) by inserting after paragraph (4) the following:

''(5) 'modification' means a significant change in 1 or more of the elements of a demonstration project plan as described in section 4703(b)(1); and''; and

(B) by striking subsection (b); and

(2) in section 4703—

(A) in subsection (a)—

(i) by striking ''conduct and evaluate demonstration projects'' and inserting ''conduct, modify, and evaluate demonstration projects'';

(ii) by striking '', including any law or regulation relating to—'' and all that follows and inserting a period; and

(iii) by adding at the end the following: ''The decision to initiate or modify a project under this section shall be made by the Office.'';

(B) by striking subsection (b) and inserting the following:

''(b) Before conducting or entering into any agreement or contract to conduct a demonstration project, the Office shall ensure—

''(1) that each project has a plan which describes—

''(A) its purpose;

''(B) the employees to be covered;

''(C) its anticipated outcomes and resource implications, including how the project relates to carrying out the agency's strategic plan, including meeting performance goals and objectives, and accomplishing its mission;

''(D) the personnel policies and procedures the project will use that differ from those otherwise available and applicable, including a specific citation of any provisions of law, rule, or regulation to be waived and a specific description of any contemplated action for which there is a lack of specific authority;

''(E) the method of evaluating the project; and

''(F) the agency's system for ensuring that the project is implemented in a manner consistent with merit system principles;

''(2) notification of the proposed project to employees who are likely to be affected by the project;

''(3) an appropriate comment period;

''(4) publication of the final plan in the Federal Register;

''(5) notification of the final project at least 90 days in advance of the date any project proposed under this section is to take effect to employees who are likely to be affected by the project;

''(6) publication of any subsequent modification in the Federal Register; and

''(7) notification of any subsequent modification to employees who are included in the project.'';

(C) in subsection (c)—

(i) by striking paragraph (1) and inserting the following:

''(1) any provision of chapter 63 or subpart G of part III of this title;'';

(ii) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(iii) by inserting after paragraph (3) the following:

''(4) section 7342, 7351, or 7353;

''(5) the Ethics in Government Act of 1978 (5 U.S.C. App.);''; and

(iv) in paragraph (6) as redesignated, by striking ''paragraph (1), (2), or (3) of this subsection; or'' and inserting ''paragraphs (1) through (5);'';

(D) by striking subsections (d) and (e) and inserting the following:

''(d)(1) Unless terminated at an earlier date in accordance with this section, each demonstration project shall terminate at the end of the 10-year period beginning on the date on which the project takes effect.

''(2) Before the end of the 5-year period beginning on the date on which a demonstration project takes effect, the Office shall submit a recommendation to Congress on whether Congress should enact legislation to make that project permanent.

''(e) The Office may terminate a demonstration project under this chapter if the Office determines that the project—

''(1) is not consistent with merit system principles set forth in section 2301, veterans' preference principles, or the provisions of this chapter; or

''(2) otherwise imposes a substantial hardship on, or is not in the best interests of, the public, the Government, employees, or eligibles.''; and

(E) by striking subsections (h) and (i) and inserting the following:

''(h) Notwithstanding section 2302(e)(1), for purposes of applying section 2302(b)(11) in a demonstration project under this chapter, the term 'veterans' preference requirement' means any of the specific provisions of the demonstration project plan that are designed to ensure that the project is consistent with veterans' preference principles.

''(i) The Office shall ensure that each demonstration project is evaluated. Each evaluation shall assess—

''(1) the project's compliance with the plan developed under subsection (b)(1); and

''(2) the project's impact on improving public management.

''(j) Upon request of the Director of the Office of Personnel Management, agencies shall cooperate with and assist the Office in any evaluation undertaken under subsection (i) and provide the Office with requested information and reports relating to the conducting of demonstration projects in their respective agencies.''.

SEC. 102. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE II—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 201. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

''§ 5753. Recruitment and relocation bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

''(A)(i) is newly appointed as an employee of the Federal Government; or

''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) The Office shall not extend coverage to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.

''§ 5754. Retention bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

''(1) the unusually high or unique qualifications of the employee or a special need of the

agency for the employee's services makes it essential to retain the employee; and

''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

''(A) the Federal service; or

''(B) for a different position in the Federal service under conditions described in regulations of the Office.

''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

''(B) 10 percent of an employee's basic pay if paid under subsection (c).

''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

''(i) The Office may prescribe regulations to carry out this section.

''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) The Office shall not extend coverage under this section to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

''5754. Retention bonuses.''.

(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

(c) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to section 5753 as in effect on the day before such effective date.

(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to section 5754 as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

SEC. 202. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

(3) by striking subsections (f) and (g) and inserting the following:

''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

(4) in subsection (h), by striking ''The Office of Management and Budget shall report to the Committee on Post Office and Civil Service'' and inserting ''The Office of Personnel Management shall report to the Committee on Government Reform.''.

TITLE III—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 301. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of each agency shall—

''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

''(2) modify such program or plan to accomplish such plans and goals.''.

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

''§ 4120. Agency training officer

''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

''§ 4121. Specific training programs

''In consultation with the Office of Personnel Management, each head of an agency shall establish—

''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

''(A) relating to employees with unacceptable performances; and

''(B) mentoring employees and improving employee performance and productivity.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

''4120. Agency training officer.

''4121. Specific training programs.''.

SEC. 302. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) In this subsection, the term 'period of qualified non-Federal service' means any equal period of service performed by an individual that—

''(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

''(B) was performed in a position—

''(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

''(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

''(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal service performed by an individual to be a period of service performed as an employee.''.

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding after paragraph (3) the following:

''(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.''.

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SA 154. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the followimg:

DIVISION ____—REFORM RELATING TO FEDERAL EMPLOYMENT

SEC. ___. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Federal Workforce Flexibility Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:

DIVISION ____—REFORM RELATING TO FEDERAL EMPLOYMENT

Sec. ____. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.

Sec. 102. Streamlined critical pay authority.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.

Sec. 202. Annual leave enhancements.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

''§ 5753. Recruitment and relocation bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described under subsection (c) of that section.

''(b)(1) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an individual appointed or moved to a position that is likely to be difficult to fill in the absence of such a bonus, if the individual—

''(A)(i) is newly appointed as an employee of the Federal Government; or

''(ii) is currently employed by the Federal Government and moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

''(B) is currently employed by the Federal Government and must relocate to accept a position stationed in a different geographic area.

''(2) Except as provided by subsection (h), a bonus may be paid under this section only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not to exceed 4 years. The Office may, by regulation, prescribe a minimum service.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (d) and (e) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3) The agreement shall be made effective upon employment with the agency or movement to a new position or geographic area, as applicable, except that a service agreement with respect to a recruitment bonus may be made effective at a later date under circumstances described in regulations of the Office, such as when there is an initial period of formal basic training.

''(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 4 years.

''(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full service period, or in a combination of these forms of payment.

''(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

''(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

''(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the amount of the bonus may be up to 50 percent of the employee's annual rate of basic pay at the beginning of the service period multiplied by the number of years (or fractions thereof) in the service period, not to exceed 100 percent of the employee's annual rate of basic pay at the beginning of the service period.

''(f) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying recruitment bonuses and a plan for paying relocation bonuses, subject to regulations prescribed by the Office.

''(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a recruitment or relocation bonus in appropriate circumstances when the agreed-upon service period has not been completed.

''(h)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) The Office shall not extend coverage to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.

''§ 5754. Retention bonuses

''(a) In this section, the term 'employee' has the meaning given that term under section 2105, except that such term also includes an employee described in subsection (c) of that section.

''(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee, subject to regulations prescribed by the Office, if—

''(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

''(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

''(A) the Federal service; or

''(B) for a different position in the Federal service under conditions described in regulations of the Office.

''(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

''(d) Except as provided in subsection (j), a bonus may be paid only to an employee covered by the General Schedule pay system established under subchapter III of chapter 53.

''(e)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

''(2)(A) The agreement shall include—

''(i) the length of the required service period;

''(ii) the amount of the bonus;

''(iii) the method of payment; and

''(iv) other terms and conditions under which the bonus is payable, subject to subsections (f) and (g) and regulations of the Office.

''(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

''(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

''(ii) the effect of the termination.

''(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

''(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

''(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

''(f)(1) Except as provided in subsection (g), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

''(A) 25 percent of the employee's basic pay if paid under subsection (b); or

''(B) 10 percent of an employee's basic pay if paid under subsection (c).

''(2) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement. An installment payment may not exceed the product derived from multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee. If the installment payment percentage is less than the bonus percentage rate, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

''(3) A retention bonus is not part of the basic pay of an employee for any purpose.

''(g) Upon the request of the head of an agency, the Office may waive the limit established under subsection (f)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

''(h) The Office shall require that, before paying a bonus under this section, an agency shall establish a plan for paying retention bonuses, subject to regulations prescribed by the Office.

''(i) The Office may prescribe regulations to carry out this section.

''(j)(1) At the request of the head of an Executive agency, the Office may extend coverage under this section to categories of employees within the agency who otherwise would not be covered by this section.

''(2) The Office shall not extend coverage under this section to the head of an Executive agency, including an Executive agency headed by a board or other collegial body composed of 2 or more individual members.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

''5754. Retention bonuses.''.

(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

(c) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after 180 days after the date of enactment of this Act.

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to section 5753 as in effect on the day before such effective date.

(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to section 5754 as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

''(c) The Office of Personnel Management, in consultation with the Office of Management and Budget, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.'';

(2) in subsection (e)(1), by striking ''Office of Management and Budget'' and inserting ''Office of Personnel Management'';

(3) by striking subsections (f) and (g) and inserting the following:

''(f) The Office of Personnel Management may not authorize the exercise of authority under this section with respect to more than 800 positions at any 1 time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

''(g) The Office of Personnel Management shall consult with the Office of Management and Budget before making any decision to grant or terminate any authority under this section.''; and

(4) in subsection (h), by striking ''The Office of Management and Budget shall report to the Committee on Post Office and Civil Service'' and inserting ''The Office of Personnel Management shall report to the Committee on Government Reform.''.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) TRAINING TO ACCOMPLISH PERFORMANCE PLANS AND STRATEGIC GOALS.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

''(c) The head of each agency shall—

''(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

''(2) modify such program or plan to accomplish such plans and goals.''.

(b) AGENCY TRAINING OFFICER; SPECIFIC TRAINING PROGRAMS.—

(1) IN GENERAL.—Chapter 41 of title 5, United States Code, is amended by adding after section 4119 the following:

''§ 4120. Agency training officer

''Each agency shall appoint or designate a training officer who shall be responsible for developing, coordinating, and administering training for the agency.

''§ 4121. Specific training programs

''In consultation with the Office of Personnel Management, each head of an agency shall establish—

''(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

''(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

''(A) relating to employees with unacceptable performances; and

''(B) mentoring employees and improving employee performance and productivity.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

''4120. Agency training officer.

''4121. Specific training programs.''.

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) ACCRUAL OF LEAVE FOR NEWLY HIRED FEDERAL EMPLOYEES WITH QUALIFIED EXPERIENCE.—

(1) IN GENERAL.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) In this subsection, the term 'period of qualified non-Federal service' means any equal period of service performed by an individual that—

''(A) except for this subsection would not otherwise be service performed by an employee for purposes of subsection (a); and

''(B) was performed in a position—

''(i) the duties of which were directly related to the duties of the position in an agency that such individual holds; and

''(ii) which meets such other conditions as the Office of Personnel Management shall prescribe by regulation.

''(2) For purposes of subsection (a), the head of an agency may deem a period of qualified non-Federal service performed by an individual to be a period of service performed as an employee.''.

(2) EFFECTIVE DATE.—This section shall take effect 120 days after the date of enactment of this Act and shall only apply to an individual hired on or after that effective date.

(b) SENIOR EXECUTIVE SERVICE ANNUAL LEAVE ENHANCEMENTS.—

(1) IN GENERAL.—Section 6303(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding after paragraph (3) the following:

''(4) one day for each full biweekly pay period for an employee in a position paid under section 5376 or 5383, or for an employee in an equivalent category for which the minimum rate of basic pay is greater than the rate payable at GS–15, step 10.''.

(2) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out the amendments made by this subsection.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Paragraph (1) shall take effect 120 days after the date of enactment of this Act.

(B) REGULATIONS.—Paragraph (2) shall take effect on the date of enactment of this Act.

SA 155. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 488, on line 2, strike the period after the word ''accomplishment'' and insert the following:

'': *Provided further*, That within funds available for the purpose of implementing the Valles Caldera Preservation Act, notwithstanding the limitations of 107(e)(2) of the Valles Caldera Preservation Act (Public Law 106–248), for fiscal year 2003, the members of the Board of Trustees of the Valles Caldera Trust may receive, upon request, compensation for each day (including travel time) that they are engaged in the performance of the functions of the Board, except that compensation shall not exceed the daily equivalent of the annual rate in effect for members of the Senior Executive Service at the ES–1 level, and shall be in addition to any reimbursement for travel, subsistence and other necessary expenses incurred by them in the performance of their duties, and except that Members of the Board who are officers or employees of the United States shall not receive any additional compensation by reason of service on the Board.''

SA 156. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for

other purposes; which was ordered to lie on the table, as follows:

On page 489, line 8, after ''Service;'' add the following new proviso: ''*Provided further*, That hazardous fuel treatment dollars in the National Fire Plan are to go to the County Partnership Restoration Program for forest restoration on the Apache-Sitgreaves National Forest in Arizona, the Lincoln National Forest in New Mexico, and the Grand Mesa, Uncompahgre and Gunnison National Forest in Colorado;''

SA 157. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 547, between lines 4 and 5, insert the following:

TITLE ____—T'UF SHUR BIEN PRESERVATION TRUST AREA

SEC. ___01. SHORT TITLE.

This title may be cited as the ''T'uf Shur Bien Preservation Trust Area Act''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) PURPOSES.—The purposes of this title are—

(1) to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest;

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

SEC. ___03. DEFINITIONS.

In this title:

(1) AREA.—

(A) IN GENERAL.—The term ''Area'' means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) EXCLUSIONS.—The term ''Area'' does not include—

(i) the subdivisions;

(ii) Pueblo-owned land;

(iii) the crest facilities; or

(iv) the special use permit area.

(2) CREST FACILITIES.—The term ''crest facilities'' means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) EXISTING USE.—The term ''existing use'' means a use that—

(A) is occurring in the Area as of the date of enactment of this Act; or

(B) is authorized in the Area after November 1, 1995, but before the date of enactment of this Act.

(4) LA LUZ TRACT.—The term ''La Luz tract'' means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) LOCAL PUBLIC BODY.—The term ''local public body'' means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) MAP.—The term ''map'' means the Forest Service map entitled ''T'uf Shur Bien Preservation Trust Area'' and dated April 2000.

(7) MODIFIED USE.—

(A) IN GENERAL.—The term ''modified use'' means an existing use that, at any time after the date of enactment of this Act, is modified or reconfigured but not significantly expanded.

(B) INCLUSIONS.—The term ''modified use'' includes—

(i) a trail or trailhead being modified, such as to accommodate handicapped access;

(ii) a parking area being reconfigured (but not expanded); and

(iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) NEW USE.—

(A) IN GENERAL.—The term ''new use'' means—

(i) a use that is not occurring in the Area as of the date of enactment of this Act; and

(ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) EXCLUSIONS.—The term ''new use'' does not include a use that—

(i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) PIEDRA LISA TRACT.—The term ''Piedra Lisa tract'' means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) PUEBLO.—The term ''Pueblo'' means the Pueblo of Sandia in its governmental capacity.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) SPECIAL USE PERMIT.—The term ''special use permit'' means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company

(14) SPECIAL USE PERMIT AREA.—

(A) IN GENERAL.—The term ''special use permit area'' means the land and facilities subject to the special use permit.

(B) INCLUSIONS.—The term ''special use permit area'' includes—

(i) approximately 46 acres of land used as an aerial tramway corridor;

(ii) approximately 945 acres of land used as a ski area; and

(iii) the land and facilities described in Exhibit A to the special use permit, including—

(I) the maintenance road to the lower tram tower;

(II) water storage and water distribution facilities; and

(III) 7 helispots.

(15) SUBDIVISION.—The term ''subdivision'' means—

(A) the subdivision of—

(i) Sandia Heights Addition;

(ii) Sandia Heights North Unit I, II, or 3;

(iii) Tierra Monte;

(iv) Valley View Acres; or

(v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) TRADITIONAL OR CULTURAL USE.—The term ''traditional or cultural use'' means—

(A) a ceremonial activity (including the placing of ceremonial materials in the Area); and

(B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

SEC. ___04. T'UF SHUR BIEN PRESERVATION TRUST AREA.

(a) ESTABLISHMENT.—The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section ___05(a);

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) ADMINISTRATION AND APPLICABLE LAW.—

(1) IN GENERAL.—The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of this title affecting management of the Area.

(2) TRADITIONAL OR CULTURAL USES.—Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by the Pueblo under section ___05(a)(4) shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; and

(B) applicable Federal wildlife protection laws, as provided in section ___06(a)(2).

(3) LATER ENACTMENTS.—To the extent that any law enacted or amended after the date of enactment of this Act is inconsistent with this title, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) TRUST.—The use of the word ''Trust'' in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) MAP.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and

with the Committee on Energy and Natural Resources of the Senate.

(2) PUBLIC AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) EFFECT.—The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in this title, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section ____09 or subsection (b) or (c) of section ____13 shall be made; and

(C) to the extent that the map and the language of this title conflict, the language of this title shall control.

(d) NO CONVEYANCE OF TITLE.—No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) PROHIBITED USES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of the date of enactment of this Act shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section ____05(a)(3).

(2) MINING CLAIMS.—The Area is closed to the location of mining claims under section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the ''Mining Law of 1872'').

(f) NO MODIFICATION OF BOUNDARIES.—Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

SEC. ____05. PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) IN GENERAL.—The Pueblo shall have the following rights and interests in the Area:

(1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; or

(B) applicable Federal wildlife protection laws as provided in section ____06(a)(2).

(2) Perpetual preservation of the national forest and wilderness character of the Area under this title.

(3) Rights in the management of the Area as specified in section ____07, including—

(A) the right to consent or withhold consent to a new use;

(B) the right to consultation regarding a modified use;

(C) the right to consultation regarding the management and preservation of the Area; and

(D) the right to dispute resolution procedures.

(4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.

(5) Such other rights and interests as are recognized in sections ____04, ____05(c), ____07, ____08, and ____09.

(b) ACCESS.— Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) COMPENSABLE INTEREST.—

(1) IN GENERAL.—If, by an Act of Congress enacted after the date of enactment of this Act, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section ____04(e) in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

(A) the United States shall compensate the Pueblo as if the Pueblo held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and

(B) the restrictions of sections ____04(e) and ____06(a) shall be disregarded in determining just compensation owed to the Pueblo.

(2) EFFECT.—Any compensation made to the Pueblo under paragraph (c) shall not affect the extinguishment of claims under section ____10.

SEC. ____06. LIMITATIONS ON PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) LIMITATIONS.—The rights and interests of the Pueblo recognized in this title do not include—

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section ____04(e); or

(4) any right to exclude persons or governmental entities from the Area.

(b) EXCEPTION.—No person who exercises traditional or cultural use rights as authorized by section ____05(a)(4) may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

SEC. ____07. MANAGEMENT OF THE AREA.

(a) PROCESS.—

(1) IN GENERAL.—The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) NEW USES.—

(A) REQUEST FOR CONSENT AFTER CONSULTATION.—

(i) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) GRANTING OF CONSENT.—If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) FINAL REQUEST FOR CONSENT.—

(i) REQUEST.—Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(iii) FAILURE TO RESPOND.—If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) PUBLIC INVOLVEMENT.—

(A) IN GENERAL.—With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decision-making process; and

(iii) the position of the Pueblo on the proposal.

(B) COURT CHALLENGE.—Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) EMERGENCIES AND EMERGENCY CLOSURE ORDERS.—

(1) AUTHORITY.—The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) NOTICE.—The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) NO CONSENT.—An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) DISPUTES INVOLVING FOREST SERVICE MANAGEMENT AND PUEBLO TRADITIONAL USES.—

(1) IN GENERAL.—In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) DISPUTE RESOLUTION PROCESS.—

(A) IN GENERAL.—In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) DISPUTES REQUIRING IMMEDIATE RESOLUTION.—In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

SEC. ____08. JURISDICTION OVER THE AREA.

(a) CRIMINAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.

(2) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section ___05(a)(4).

(3) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18, United States Code, committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) OVERLAPPING JURISDICTION.—To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) FEDERAL USE OF STATE LAW.—Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) CIVIL JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before the date of enactment of this Act.

(2) JURISDICTION OF THE PUEBLO.—

(A) IN GENERAL.—The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) REGULATORY JURISDICTION.—The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with this title; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) TAXING JURISDICTION.—The Pueblo shall have no authority to impose taxes within the Area.

(3) STATE AND LOCAL TAXING JURISDICTION.—The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized to use the Area under section ___05(a)(4).

SEC. ___09. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.

(a) SUBDIVISIONS.—

(1) IN GENERAL.—The subdivisions are excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) STATE JURISDICTION.—The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo at the time of enactment of this Act, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) LIMITATIONS ON TRUST LAND.—Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in this title.

(b) PIEDRA LISA.—

(1) IN GENERAL.—The Piedra Lisa tract is excluded from the Area.

(2) DECLARATION OF TRUST TITLE.—The Piedra Lisa tract—

(A) shall be transferred to the United States;

(B) is declared to be held in trust for the Pueblo by the United States; and

(C) shall be administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this title.

(3) APPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section ___06(a)(4) shall not apply outside of Forest Service System trails.

(c) CREST FACILITIES.—

(1) IN GENERAL.—The land on which the crest facilities are located is excluded from the Area.

(2) JURISDICTION.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) SPECIAL USE PERMIT AREA.—

(1) IN GENERAL.—The land described in the special use permit is excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) PREEXISTING STATUS.—The preexisting jurisdictional status of that land shall continue in effect.

(3) AMENDMENT TO PLAN.—In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under this title as the land currently described in the special use permit.

(4) LAND DEDICATED TO AERIAL TRAMWAY AND RELATED USES.—Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) LA LUZ TRACT.—

(1) IN GENERAL.—The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this title.

(2) NONAPPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section ___06(a)(4) shall not apply outside of Forest Service System trails.

(f) EVERGREEN HILLS ACCESS.—The Secretary shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition in accordance with section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(g) PUEBLO FEE LAND.—Those properties not specifically addressed in subsections (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) RIGHTS-OF-WAY.—

(1) ROAD RIGHTS-OF-WAY.—

(A) IN GENERAL.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

(i) a right-of-way for Tramway Road;

(ii) a right-of-way for Juniper Hill Road North;

(iii) a right-of-way for Juniper Hill Road South;

(iv) a right-of-way for Sandia Heights Road; and

(v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) CONDITIONS.—The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by this title.

(2) UTILITY RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition,

Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company; provided that use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) FOREST SERVICE RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

(A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

SEC. ___10. EXTINGUISHMENT OF CLAIMS.

(a) IN GENERAL.—Except for the rights and interests in and to the Area specifically recognized in sections ___04, ___05, ___07, ___08, and ___09, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

(b) SUBDIVISIONS.—Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of the date of enactment of this Act), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) SPECIAL USE AND CREST FACILITIES AREAS.—Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

(d) PUEBLO AGREEMENT.—As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection (a), (b) and (c).

(e) CONSIDERATION.—The recognition of the Pueblo's rights and interests in this title constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section ___09, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to this title.

SEC. ___11. CONSTRUCTION.

(a) STRICT CONSTRUCTION.—This title recognizes only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) EXISTING RIGHTS.—To the extent there exist within the Area as of the date of enactment of this Act any valid private property rights associated with private land that are not otherwise addressed in this title, such rights are not modified or otherwise affected by this title, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section ___05(a)(3)(A).

(c) NOT PRECEDENT.—The provisions of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) FISH AND WILDLIFE.—Except as provided in section ___08(b)(2)(B), nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(e) FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) is amended by adding at the end the following: ''Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.''

SEC. ___12. JUDICIAL REVIEW.

(a) ENFORCEMENT.—A civil action to enforce the provisions of this title may be brought to the extent permitted under chapter 7 of title 5, United States Code. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5, United States Code.

(b) WAIVER.—A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under this title, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) VENUE.—Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of this title, shall lie only in the United States District Court for the District of New Mexico.

SEC. ___13. PROVISIONS RELATING TO CONTRIBUTIONS AND LAND EXCHANGE.

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with this title.

(2) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) ACCEPTANCE OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act (43 U.S.C. 1716(b)), the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) FUNDS RECEIVED.—Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under the Act of December 4, 1967, known as the Sisk Act (16 U.S.C. 484a), and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) TREATMENT OF LAND EXCHANGED OR CONVEYED.—All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under this title.

(5) FAILURE TO MAKE OFFER.—If the land exchange offer is not made by the date that is 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) LAND ACQUISITION AND OTHER COMPENSATION.—

(1) IN GENERAL.—The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) PIEDRA LISA TRACT.—Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section ___09(h)(3)(C); and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section ___09(b)(2).

(d) REIMBURSEMENT OF CERTAIN COSTS.—

(1) IN GENERAL.—The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) TREATMENT OF REIMBURSEMENT.—Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24 U.S.C. 2412).

(3) PAYMENTS.—The Secretary of the Treasury shall make reimbursement payments as provided in this section out of any money not otherwise appropriated.

(4) APPLICATIONS.—Not later than 180 days after the date of enactment of this Act, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) MAXIMUM REIMBURSEMENT.—

(A) IN GENERAL.—No party shall be reimbursed in excess of $750,000 under this section, and the total amount reimbursed in accordance with this section shall not exceed $3,000,000.

(B) OFFSET.—The percentage amount of each rescission provided for under section 601 of division N shall be increased by such percentage amount as is necessary to rescind an amount of funds equal to the total amount reimbursed under this section.

SEC. ___14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as are necessary for the Forest Service to carry out responsibilities of the Forest Service in accordance with section ___13(c).

SEC. ___15. EFFECTIVE DATE.

The provisions of this title shall take effect immediately on enactment of this Act.

SA 158. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 547, between lines 4 and 5, insert the following:

TITLE ___—T'UF SHUR BIEN PRESERVATION TRUST AREA

SEC. ___01. SHORT TITLE.

This title may be cited as the ''T'uf Shur Bien Preservation Trust Area Act''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1748, the Pueblo of Sandia received a grant from a representative of the King of Spain, which grant was recognized and confirmed by Congress in 1858 (11 Stat. 374); and

(2) in 1994, the Pueblo filed a civil action against the Secretary of the Interior and the Secretary of Agriculture in the United States District Court for the District of Columbia (Civil No. 1:94CV02624), asserting that Federal surveys of the grant boundaries erroneously excluded certain land within the Cibola National Forest, including a portion of the Sandia Mountain Wilderness.

(b) PURPOSES.—The purposes of this title are—

(1) to establish the T'uf Shur Bien Preservation Trust Area in the Cibola National Forest;

(2) to confirm the status of national forest land and wilderness land in the Area while resolving issues associated with the civil action referred to in subsection (a)(2) and the opinions of the Solicitor of the Department of the Interior dated December 9, 1988 (M–36963; 96 I.D. 331) and January 19, 2001 (M–37002); and

(3) to provide the Pueblo, the parties to the civil action, and the public with a fair and just settlement of the Pueblo's claim.

SEC. ___03. DEFINITIONS.

In this title:

(1) AREA.—

(A) IN GENERAL.—The term ''Area'' means the T'uf Shur Bien Preservation Trust Area, comprised of approximately 9890 acres of land in the Cibola National Forest, as depicted on the map.

(B) EXCLUSIONS.—The term ''Area'' does not include—

(i) the subdivisions;

(ii) Pueblo-owned land;

(iii) the crest facilities; or

(iv) the special use permit area.

(2) CREST FACILITIES.—The term ''crest facilities'' means—

(A) all facilities and developments located on the crest of Sandia Mountain, including the Sandia Crest Electronic Site;

(B) electronic site access roads;

(C) the Crest House;

(D) the upper terminal, restaurant, and related facilities of Sandia Peak Tram Company;

(E) the Crest Observation Area;

(F) parking lots;

(G) restrooms;

(H) the Crest Trail (Trail No. 130);

(I) hang glider launch sites;

(J) the Kiwanis cabin; and

(K) the land on which the facilities described in subparagraphs (A) through (J) are located and the land extending 100 feet along terrain to the west of each such facility, unless a different distance is agreed to in writing by the Secretary and the Pueblo and documented in the survey of the Area.

(3) EXISTING USE.—The term ''existing use'' means a use that—

(A) is occurring in the Area as of the date of enactment of this Act; or

(B) is authorized in the Area after November 1, 1995, but before the date of enactment of this Act.

(4) LA LUZ TRACT.—The term ''La Luz tract'' means the tract comprised of approximately 31 acres of land owned in fee by the Pueblo and depicted on the map.

(5) LOCAL PUBLIC BODY.—The term ''local public body'' means a political subdivision of the State of New Mexico (as defined in New Mexico Code 6–5–1).

(6) MAP.—The term ''map'' means the Forest Service map entitled ''T'uf Shur Bien Preservation Trust Area'' and dated April 2000.

(7) MODIFIED USE.—

(A) IN GENERAL.—The term ''modified use'' means an existing use that, at any time after the date of enactment of this Act, is modified or reconfigured but not significantly expanded.

(B) INCLUSIONS.—The term ''modified use'' includes—

(i) a trail or trailhead being modified, such as to accommodate handicapped access;

(ii) a parking area being reconfigured (but not expanded); and

(iii) a special use authorization for a group recreation use being authorized for a different use area or time period.

(8) NEW USE.—

(A) IN GENERAL.—The term ''new use'' means—

(i) a use that is not occurring in the Area as of the date of enactment of this Act; and

(ii) an existing use that is being modified so as to be significantly expanded or altered in scope, dimension, or impact on the land, water, air, or wildlife resources of the Area.

(B) EXCLUSIONS.—The term ''new use'' does not include a use that—

(i) is categorically excluded from documentation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(ii) is carried out to comply with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(9) PIEDRA LISA TRACT.—The term ''Piedra Lisa tract'' means the tract comprised of approximately 160 acres of land owned by the Pueblo and depicted on the map.

(10) PUEBLO.—The term ''Pueblo'' means the Pueblo of Sandia in its governmental capacity.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(12) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the Agreement of Compromise and Settlement dated April 4, 2000, among the United States, the Pueblo, and the Sandia Peak Tram Company.

(13) SPECIAL USE PERMIT.—The term ''special use permit'' means the Special Use Permit issued December 1, 1993, by the Secretary to Sandia Peak Tram Company and Sandia Peak Ski Company

(14) SPECIAL USE PERMIT AREA.—

(A) IN GENERAL.—The term ''special use permit area'' means the land and facilities subject to the special use permit.

(B) INCLUSIONS.—The term ''special use permit area'' includes—

(i) approximately 46 acres of land used as an aerial tramway corridor;

(ii) approximately 945 acres of land used as a ski area; and

(iii) the land and facilities described in Exhibit A to the special use permit, including—

(I) the maintenance road to the lower tram tower;

(II) water storage and water distribution facilities; and

(III) 7 helispots.

(15) SUBDIVISION.—The term ''subdivision'' means—

(A) the subdivision of—

(i) Sandia Heights Addition;

(ii) Sandia Heights North Unit I, II, or 3;

(iii) Tierra Monte;

(iv) Valley View Acres; or

(v) Evergreen Hills; and

(B) any additional plat or privately-owned property depicted on the map.

(16) TRADITIONAL OR CULTURAL USE.—The term ''traditional or cultural use'' means—

(A) a ceremonial activity (including the placing of ceremonial materials in the Area); and

(B) the use, hunting, trapping, or gathering of plants, animals, wood, water, and other natural resources for a noncommercial purpose.

SEC. ___04. T'UF SHUR BIEN PRESERVATION TRUST AREA.

(a) ESTABLISHMENT.—The T'uf Shur Bien Preservation Trust Area is established within the Cibola National Forest and the Sandia Mountain Wilderness as depicted on the map—

(1) to recognize and protect in perpetuity the rights and interests of the Pueblo in and to the Area, as specified in section ___05(a);

(2) to preserve in perpetuity the national forest and wilderness character of the Area; and

(3) to recognize and protect in perpetuity the longstanding use and enjoyment of the Area by the public.

(b) ADMINISTRATION AND APPLICABLE LAW.—

(1) IN GENERAL.—The Secretary shall continue to administer the Area as part of the National Forest System subject to and consistent with the provisions of this title affecting management of the Area.

(2) TRADITIONAL OR CULTURAL USES.—Traditional or cultural uses by Pueblo members and members of other federally-recognized Indian tribes authorized to use the Area by

the Pueblo under section ____05(a)(4) shall not be restricted except by—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; and

(B) applicable Federal wildlife protection laws, as provided in section ____06(a)(2).

(3) LATER ENACTMENTS.—To the extent that any law enacted or amended after the date of enactment of this Act is inconsistent with this title, the law shall not apply to the Area unless expressly made applicable by Congress.

(4) TRUST.—The use of the word ''Trust'' in the name of the Area—

(A) is in recognition of the specific rights and interests of the Pueblo in the Area; and

(B) does not confer on the Pueblo the ownership interest that exists in a case in which the Secretary of the Interior accepts the title to land held in trust for the benefit of an Indian tribe.

(c) MAP.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the Secretary shall file the map and a legal description of the Area with the Committee on Resources of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate.

(2) PUBLIC AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(3) EFFECT.—The map and legal description filed under paragraph (1) shall have the same effect as if the map and legal description were included in this title, except that—

(A) technical and typographical errors shall be corrected;

(B) changes that may be necessary under subsection (b), (d), or (e) of section ____09 or subsection (b) or (c) of section ____13 shall be made; and

(C) to the extent that the map and the language of this title conflict, the language of this title shall control.

(d) NO CONVEYANCE OF TITLE.—No right, title, or interest of the United States in or to the Area or any part of the Area shall be conveyed to or exchanged with any person, trust, or governmental entity, including the Pueblo, without specific authorization of Congress.

(e) PROHIBITED USES.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) no use prohibited by the Wilderness Act (16 U.S.C. 1131 et seq.) as of the date of enactment of this Act shall be permitted in the wilderness portion of the Area; and

(B) none of the following uses shall be permitted in any portion of the Area:

(i) Gaming or gambling.

(ii) Mineral production.

(iii) Timber production.

(iv) Any new use to which the Pueblo objects under section ____05(a)(3).

(2) MINING CLAIMS.—The Area is closed to the location of mining claims under section 2320 of the Revised Statutes (30 U.S.C. 23) (commonly known as the ''Mining Law of 1872'').

(f) NO MODIFICATION OF BOUNDARIES.—Establishment of the Area shall not—

(1) affect the boundaries of or repeal or disestablish the Sandia Mountain Wilderness or the Cibola National Forest; or

(2) modify the existing boundary of the Pueblo grant.

SEC. ____05. PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) IN GENERAL.—The Pueblo shall have the following rights and interests in the Area:

(1) Free and unrestricted access to the Area for traditional or cultural uses, to the extent that those uses are not inconsistent with—

(A) the Wilderness Act (16 U.S.C. 1131 et seq.) (including regulations promulgated under that Act) as in effect on the date of enactment of this Act; or

(B) applicable Federal wildlife protection laws as provided in section ____06(a)(2).

(2) Perpetual preservation of the national forest and wilderness character of the Area under this title.

(3) Rights in the management of the Area as specified in section ____07, including—

(A) the right to consent or withhold consent to a new use;

(B) the right to consultation regarding a modified use;

(C) the right to consultation regarding the management and preservation of the Area; and

(D) the right to dispute resolution procedures.

(4) Exclusive authority, in accordance with the customs and laws of the Pueblo, to administer access to the Area for traditional or cultural uses by members of the Pueblo and of other federally-recognized Indian tribes.

(5) Such other rights and interests as are recognized in sections ____04, ____05(c), ____07, ____08, and ____09.

(b) ACCESS.— Except as provided in subsection (a)(4), access to and use of the Area for all other purposes shall continue to be administered by the Secretary.

(c) COMPENSABLE INTEREST.—

(1) IN GENERAL.—If, by an Act of Congress enacted after the date of enactment of this Act, Congress diminishes the national forest or wilderness designation of the Area by authorizing a use prohibited by section ____04(e) in all or any portion of the Area, or denies the Pueblo access for any traditional or cultural use in all or any portion of the Area—

(A) the United States shall compensate the Pueblo as if the Pueblo held a fee title interest in the affected portion of the Area and as though the United States had acquired such an interest by legislative exercise of the power of eminent domain; and

(B) the restrictions of sections ____04(e) and ____06(a) shall be disregarded in determining just compensation owed to the Pueblo.

(2) EFFECT.—Any compensation made to the Pueblo under paragraph (c) shall not affect the extinguishment of claims under section ____10.

SEC. ____06. LIMITATIONS ON PUEBLO RIGHTS AND INTERESTS IN THE AREA.

(a) LIMITATIONS.—The rights and interests of the Pueblo recognized in this title do not include—

(1) any right to sell, grant, lease, convey, encumber, or exchange land or any interest in land in the Area (and any such conveyance shall not have validity in law or equity);

(2) any exemption from applicable Federal wildlife protection laws;

(3) any right to engage in a use prohibited by section ____04(e); or

(4) any right to exclude persons or governmental entities from the Area.

(b) EXCEPTION.—No person who exercises traditional or cultural use rights as authorized by section ____05(a)(4) may be prosecuted for a Federal wildlife offense requiring proof of a violation of a State law (including regulations).

SEC. ____07. MANAGEMENT OF THE AREA.

(a) PROCESS.—

(1) IN GENERAL.—The Secretary shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months).

(2) NEW USES.—

(A) REQUEST FOR CONSENT AFTER CONSULTATION.—

(i) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use.

(ii) GRANTING OF CONSENT.—If the Pueblo consents to the new use in writing or fails to respond within 30 days after completion of the consultation process, the Secretary may proceed with the notice and comment process and the environmental analysis.

(B) FINAL REQUEST FOR CONSENT.—

(i) REQUEST.—Before the Secretary (or a designee) signs a record of decision or decision notice for a proposed new use, the Secretary shall again request the consent of the Pueblo.

(ii) DENIAL OF CONSENT.—If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

(iii) FAILURE TO RESPOND.—If the Pueblo fails to respond to the consent request within 30 days after receipt of the proposed record of decision or decision notice—

(I) the Pueblo shall be deemed to have consented to the proposed record of decision or decision notice; and

(II) the Secretary may proceed to issue the final record of decision or decision notice.

(3) PUBLIC INVOLVEMENT.—

(A) IN GENERAL.—With respect to a proposed new use or modified use, the public shall be provided notice of—

(i) the purpose and need for the proposed new use or modified use;

(ii) the role of the Pueblo in the decision-making process; and

(iii) the position of the Pueblo on the proposal.

(B) COURT CHALLENGE.—Any person may bring a civil action in the United States District Court for the District of New Mexico to challenge a determination by the Secretary concerning whether a use constitutes a new use or a modified use.

(b) EMERGENCIES AND EMERGENCY CLOSURE ORDERS.—

(1) AUTHORITY.—The Secretary shall retain the authority of the Secretary to manage emergency situations, to—

(A) provide for public safety; and

(B) issue emergency closure orders in the Area subject to applicable law.

(2) NOTICE.—The Secretary shall notify the Pueblo regarding emergencies, public safety issues, and emergency closure orders as soon as practicable.

(3) NO CONSENT.—An action of the Secretary described in paragraph (1) shall not require the consent of the Pueblo.

(c) DISPUTES INVOLVING FOREST SERVICE MANAGEMENT AND PUEBLO TRADITIONAL USES.—

(1) IN GENERAL.—In a case in which the management of the Area by the Secretary conflicts with a traditional or cultural use, if the conflict does not pertain to a new use subject to the process specified in subsection (a)(2), the process for dispute resolution specified in this subsection shall apply.

(2) DISPUTE RESOLUTION PROCESS.—

(A) IN GENERAL.—In the case of a conflict described in paragraph (1)—

(i) the party identifying the conflict shall notify the other party in writing addressed to the Governor of the Pueblo or the Regional Forester, as appropriate, specifying the nature of the dispute; and

(ii) the Governor of the Pueblo or the Regional Forester shall attempt to resolve the dispute for a period of at least 30 days after notice has been provided before bringing a civil action in the United States District Court for the District of New Mexico.

(B) DISPUTES REQUIRING IMMEDIATE RESOLUTION.—In the case of a conflict that requires immediate resolution to avoid imminent, substantial, and irreparable harm—

(i) the party identifying the conflict shall notify the other party and seek to resolve the dispute within 3 days of the date of notification; and

(ii) if the parties are unable to resolve the dispute within 3 days—

(I) either party may bring a civil action for immediate relief in the United States District Court for the District of New Mexico; and

(II) the procedural requirements specified in subparagraph (A) shall not apply.

SEC. ___08. JURISDICTION OVER THE AREA.

(a) CRIMINAL JURISDICTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, jurisdiction over crimes committed in the Area shall be allocated as provided in this paragraph.

(2) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction over an offense committed by a member of the Pueblo or of another federally-recognized Indian tribe who is present in the Area with the permission of the Pueblo under section ___05(a)(4).

(3) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over—

(A) an offense described in section 1153 of title 18, United States Code, committed by a member of the Pueblo or another federally-recognized Indian tribe;

(B) an offense committed by any person in violation of the laws (including regulations) pertaining to the protection and management of national forests;

(C) enforcement of Federal criminal laws of general applicability; and

(D) any other offense committed by a member of the Pueblo against a person not a member of the Pueblo.

(4) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over an offense under the law of the State committed by a person not a member of the Pueblo.

(5) OVERLAPPING JURISDICTION.—To the extent that the respective allocations of jurisdiction over the Area under paragraphs (2), (3), and (4) overlap, the governments shall have concurrent jurisdiction.

(6) FEDERAL USE OF STATE LAW.—Under the jurisdiction of the United States described in paragraph (3)(D), Federal law shall incorporate any offense defined and punishable under State law that is not so defined under Federal law.

(b) CIVIL JURISDICTION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the United States, the State of New Mexico, and local public bodies shall have the same civil adjudicatory, regulatory, and taxing jurisdiction over the Area as was exercised by those entities on the day before the date of enactment of this Act.

(2) JURISDICTION OF THE PUEBLO.—

(A) IN GENERAL.—The Pueblo shall have exclusive civil adjudicatory jurisdiction over—

(i) a dispute involving only members of the Pueblo;

(ii) a civil action brought by the Pueblo against a member of the Pueblo; and

(iii) a civil action brought by the Pueblo against a member of another federally-recognized Indian tribe for a violation of an understanding between the Pueblo and the other tribe regarding use of or access to the Area for traditional or cultural uses.

(B) REGULATORY JURISDICTION.—The Pueblo shall have no regulatory jurisdiction over the Area, except that the Pueblo shall have exclusive authority to—

(i) regulate traditional or cultural uses by the members of the Pueblo and administer access to the Area by other federally-recognized Indian tribes for traditional or cultural uses, to the extent such regulation is consistent with this title; and

(ii) regulate hunting and trapping in the Area by members of the Pueblo, to the extent that the hunting or trapping is related to traditional or cultural uses, except that such hunting and trapping outside of that portion of the Area in sections 13, 14, 23, 24, and the northeast quarter of section 25 of T12N, R4E, and section 19 of T12N, R5E, N.M.P.M., Sandoval County, New Mexico, shall be regulated by the Pueblo in a manner consistent with the regulations of the State of New Mexico concerning types of weapons and proximity of hunting and trapping to trails and residences.

(C) TAXING JURISDICTION.—The Pueblo shall have no authority to impose taxes within the Area.

(3) STATE AND LOCAL TAXING JURISDICTION.—The State of New Mexico and local public bodies shall have no authority within the Area to tax the uses or the property of the Pueblo, members of the Pueblo, or members of other federally-recognized Indian tribes authorized to use the Area under section ___05(a)(4).

SEC. ___09. SUBDIVISIONS AND OTHER PROPERTY INTERESTS.

(a) SUBDIVISIONS.—

(1) IN GENERAL.—The subdivisions are excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the subdivisions and property interests therein, and the laws of the Pueblo shall not apply to the subdivisions.

(B) STATE JURISDICTION.—The jurisdiction of the State of New Mexico and local public bodies over the subdivisions and property interests therein shall continue in effect, except that on application of the Pueblo a tract comprised of approximately 35 contiguous, nonsubdivided acres in the northern section of Evergreen Hills owned in fee by the Pueblo at the time of enactment of this Act, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior.

(3) LIMITATIONS ON TRUST LAND.—Trust land described in paragraph (2)(B) shall be subject to all limitations on use pertaining to the Area contained in this title.

(b) PIEDRA LISA.—

(1) IN GENERAL.—The Piedra Lisa tract is excluded from the Area.

(2) DECLARATION OF TRUST TITLE.—The Piedra Lisa tract—

(A) shall be transferred to the United States;

(B) is declared to be held in trust for the Pueblo by the United States; and

(C) shall be administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this title.

(3) APPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section ___06(a)(4) shall not apply outside of Forest Service System trails.

(c) CREST FACILITIES.—

(1) IN GENERAL.—The land on which the crest facilities are located is excluded from the Area.

(2) JURISDICTION.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory or any other form of jurisdiction, over the land on which the crest facilities are located and property interests therein, and the laws of the Pueblo, shall not apply to that land. The preexisting jurisdictional status of that land shall continue in effect.

(d) SPECIAL USE PERMIT AREA.—

(1) IN GENERAL.—The land described in the special use permit is excluded from the Area.

(2) JURISDICTION.—

(A) IN GENERAL.—The Pueblo shall have no civil or criminal jurisdiction for any purpose, including adjudicatory, taxing, zoning, regulatory, or any other form of jurisdiction, over the land described in the special use permit, and the laws of the Pueblo shall not apply to that land.

(B) PREEXISTING STATUS.—The preexisting jurisdictional status of that land shall continue in effect.

(3) AMENDMENT TO PLAN.—In the event the special use permit, during its existing term or any future terms or extensions, requires amendment to include other land in the Area necessary to realign the existing or any future replacement tram line, associated structures, or facilities, the land subject to that amendment shall thereafter be excluded from the Area and shall have the same status under this title as the land currently described in the special use permit.

(4) LAND DEDICATED TO AERIAL TRAMWAY AND RELATED USES.—Any land dedicated to aerial tramway and related uses and associated facilities that are excluded from the special use permit through expiration, termination or the amendment process shall thereafter be included in the Area, but only after final agency action no longer subject to any appeals.

(e) LA LUZ TRACT.—

(1) IN GENERAL.—The La Luz tract now owned in fee by the Pueblo is excluded from the Area and, on application by the Pueblo, shall be transferred to the United States and held in trust for the Pueblo by the United States and administered by the Secretary of the Interior subject to all limitations on use pertaining to the Area contained in this title.

(2) NONAPPLICABILITY OF CERTAIN RESTRICTION.—The restriction contained in section ___06(a)(4) shall not apply outside of Forest Service System trails.

(f) EVERGREEN HILLS ACCESS.—The Secretary shall ensure that Forest Service Road 333D, as depicted on the map, is maintained in an adequate condition in accordance with section 1323(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3210(a)).

(g) PUEBLO FEE LAND.—Those properties not specifically addressed in subsections (a) or (e) that are owned in fee by the Pueblo within the subdivisions are excluded from the Area and shall be subject to the jurisdictional provisions of subsection (a).

(h) RIGHTS-OF-WAY.—

(1) ROAD RIGHTS-OF-WAY.—

(A) IN GENERAL.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the County of Bernalillo, New Mexico, in perpetuity, the following irrevocable rights-of-way for roads identified on the map in order to provide for public access to the subdivisions, the special use permit land and facilities, the other leasehold and easement rights and interests of the Sandia Peak Tram Company and its affiliates, the Sandia Heights South Subdivision, and the Area—

(i) a right-of-way for Tramway Road;

(ii) a right-of-way for Juniper Hill Road North;

(iii) a right-of-way for Juniper Hill Road South;

(iv) a right-of-way for Sandia Heights Road; and

(v) a right-of-way for Juan Tabo Canyon Road (Forest Road No. 333).

(B) CONDITIONS.—The road rights-of-way shall be subject to the following conditions:

(i) Such rights-of-way may not be expanded or otherwise modified without the Pueblo's written consent, but road maintenance to the rights-of-way shall not be subject to Pueblo consent.

(ii) The rights-of-way shall not authorize uses for any purpose other than roads without the Pueblo's written consent.

(iii) Except as provided in the Settlement Agreement, existing rights-of-way or leasehold interests and obligations held by the Sandia Peak Tram Company and its affiliates, shall be preserved, protected, and unaffected by this title.

(2) UTILITY RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant irrevocable utility rights-of-way in perpetuity across Pueblo land to appropriate utility or other service providers serving Sandia Heights Addition, Sandia Heights North Units I, II, and 3, the special use permit land, Tierra Monte, and Valley View Acres, including rights-of-way for natural gas, power, water, telecommunications, and cable television services. Such rights-of-way shall be within existing utility corridors as depicted on the map or, for certain water lines, as described in the existing grant of easement to the Sandia Peak Utility Company; provided that use of water line easements outside the utility corridors depicted on the map shall not be used for utility purposes other than water lines and associated facilities. Except where above-ground facilities already exist, all new utility facilities shall be installed underground unless the Pueblo agrees otherwise. To the extent that enlargement of existing utility corridors is required for any technologically-advanced telecommunication, television, or utility services, the Pueblo shall not unreasonably withhold agreement to a reasonable enlargement of the easements described above.

(3) FOREST SERVICE RIGHTS-OF-WAY.—In accordance with the Pueblo having given its consent in the Settlement Agreement, the Secretary of the Interior shall grant to the Forest Service the following irrevocable rights-of-way in perpetuity for Forest Service trails crossing land of the Pueblo in order to provide for public access to the Area and through Pueblo land—

(A) a right-of-way for a portion of the Crest Spur Trail (Trail No. 84), crossing a portion of the La Luz tract, as identified on the map;

(B) a right-of-way for the extension of the Foothills Trail (Trail No. 365A), as identified on the map; and

(C) a right-of-way for that portion of the Piedra Lisa North-South Trail (Trail No. 135) crossing the Piedra Lisa tract.

SEC. ___10. EXTINGUISHMENT OF CLAIMS.

(a) IN GENERAL.—Except for the rights and interests in and to the Area specifically recognized in sections ____04, ____05, ____07, ____08, and ____09, all Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to land within the Area, any part thereof, and property interests therein, as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished. The United States' title to the Area is confirmed.

(b) SUBDIVISIONS.—Any Pueblo claims to right, title and interest of any kind, including aboriginal claims, in and to the subdivisions and property interests therein (except for land owned in fee by the Pueblo as of the date of enactment of this Act), as well as related boundary, survey, trespass, and monetary damage claims, are permanently extinguished.

(c) SPECIAL USE AND CREST FACILITIES AREAS.—Any Pueblo right, title and interest of any kind, including aboriginal claims, and related boundary, survey, trespass, and monetary damage claims, are permanently extinguished in and to—

(1) the land described in the special use permit; and

(2) the land on which the crest facilities are located.

(d) PUEBLO AGREEMENT.—As provided in the Settlement Agreement, the Pueblo has agreed to the relinquishment and extinguishment of those claims, rights, titles and interests extinguished pursuant to subsection (a), (b) and (c).

(e) CONSIDERATION.—The recognition of the Pueblo's rights and interests in this title constitutes adequate consideration for the Pueblo's agreement to the extinguishment of the Pueblo's claims in this section and the right-of-way grants contained in section ____09, and it is the intent of Congress that those rights and interests may only be diminished by a future Act of Congress specifically authorizing diminishment of such rights, with express reference to this title.

SEC. ___11. CONSTRUCTION.

(a) STRICT CONSTRUCTION.—This title recognizes only enumerated rights and interests, and no additional rights, interests, obligations, or duties shall be created by implication.

(b) EXISTING RIGHTS.—To the extent there exist within the Area as of the date of enactment of this Act any valid private property rights associated with private land that are not otherwise addressed in this title, such rights are not modified or otherwise affected by this title, nor is the exercise of any such right subject to the Pueblo's right to withhold consent to new uses in the Area as set forth in section ____05(a)(3)(A).

(c) NOT PRECEDENT.—The provisions of this title creating certain rights and interests in the National Forest System are uniquely suited to resolve the Pueblo's claim and the geographic and societal situation involved, and shall not be construed as precedent for any other situation involving management of the National Forest System.

(d) FISH AND WILDLIFE.—Except as provided in section ____08(b)(2)(B), nothing in this title shall be construed as affecting the responsibilities of the State of New Mexico with respect to fish and wildlife, including the regulation of hunting, fishing, or trapping within the Area.

(e) FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) is amended by adding at the end the following: ''Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.''

SEC. ___12. JUDICIAL REVIEW.

(a) ENFORCEMENT.—A civil action to enforce the provisions of this title may be brought to the extent permitted under chapter 7 of title 5, United States Code. Judicial review shall be based on the administrative record and subject to the applicable standard of review set forth in section 706 of title 5, United States Code.

(b) WAIVER.—A civil action may be brought against the Pueblo for declaratory judgment or injunctive relief under this title, but no money damages, including costs or attorney's fees, may be imposed on the Pueblo as a result of such judicial action.

(c) VENUE.—Venue for any civil action provided for in this section, as well as any civil action to contest the constitutionality of this title, shall lie only in the United States District Court for the District of New Mexico.

SEC. ___13. PROVISIONS RELATING TO CONTRIBUTIONS AND LAND EXCHANGE.

(a) CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary may accept contributions from the Pueblo, or from other persons or governmental entities—

(A) to perform and complete a survey of the Area; or

(B) to carry out any other project or activity for the benefit of the Area in accordance with this title.

(2) DEADLINE.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete the survey of the Area under paragraph (1)(A).

(b) LAND EXCHANGE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, after consultation with the Pueblo, the Secretary shall, in accordance with applicable laws, prepare and offer a land exchange of National Forest land outside the Area and contiguous to the northern boundary of the Pueblo's Reservation within sections 10, 11, and 14 of T12N, R4E, N.M.P.M., Sandoval County, New Mexico excluding wilderness land, for land owned by the Pueblo in the Evergreen Hills subdivision in Sandoval County contiguous to National Forest land, and the La Luz tract in Bernalillo County.

(2) ACCEPTANCE OF PAYMENT.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act (43 U.S.C. 1716(b)), the Secretary may either make or accept a cash equalization payment in excess of 25 percent of the total value of the land or interests transferred out of Federal ownership.

(3) FUNDS RECEIVED.—Any funds received by the Secretary as a result of the exchange shall be deposited in the fund established under the Act of December 4, 1967, known as the Sisk Act (16 U.S.C. 484a), and shall be available to purchase non-Federal land within or adjacent to the National Forests in the State of New Mexico.

(4) TREATMENT OF LAND EXCHANGED OR CONVEYED.—All land exchanged or conveyed to the Pueblo is declared to be held in trust for the Pueblo by the United States and added to the Pueblo's Reservation subject to all existing and outstanding rights and shall remain in its natural state and shall not be subject to commercial development of any kind. Land exchanged or conveyed to the Forest Service shall be subject to all limitations on use pertaining to the Area under this title.

(5) FAILURE TO MAKE OFFER.—If the land exchange offer is not made by the date that is 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives, a report explaining the reasons for the failure to make the offer including an assessment of the need for any additional legislation that may be necessary for the exchange. If additional legislation is not necessary, the Secretary, consistent with this section, should proceed with the exchange pursuant to existing law.

(c) LAND ACQUISITION AND OTHER COMPENSATION.—

(1) IN GENERAL.—The Secretary may acquire land owned by the Pueblo within the Evergreen Hills Subdivision in Sandoval County or any other privately held land inside of the exterior boundaries of the Area. The boundaries of the Cibola National Forest

and the Area shall be adjusted to encompass any land acquired pursuant to this section.

(2) PIEDRA LISA TRACT.—Subject to the availability of appropriations, the Secretary shall compensate the Pueblo for the fair market value of—

(A) the right-of-way established pursuant to section ___09(h)(3)(C); and

(B) the conservation easement established by the limitations on use of the Piedra Lisa tract pursuant to section ___09(b)(2).

(d) REIMBURSEMENT OF CERTAIN COSTS.—

(1) IN GENERAL.—The Pueblo, the County of Bernalillo, New Mexico, and any person that owns or has owned property inside of the exterior boundaries of the Area as designated on the map, and who has incurred actual and direct costs as a result of participating in the case of Pueblo of Sandia v. Babbitt, Civ. No. 94–2624 HHG (D.D.C.), or other proceedings directly related to resolving the issues litigated in that case, may apply for reimbursement in accordance with this section. Costs directly related to such participation which shall qualify for reimbursement shall be—

(A) dues or payments to a homeowner association for the purpose of legal representation; and

(B) legal fees and related expenses.

(2) TREATMENT OF REIMBURSEMENT.—Any reimbursement provided in this subsection shall be in lieu of that which might otherwise be available pursuant to the Equal Access to Justice Act (24 U.S.C. 2412).

(3) PAYMENTS.—The Secretary of the Treasury shall make reimbursement payments as provided in this section out of any money not otherwise appropriated as provided in advance in appropriations acts.

(4) APPLICATIONS.—Not later than 180 days after the date of enactment of this Act, applications for reimbursement shall be filed with the Department of the Treasury, Financial Management Service, Washington, D.C.

(5) MAXIMUM REIMBURSEMENT.—

(A) IN GENERAL.—No party shall be reimbursed in excess of $750,000 under this section, and the total amount reimbursed in accordance with this section shall not exceed $3,000,000.

SEC. ___14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as are necessary for the Forest Service to carry out responsibilities of the Forest Service in accordance with section ___13(c).

SEC. ___15. EFFECTIVE DATE.

The provisions of this title shall take effect immediately on enactment of this Act.

SA 159 Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, at the end of line 15, insert the following: ''Such amount shall be made available as a direct lump sum payment to the Alaska Fisheries Marketing Board (hereinafter 'Board') which is hereby established to award grants to market, develop, and promote Alaska seafood and improve related technology and transportation with emphasis on wild salmon, of which 20 percent shall be transferred to the Alaska Seafood Marketing Institute. The Board shall be transferred to the Alaska Seafood Marketing Institute. The Board shall be appointed by the Secretary of Commerce and shall be administered by an Executive Director to be appointed by the Secretary. The Board shall submit an annual report to the Secretary detailing the expenditures of the board.''

SA 160. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table, as follows:

On page 183, line 25, insert the following after ''contributions.'': ''Such amounts shall be subject only to conditions and requirements required by the Maritime Administration.''

SA 161. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 295 at the end of line 24 insert the following new section:

''Sec. 3XX. None of the funds appropriated by this or any other Act may be used to defer, deobligate, withdraw to headquarters, reserve for contemplated future rescissions, or otherwise adversely affect the planned and continuing expenditure of funds previously made available for Cerro Grande Fire Activities in P.L. 106–246 and P.L. 106–377.

SA 162. Mr. FITZGERALD (for himself, Mrs. CLINTON, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 335, line 10, before the period at the end of the line insert the following: ''*Provided further,* That funds appropriated under this heading may be made available for a headquarters contribution to the International Committee of the Red Cross only if the Secretary of State determines (and so reports to the appropriate committees of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Red Cross and Red Crescent Movement''.

SA 163. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 741.

SA 164. Mr. SPECTER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 641. MODIFICATION OF FUNDING REQUIREMENTS FOR CERTAIN PLANS.

(a) FUNDING RULES FOR CERTAIN PLANS.—

(1) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the minimum funding rules under paragraph (2) shall apply for any plan year beginning after December 31, 2002, in the case of a defined benefit plan which—

(A) was established by an air carrier which was granted a conditional loan guarantee by the Air Transport Stabilization Board on July 10, 2002, and which filed for protection under chapter 11 of title 11, United States Code, on August 11, 2002, and

(B) is maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement.

(2) SPECIAL FUNDING RULE.—

(A) IN GENERAL.—In the case of a plan described in paragraph (1), the minimum funding requirements under this paragraph shall be the requirements set forth in Treasury Regulation section 1.412(c)(1)–3 (as in effect on the date of the enactment of this section).

(B) RULES OF SPECIAL APPLICATION.—In applying the requirements of Treasury Regulation section 1.412(c)(1)–3 for purposes of paragraph (1)—

(i) the plan shall be treated as having met the requirements of Treasury Regulation section 1.412(c)(1)–3(a)(2),

(ii) the payment schedules shall be determined—

(I) by using the maximum amortization period permitted under section 1.412(c)(1)–3, and

(II) on the basis of the actuarial valuation of the accrued liability and the current liability of the plan as of January 1, 2003, less the actuarial value of the plan assets on that date,

(iii) the payments under a restoration payment schedule shall be made in level amounts over the payment period, and

(iv) the actuarial value of assets shall be the fair market value of such assets as of January 1, 2003, with prospective investment returns in excess of or less than the assumed return phased in over 5 years.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2002.

SA 165. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 641, line 10, insert ''President Pro Tempore emeritus, $7,500;'' before ''Chairmen of the Majority and Minority Conference Committees''.

On page 641, line 13, strike ''$120,000'' and insert ''$127,500''.

On page 641, line 22, strike ''$116,891,000'' and insert ''$117,041,000''.

On page 642, between lines 3 and 4, insert:

OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS

For the Office of the President Pro Tempore emeritus, $150,000.

On page 645, line 2, strike ''$18,513,000'' and insert ''$18,355,500''.

On page 650, between lines 23 and 24, insert:

SEC. 8. OFFICE OF THE PRESIDENT PRO TEMPORE EMERITUS OF THE SENATE.

(a) ESTABLISHMENT.—There is established the Office of the President pro tempore emeritus of the Senate.

(b) DESIGNATION.—Any Member of the Senate who—

(1) is designated by the Senate as the President pro tempore emeritus of the United States Senate; and

(2) is serving as a Member of the Senate,

shall be the President pro tempore emeritus of the United States Senate.

(c) APPOINTMENT AND COMPENSATION OF EMPLOYEES.—The President pro tempore emeritus is authorized to appoint and fix the compensation of such employees as the President

pro tempore emeritus determines appropriate.

(d) EXPENSE ALLOWANCE.—There is authorized an expense allowance for the President pro tempore emeritus which shall not exceed $7,500 each fiscal year. The President pro tempore emeritus may receive the expense allowance (1) as reimbursement for actual expenses incurred upon certification and documentation of such expenses by the President pro tempore emeritus, or (2) in equal monthly payments. Such amounts paid to the President pro tempore emeritus as reimbursement of actual expenses incurred upon certification and documentation under this subsection, shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction under the Internal Revenue Code of 1986.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and shall apply only with respect to the 108th Congress.

SA 166. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 713, strike line 23 and all that follows through page 714, line 3, and insert the following:

SEC. 209. UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) APPROPRIATIONS.—There are appropriated, out of any funds in the Treasury not otherwise appropriated, $1,800,000, to remain available until expended, to the United States-China Economic and Security Review Commission.

(b) NAME CHANGE.—

(1) IN GENERAL.—Section 1238 of the Floyd D. Spence National Defense Authorization Act of 2001 (22 U.S.C. 7002) is amended—

(A) in the section heading by inserting "**ECONOMIC AND**" before "**SECURITY**";

(B) in subsection (a)—

(i) in paragraph (1), by inserting "Economic and" before "Security"; and

(ii) in paragraph (2), by inserting "Economic and" before "Security";

(C) in subsection (b)—

(i) in the subsection heading, by inserting "ECONOMIC AND" before "SECURITY";

(ii) in paragraph (1), by inserting "Economic and" before "Security";

(iii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by inserting "Economic and" before "Security"; and

(II) in subparagraph (H), by inserting "Economic and" before "Security"; and

(iv) in paragraph (4), by inserting "Economic and" before "Security" each place it appears; and

(D) in subsection (e)—

(i) in paragraph (1), by inserting "Economic and" before "Security";

(ii) in paragraph (2), by inserting "Economic and" before "Security";

(iii) in paragraph (3)—

(I) in the first sentence, by inserting "Economic and" before "Security"; and

(II) in the second sentence, by inserting "Economic and" before "Security";

(iv) in paragraph (4), by inserting "Economic and" before "Security"; and

(v) in paragraph (6), by inserting "Economic and" before "Security" each place it appears.

(2) REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the United States-China Security Review Commission shall be deemed to refer to the United States-China Economic and Security Review Commission.

(c) MEMBERSHIP AND TERMS.—

(1) IN GENERAL.—Section 1238(b)(3) of the Floyd D. Spencer National Defense Authorization Act of 2001 (22 U.S.C. 7002) is amended—

(A) in the matter preceding subparagraph (A), by striking "12 members" and inserting "8 members"; and

(B) by striking subparagraph (F) and inserting the following:

"(F) each appointing authority referred to under subparagraphs (A) through (D) of this paragraph shall—

"(i) appoint 2 members to the Commission;

"(ii) make the 2 appointments with respect to the 108th Congress on a staggered term basis, such that—

"(I) 1 appointment shall be for a term expiring on December 31, 2003; and

"(II) 1 appointment shall be for a term expiring on December 31, 2004;

"(iii) make all appointments with respect to the 109th Congress, and each subsequent Congress, on an approximate 2-year term basis to expire on December 31 of the applicable year; and

"(iv) make appointments not later than 30 days after the date on which each new Congress convenes;".

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act.

SA 167. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . TREATMENT OF ABANDONED MINE RECLAMATION FUND INTEREST.

(a) IN GENERAL.—Notwithstanding any other provision of law, any interest credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) shall be transferred to the Combined Fund identified in section 402(h)(2) of such Act (30 U.S.C. 1232(h)(2)), up to such amount as is estimated by the trustees of such Combined Fund to offset the amount of any deficit in net assets in the Combined Fund.

(b) PROHIBITION ON OTHER TRANSFERS.—Except as provided in subsection (a), no principal amounts in or credited to the fund established by section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) may be transferred to the Combine Fund identified in section 402(h)(2) of such Act (30 U.S.C. 1232(h)(2)).

(c) LIMITATION.—This section shall cease to have any force and effect after September 30, 2004.

SA 168. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For additional amounts for grants to state and local health departments to support activities related to immunizing first responders against smallpox, $850,000,000: *Proivded,* That this amount is transferred to the Centers for Disease Control and Prevention.

SA 169. Mr. BYRD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the joint resolution insert the following:

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $363,000,000, to remain available until expended, only for the Entry Exit System, to be managed by the Justice Management Division: *Provided,* That none of the funds appropriated in this Act, or in Public Law 107–117, for the Immigration and Naturalization Service's Entry Exist System may be obligated until the INS submits a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A–11, part 3; (2) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (3) is reviewed by the General Accounting Office; and (4) has been approved by the Committees on Appropriations: *Proivded further,* That funds provided under this heading shall only be available for obligation and expenditure in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of Public Law 107–77.

SA 170. Mr. BYRD submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the joint resolution insert the following:

DEPARTMENT OF ENERGY

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For an additional amount for "Weapons Activities" for emergency expenses, $150,000,000: *Provided,* That $25,000,000 of the funds provided shall be available for secure transportation asset activities: *Provided further,* That $35,000,000 shall be available for construction and renovation activities at the National Center for Combating Terrorism: *Provided further,* That $90,000,000 of the funds provided shall be available to meet increased safeguard and security needs throughout the nuclear weapons complex, including at least $25,000,000 for cyber security.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

OTHER DEFENSE ACTIVITIES

For an additional amount for "Other Defense Activities" for emergency expenses needed to conduct critical infrastructure assessments at critical energy supply facilities nationwide, $50,000,000, to remain available until expended: *Provided,* That $25,000,000 of the funds made available shall be provided to the National Infrastructure Simulation and Analysis Center: *Provided further,* That $25,000,000 of the funds made available shall be provided to the National Energy Technology Laboratory.

SA 171. Mr. BYRD submitted an amendment intended to be proposed by

him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the joint resolution insert the following:

DIVISION ___—HOMELAND SECURITY SUPPLEMENTAL APPROPRIATIONS

DEPARTMENT OF TRANSPORTATION

TRANSPORTATION SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For additional amounts for necessary expenses of the Transportation Security Administration related to transportation security services pursuant to Public Law 107–71, $620,000,000, to remain available until September 30, 2004, of which $500,000,000 shall be available for port security grants for the purpose of implementing the provisions of the Maritime Transportation Security Act, and $120,000,000 shall be available for Operation Safe Commerce.

DEPARTMENT OF THE TREASURY

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $47,000,000 for the Container Security Initiative.

SA 172. Ms. LANDRIEU (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res.2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 397, line 12, delete all after ''Fund'','' through opportunities'' on line 17, and insert in lieu thereof:

not less than $8,000,000 shall be made available for programs to support women's development in Afghanistan, including girl's and women's education, health, legal and social rights, economic opportunities, and political participation: Provided further, That of the funds provided in the previous proviso, $5,000,000 shall be made available to support activities directed by Afghan Ministry of Women's Affairs including the establishment of women's resource centers throughout Afghanistan, and not less than $1,500,000 should be made available to support activities of the National Human Rights Commission of Afghanistan: Provided further, That one year after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees that details women's development programs in Afghanistan supported by the United States Government, and barriers that impede he development of women in Afghanistan

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SA 173. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, insert before the period the following: '': *Provided further*, That notwithstanding any other provision of this Act, the amount, excluding the amount of user fees appropriated, that is appropriated for devices and radiological products under the salaries and expenses account of the Food and Drug Administration is increased to $205,720,000: *Provided further*, That amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Health and Human Services shall be reduced on pro rata basis by the amount necessary to increase such amount to $205,720,000''.

SA 174. Mr. AKAKA (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF CONGRESS ON PAY PARITY.—It is the sense of Congress that there should be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States, including blue collar Federal employees paid under the Federal Wage system.

SA 175. Mr. SCHUMER submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, line 1, strike ''$3,927,587,000'' and insert ''$4,202,587,000 (which amount shall not be subject to reduction by any other provision of this Act, including section 601)''.

On page 99, line 17, strike ''$1,368,415,000'' and insert ''$1,827,715,000 (which amount shall not be subject to reduction by any other provision of this Act, including section 601)''.

On page 105, line 19, before the period, insert the following: ''*Provided further*, That, notwithstanding any other provision of this Act, including section 601, the total amount appropriated under this heading for the Weed and Seed Program Fund shall not be reduced''.

On page 106, line 12, before the period, insert the following: ''*Provided further*, That, notwithstanding any other provision of this Act, including section 601, the total amount appropriated under this heading for Community Oriented Policing Services shall not be reduced''.

On page 111, line 20, before the period, insert the following: ''*Provided further*, That, notwithstanding any other provision of this Act, including section 601, the total amount appropriated under this heading for the Juvenile Justice Programs shall not be reduced''.

SA 176. Mr. SCHUMER (for himself, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. REID, Mrs. CLINTON, Mr. JOHNSON, Mr. CONRAD, Mr. KERRY, Mr. DASCHLE, Mr. JEFFORDS, Ms. LANDRIEU, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 898, before the period at the end of line 21, insert the following: '': *Provided, further*, That, notwithstanding any other provision of this Act, the total amount appropriated for fiscal year 2003 for the Veterans Health Administration for medical care is $23,889,304,000''.

SA 177. Mr. SCHUMER (for himself, Ms. MIKULSKI, Mr. SMITH, Mr. KENNEDY, Mr. SARBANES, Mrs. MURRAY, Mr. LAUTENBERG, Ms. CANTWELL, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title II of division G, insert the following:

SEC. ___. (a) IN GENERAL.—In addition to amounts otherwise appropriated under this Act to carry out programs and activities under title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11 et seq.), there are appropriated an additional—

(1) $33,500,000 to carry out part A of such title XXVI (42 U.S.C. 300ff–11 et seq.);

(2) $32,400,000 to carry out part B of such title XXVI (42 U.S.C. 300ff–21 et seq.);

(3) $62,000,000 to carry out State AIDS Drug Assistance Programs under section 2616 of such title XXVI (42 U.S.C. 300ff–26);

(4) $8,300,000 to carry out part C of such title XXVI (42 U.S.C. 300ff–51 et seq.);

(5) $15,000,000 to carry out part D of such title XXVI (42 U.S.C. 300ff–71 et seq.);

(6) $9,705,000 to carry out section 2692(a) of such title XXVI (42 U.S.C. 300ff–111(a)); and

(7) $3,500,000 to carry out section 2692(b) of such title XXVI (42 U.S.C. 300ff–111(b)).

(b) REDUCTION IN ADMINISTRATIVE ACCOUNTS.—Amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Health and Human Services shall be reduced on pro rata basis by $164,405,000.

SA. 178. Mr. NELSON of Florida (for himself, Mr. DASCHLE, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.___. In addition to amounts appropriated by this Act under the heading ''Public Law 480 Title II Grants'', there is appropriated, out of funds in the Treasury not otherwise appropriated, $600,000,000 for assistance for emergency relief activities: *Provided*, That the amount appropriated under this section shall remain available through September 30, 2004.

SA 179. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows;

On page 29 line 11 strike the period and insert the following:

: *Provided*,

(a) Whereas, the Commodity Credit corporation (CCC) is a Government owned and operated entity that was created to stabilize, support, and protect farm income and prices;

(b) Whereas, CCC was incorporated on October 17, 1933, under a Delaware charter. On July 1, 1939, CCC was transferred to the United States Department of Agriculture (USDA). It was reincorporated on July 1, 1948, as a Federal corporation within USDA by the Commodity Credit Corporation Charter Act (62 Stat. 1070; 15 U.S.C. 174);

(c) Whereas, the mission of the CCC has expanded over time:

(1) Pursuant to section 2701 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171), the officer and directors of CCC have a responsibility to use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the conservation reserve program (CRP); the wetlands reserve program (WRP); the conservation security program (CSP); the grassland reserve program (GRP); the environmental quality incentives program (EQIP); and the wildlife habitat incentives program (WHIP), including the provision of technical assistance; and

(2) Pursuant to section 1601 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) the officers and directors of CCC have a responsibility to use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out Title I of the Act;

(d) Whereas, CCC is managed by a Board of Directors, subject to the general supervision and direction of the Secretary of Agriculture, who is an ex-officio director and chairperson of the Board. The Board consists of seven members, in addition to the Secretary, who are appointed by the President of the United States by and with the advice and consent of the Senate. All members of the Board and Corporation officers are USDA officials;

(e) Whereas, CCC has in the past requested other agencies to assist it in the conduct of its business and reimbursed them for their administrative expenses under the authority granted to it by section 11 of the CCC Charter Act. For example:

(1) CCC's price support, storage, and reserve programs, and its domestic acquisition and disposal activities have been carried out primarily through the personnel and facilities of the Farm Service Agency (FSA).

(2) The Agricultural Marketing Service (AMS) occasionally uses CCC authority to acquire various commodities for domestic and foreign food assistance programs.

(3) Export sales and foreign assistance disposal of CCC-controlled stocks have been administered through the General Sales Manager of the Foreign Agricultural Service (FAS).

(4) The Natural Resources Conservation Service has administered several conservation programs under the auspices of CCC;

(f) Whereas, in 1996 section 11 of the CCC Charter Act was amended to limit reimbursements by CCC to other agencies in the performance of any part or all of the functions of the CCC;

(g) Whereas, section 10 of the CCC Charter Act mandates that the Secretary appoint such officers and employees of the CCC as may be necessary for the conduct of business of the Corporation. Expenditures of the Corporation under this section are not subject to the section 11 cap on reimbursements to other agencies;

(h) The Secretary is directed to exercise her authority under section 10 of the CCC Charter Act and appoint such officers and employees of the CCC as may be necessary for the conduct of business of the Corporation if the Secretary determines that the total amount of funds available under section 11 of the CCC Charter Act are not sufficient to allow other agencies to carry out the functions of the CCC.

SA 180. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1027, strike line 6 and all that follows through page 1032, line 8.

SA 181. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following: ''No funds appropriated under this Act may be used in a manner inconsistent with Executive Orders 12873, 13101, 13123, 13148, 13149, and 13221.''

SA 182. Mr. Kennedy submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, insert before the period the following: '': *Provided further*, That an additional $7,866,000 shall be appropriated for the Food and Drug Administration and shall be made available for the review of medical devices, and such amount shall be in addition to any other amounts appropriated in this Act for such activities: *Provided further*, that amounts made available under this Act for the administrative and related expenses for departmental management of the Department of Agriculture shall be reduced on pro rata basis by $7,866,000''.

SA 183. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, insert before the period the following: '': *Provided further*, That an additional $7,866,000 shall be appropriated for the Food and Drug Administration and shall be made available for the review of medical devices, and such amount shall be in addition to any other amounts appropriated in this Act for such activities: *Provided further*, that amounts made available under this Act for the administrative and related expenses for departmental management for the Department of Health and Human Services shall be reduced on pro rata basis by $7,866,000''.

SA 184. Mr. KENNEDY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, insert before the period the following: '': *Provided further*, That an additional $13,603,766 shall be appropriated for the Food and Drug Administration and shall be made available for the review of medical devices, and such amount shall be in addition to any other amounts appropriated in this Act for such activities: *Provided further*, that amounts made available under this Act for the administrative and related expenses for departmental management of the Department of Agriculture shall be reduced on pro rata basis by $13,603,766''.

SA 185. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations by the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 988, after line 23, insert the following provision:

''The Environmental Protection Agency is directed to submit a report no later that February 15, 2004 on the practices and procedures by which States develop separate emission standards, including standards for nonroad engines or vehicles, as compared to the development by Environmental Protection Agency of national emission standards under the Clean Air Act. This report shall include an assessment of the procedures, practices, standards and requirements used by States as opposed to those used by Environmental Protection Agency, including how States and the Environmental Protection Agency take into account technological feasibility, economic feasibility, impact on the economy, costs, safety, noise and energy factors associated in the development of these standards.''.

SA 186. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. 1___. MISSOURI RIVER.

None of the funds made available by this Act may be used by the United States Fish and Wildlife Service—

(1) to require the Corps of Engineers to implement a steady release flow schedule for the Missouri River; or

(2) to prevent the Corps of Engineers from relocating bird nests along the Missouri River.

SA 187. Mr. LEAHY submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 308, line 10, strike ''supports or'' and ''the management of a program of''

On page 347, line 4, after the colon, insert: *Provided further*, That of the funds appropriated under this heading, not less than $35,000,000 shall be made available for the United Nations Populations Fund:

On page 347, line 7, strike ''if'' and insert in lieu thereof:

unless

On page 347, line 8, strike ''no longer supports or''

On page 347, line 9, strike ''the management of a program of''

On page 365, line 4, before the period insert the following:

Provided further, That of the funds appropriated under title II of this Act, not less than $435,000,000 shall be made available for family planning/reproductive health''

On page 424, line 13, insert the following new section:

REQUIREMENTS RELATED TO PRIVATE ORGANIZATIONS

SEC. 585. Notwithstanding any other provisions of law, regulation, or policy, in determining eligibility for assistance authorized under part I or the Foreign Assistance Act of 1961, foreign private organizations shall be subject to only those requirements relating to the use of non-United States Government funds for advocacy and lobbying activities that apply to United States private organizations receiving assistance under part I of such Act.

SA 188. Mr. DODD submitted an amendment intended to be proposed by

him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 589, line 17, strike ''$8,648,884,000'' and insert ''$8,848,884,000''.

On page 589, line 23, strike ''$6,667,533,000'' and insert ''$6,867,533,000''.

SA 189. Mr. INOUYE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. NEW ELECTRIC UTILITY ENTITIES SERVING EXTREMELY HIGH-COST COMMUNITIES.

(a) IN GENERAL.—Section 19 of the Rural Electrification Act of 193 (7 U.S.C. 918a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) ACQUISITION BY CONSUMER-OWNED ENTITIES OF ASSETS OF AN ELECTRIC UTILITY.—A consumer-owned entity that acquires the assets of an electric utility providing electricity to residential customers at a rate exceeding 18 cents per kilowatt hour shall be eligible to receive a grant under subsection (a) for the purposes of—

''(1) paying any transaction, transition, or other organizational costs associated with the acquisition; and

''(2) if the Secretary determines that relocation and refurbishment of any generation asset of the electric utility will enhance efforts to reduce overall electric costs in the community served, paying the costs of relocation and refurbishment.''.

(b) APPLICABILITY OF AMENDMENT.—The amendment made by subsection (a) applies to a consumer-owned entity that acquires the assets of an electric utility on or after the date that is 2 years before the date of enactment of this Act.

SA 190. Mrs. BOXER. (for herself and Mr. DORGAN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 203, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . SALARIES.

No funds shall be used to pay any federal employee or any employee, member or chairperson of any federal commission, board, committee, or council an annual salary in excess of the annual salary of the President of the United States.

SA 191. Mr. BREAUX (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1051, line 7, strike ''access.'' and insert ''access; and

''(3) $3,000,000 shall be made available to the oyster industry in the State of Louisiana for economic assistance to the oyster fishery affected by Hurricane Isidore, and Hurricane Lili: *Provided*, That such funds may be used only for (A) personal assistance with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs; (B) assistance for small businesses including oystermen, oyster processors, and related businesses serving the oyster industry; (C) domestic product marketing and seafood promotion; and (D) State seafood testing programs.

SA 192. Mr. LAUTENBERG (for himself, Mrs. BOXER, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 982, strike lines 21 through 25 and insert the following:

per project; $1,500,000,000, to remain available until expended, as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499; 100 Stat. 1613),

SA 193. Mr. JEFFORDS (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 260, line 9, before the colon, insert the following: '', and that the Corps of Engineers shall bear full responsibility for correcting any design deficiencies of Waterbury Dam''.

SA 194. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 120, line 12, strike ''$257,886,000'' and insert ''$317,213,000''.

SA 195. Mr. DAYTON submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division G, insert the following:

SEC. ____. FULLY FUNDING IDEA.

(a) FULLY FUNDING IDEA.—Notwithstanding any other provision of this Act, the total amount appropriated for fiscal year 2003 (out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003) to carry out part B of the Individuals with Disabilities Education Act, other than section 619 of such Act, shall be the greater of—

(1) $19,204,246,000; or

(2) the amount necessary to fully fund 40 percent of the average per pupil expenditure for programs under part B of such Act, other than section 619 of such Act.

(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall remain available through September 30, 2004.

(c) ACROSS-THE-BOARD RESCISSION.—Notwithstanding any other provision of this Act, funds provided under subsection (a) shall not result in a further across-the-board rescission under section 601 of Division N.

SA. 196. Mr. DAYTON submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Notwithstanding any other provision of law, with respect to any State that is operating under a waiver described in section 415(a) of the Social Security Act (42 U.S.C. 615(a)) which would otherwise expire on a date that occurs during the period that begins on September 30, 2002 (or in the case of New Hampshire, March 31, 2002), and ends on September 30, 2003, the State may elect to continue to operate under that waiver, on the same terms and conditions as applied to the waiver on the day before such date, through September 30, 2003.

SA. 197. Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. BOXER, Mr. LIBERMAN, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, between lines 13 and 14, insert the following:

SEC. 4___. REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.

Not later than July 1, 2004, the Administrator of the Environmental Protection Agency shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SA. 198. Mr. JEFFORDS (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. BOXER, Mr. LIBERMAN, Mr. LEAHY, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, between lines 13 and 14, insert the following:

SEC. 4___. NEW SOURCE REVIEW PROGRAM.

Not later than February 15, 2003, the Environmental Protection Agency, the Department of Energy, and the Department of Justice shall each satisfy all information requests relating to the new source review program under section 111 and parts C and D of title I of the Clean Air Act (42 U.S.C. 7411, 7470 et seq.) made in 2001 or 2002—

(1) by the Committee on Environment and Public Works, the Committee on the Judiciary, or the Committee on Health, Education, Labor, and Pensions of the Senate, or a member of any of those Committees; or

(2) by the General Accounting Office on behalf of any of those Committees or a member of any of those Committees;

through the provision of copies of the requested documents, analyses, electronic mail, or document logs to the requesting

Committee or member or to the General Accounting Office.

SA 199. Mr. DURBIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 257, on line 15, strike ''that action.'' and insert ''that action, except that this limitation on attorneys' fees paid by the District of Columbia shall not apply if the plaintiff is a child who is (a) from a family with an annual income of less than $17,600; or (b) from a family where one of the parents or guardians is a disabled veteran; or (c) where the child has been adjudicated as neglected, delinquent, in need of supervision, abused, or is a ward of the District of Columbia; or (d) from a family where one of the parents or guardians is on active duty with the Armed Services of the United States or the National Guard; or (e) from a family for which the primary custodian is over the age of 65; or (f) from a family where one of the parents or guardians is a firefighter or law enforcement officer.''

SA 200. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Before the period at the end of the undesignated paragraph under the heading ''International Military Education and Training'', insert the following: ''*Provided further,* That funds made available under this heading for Indonesian military personnel shall be available only for ''Expanded International Military Education and Training'' assistance, unless the President determines and reports to the appropriate congressional committees that the Government of Indonesia and the Indonesian Armed Forces are (1) demonstrating a commitment to assist United States efforts to combat international terrorism, including United States interdiction efforts against al-Qaida and other terrorist organizations, and taking effective measures to bring to justice those responsible for the October 13, 2002, terrorist attack on Bali, which killed United States citizens, and (2) taking effective measures, including cooperating with the Federal Bureau of Investigation, to bring to justice any member of the Indonesian Armed Forces or Indonesian militia group against whom there is credible evidence of involvement in the August 31, 2002, attack, which resulted in the deaths of United States citizens, and in other gross violations of human rights: *Provided further,* That nothing in the preceding proviso prohibits the United States from conducting ongoing contacts and training with the Indonesian Armed Forces, including sales of nonlethal defense articles, counterterrorism training, officer visits, port visits, educational exchanges, or Expanded International Military Educational and Training for military officers and civilians''.

SA 201. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 450, line 2 strike ''restoration:'' and insert the following:

''restoration; and with the funds provided in this title, the Secretary shall release a plan for assisting states, federal agencies and tribes in managing chronic wasting disease in wild and captive cervids within 90 days of enactment of this Act.''.

SA 202. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 443, line 3, strike ''projects:'' and insert the following:

''projects; and of which $500,000 of the funds provided to the National Park Service for resource stewardship activities is for work with the U.S. Geological Survey to refine a chronic wasting disease test for use on live cervids.''.

SA 203. Mr. ALLEN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Of the $10 million available for the Challenge Grant Program, not more than $3 million shall be made available for Communities In Schools, Inc.

SA 204. Mr. COCHRAN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1032, strike line 21 and all that follows through page 1042, line 7, and insert the following:

TITLE II—AGRICULTURAL ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Agricultural Assistance Act of 2003''.

SEC. 202. DEFINITIONS.

In this title:

(1) COVERED COMMODITY.—The term ''covered commodity'' has the meaning given the term in section 1001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901).

(2) DISASTER COUNTY.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration, excluding a contiguous county.

(3) ELIGIBLE NONINSURABLE COMMODITY.—The term ''eligible noninsurable commodity'' means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(4) INSURABLE COMMODITY.—The term ''insurable commodity'' means an agricultural commodity (excluding livestock) produced in an area that is eligible for coverage under a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means—

(A) a natural disaster declared by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

(B) a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

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

SEC. 203. SUPPLEMENTAL DIRECT PAYMENTS.

(a) IN GENERAL.—The Secretary shall make payments to producers on a farm if—

(1)(A) the farm is located in a disaster county declared during calendar year 2001 or 2002; or

(B) the producers on the farm have incurred qualifying crop losses with respect to the 2001 or 2002 crop of a covered commodity or peanuts due to damaging weather or related condition, as determined by the Secretary using the same loss thresholds for the quantity and quality losses as were used in administering section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–55); and

(2) the producers on the farm are eligible for direct payments for the 2002 crop of a covered commodity or peanuts under sections 1103 and 1303, respectively, of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913, 7953).

(b) AMOUNT.—The amount of the payment made to the producers on a farm under this section shall be equal to 42 percent of the amount of the direct payment the producers on the farm are eligible to receive for the 2002 crop under sections 1103 and 1303, respectively, of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7913, 7953).

(c) CROP INSURANCE.—As a condition of the receipt of a payment under this section—

(1) in the case of an insurable commodity, the producers on the farm shall enter into a contract with the Secretary under which the producers on the farm agree—

(A) to obtain at least catastrophic risk protection coverage for each insurable commodity produced on the farm for each of the next 2 crop years for which crop insurance is available under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), as determined by the Secretary; and

(B) on violation of the contract, to repay to the Secretary any payment received under this section; and

(2) in the case of an eligible noninsurable commodity, the producers on the farm shall enter into a contract with the Secretary under which the producers on the farm agree—

(A) to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for each eligible noninsurable commodity produced on the farm for each of the next 2 crop or calendar years (as applicable) under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), as determined by the Secretary; and

(B) on violation of the contract, to repay to the Secretary any payment received under this section.

(d) ADMINISTRATION.—The total amount of payments made to a person under this section for 1 or more covered commodities, and the total amount of payments made to a person under this section for peanuts, shall not exceed the dollar amounts that are specified in paragraphs (1) and (2), respectively, of section 1001(b) of the Food Security Act of 1985 (7 U.S.C. 1308(b)).

(e) TIME FOR PAYMENT.—The Secretary shall make payments under this section as soon as practicable after the date of enactment of this Act.

SEC. 204. LIVESTOCK ASSISTANCE.

(a) LIVESTOCK ASSISTANCE PROGRAM.—Subject to subsection (c), in carrying out the

2002 Livestock Compensation Program announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070), the Secretary shall—

(1) provide assistance to any applicant that—

(A) conducts a livestock operation that is physically located in a county that requested a declaration as a disaster county during the period beginning on January 1, 2001, and ending on the date of enactment of this Act; and

(B) meets all other eligibility requirements established by the Secretary for the Program;

(2) provide assistance to producers of an animal described in section 10806(a)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d(a)(1)) that meet all other eligibility requirements established by the Secretary for the Program; and

(3) effective beginning on the date of enactment of this Act, carry out the Program using funds of the Commodity Credit Corporation.

(b) LIVESTOCK LOSS ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (c), the Secretary shall use $250,000,000 of funds of the Commodity Credit Corporation to establish a program under which payments for livestock losses are made using the criteria established to carry out the 1999 Livestock Assistance Program to producers for losses in a disaster county declared during calendar year 2001 or 2002.

(2) CHOICE OF PAYMENTS.—If the farm of the producers is located in a disaster county declared during each of calendar years 2001 and 2002, the producers on the farm may elect to receive payments under this subsection for losses associated with the qualifying natural disaster declaration in either calendar year 2001 or calendar year 2002, but not both.

(c) RELATIONSHIP OF LIVESTOCK ASSISTANCE PROGRAMS.—

(1) DEFINITION OF LIVESTOCK ASSISTANCE PROGRAM.—In this subsection, the term ''livestock assistance program'' means—

(A) the 2002 Cattle Feed Program announced by the Secretary on September 3, 2002 (67 Fed. Reg. 56260);

(B) the 2002 Livestock Compensation Program, as announced by the Secretary on October 10, 2002 (67 Fed. Reg. 63070) and modified in accordance with subsection (a); and

(C) the livestock loss assistance program established under subsection (b).

(2) PAYMENTS.—The amount of assistance that the producers on a farm would otherwise receive for a loss under a livestock assistance program shall be reduced by the amount of the assistance that the producers on the farm receive under any other livestock assistance program.

SEC. 205. EMERGENCY SURPLUS REMOVAL.

The Secretary shall transfer $250,000,000 of funds of the Commodity Credit Corporation to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out emergency surplus removal of agricultural commodities.

SEC. 206. SPECIALTY CROPS.

The Secretary shall use $100,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers directly or through grants to States, or take such other action as the Secretary determines is appropriate, to assist producers of fruits and vegetables (including nuts).

SEC. 207. TOBACCO PAYMENTS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE PERSON.—The term ''eligible person'' means a person that—

(A) owns a farm for which, irrespective of temporary transfers or undermarketings, a basic quota or allotment for eligible tobacco is established for the 2002 crop year under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.);

(B) controls the farm from which, under the quota or allotment for the relevant period, eligible tobacco is marketed, could have been marketed, or can be marketed, taking into account temporary transfers; or

(C) grows, could have grown, or can grow eligible tobacco that is marketed, could have been marketed, or can be marketed under the quota or allotment for the 2002 crop year, taking into account temporary transfers.

(2) ELIGIBLE TOBACCO.—The term ''eligible tobacco'' means each of the following kinds of tobacco:

(A) Flue-cured tobacco, comprising types 11, 12, 13, and 14.

(B) Fire-cured tobacco, comprising types 21, 22, and 23.

(C) Dark air-cured tobacco, comprising types 35 and 36.

(D) Virginia sun-cured tobacco, comprising type 37.

(E) Burley tobacco, comprising type 31.

(F) Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 54, and 55.

(b) PAYMENTS.—Not later than June 1, 2003, the Secretary shall use funds of the Commodity Credit Corporation to make payments under this section.

(c) POUNDAGE PAYMENT QUANTITIES.—

(1) IN GENERAL.—

(A) FLUE-CURED AND CIGAR TOBACCO.—In the case of Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the poundage payment quantity under this section shall equal the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year.

(B) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of each other kind of eligible tobacco, the poundage payment quantity under this section shall equal—

(i) in the case of eligible persons that are owners described in subsection (a)(1)(A), the number of pounds of the basic poundage quota of the kind of tobacco, irrespective of temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year; and

(ii) in the case of eligible persons that are controllers described in subsection (a)(1)(B) or growers described in subsection (a)(1)(C), the number of pounds of effective poundage quota of the kind of tobacco, including temporary transfers or undermarketings, under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year.

(2) CONVERSION OF INDIVIDUAL ALLOTMENTS TO POUNDAGE PAYMENT QUANTITIES.—In the case of each kind of eligible tobacco other than Flue-cured tobacco (types 11, 12, 13, and 14) and Burley tobacco (type 31), individual allotments shall be converted to poundage payment quantities by multiplying—

(A) the number of acres that may, irrespective of temporary transfers or undermarketings, be devoted, without penalty, to the production of the kind of tobacco under the allotment under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) for the 2002 crop year; by

(B)(i) in the case of fire-cured tobacco (type 21), 1,746 pounds per acre;

(ii) in the case of fire-cured tobacco (types 22 and 23), 2,676 pounds per acre;

(iii) in the case of dark air-cured tobacco (types 35 and 36), 2,475 pounds per acre;

(iv) in the case of Virginia sun-cured tobacco (type 37), 1,502 pounds per acre; and

(v) in the case of cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), 2,230 pounds per acre.

(d) AVAILABLE PAYMENT AMOUNTS.—The available payment amount for each kind of eligible tobacco under subsection (b) shall not exceed the amount obtained by multiplying—

(1) 5.55 cents per pound; and

(2) the national basic poundage quota for the applicable kind.

(e) DIVISION OF PAYMENTS AMONG ELIGIBLE PERSONS.—

(1) IN GENERAL.—Payments available with respect to a pound of payment quantity, as determined under subsection (d), shall be made available to eligible persons in accordance with this paragraph, as determined by the Secretary.

(2) FLUE-CURED AND CIGAR TOBACCO.—In the case of payments made available in a State under subsection (b) for Flue-cured tobacco (types 11, 12, 13, and 14) and cigar-filler and cigar-binder tobacco (types 42, 43, 44, 54, and 55), the Secretary shall distribute (as determined by the Secretary)—

(A) 50 percent of the payments to eligible persons that are owners described in subsection (a)(1)(A); and

(B) 50 percent of the payments to eligible persons that are growers described in subsection (a)(1)(C).

(3) OTHER KINDS OF ELIGIBLE TOBACCO.—In the case of payments made available in a State under subsection (b) for each other kind of eligible tobacco not covered by paragraph (2), the Secretary shall distribute (as determined by the Secretary)—

(A) 33⅓ percent of the payments to eligible persons that are owners described in subsection (a)(1)(A);

(B) 33⅓ percent of the payments to eligible persons that are controllers described in subsection (a)(1)(B); and

(C) 33⅓ percent of the payments to eligible persons that are growers described in subsection (a)(1)(C).

(f) SPECIAL RULE FOR GEORGIA.—The Secretary may make payments under this section to eligible persons in Georgia only if the State of Georgia agrees to use $13,000,000 to make payments at the same time, or subsequently, to the same persons in the same manner as provided for the Federal payments under this section, as required by section 204(b)(6) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1421 note; Public Law 106–224).

(g) JUDICIAL REVIEW.—A determination by the Secretary under this section shall not be subject to judicial review.

SEC. 208. COTTONSEED.

The Secretary shall use $50,000,000 of funds of the Commodity Credit Corporation to provide assistance to producers and first-handlers of the 2002 crop of cottonseed.

SEC. 209. HURRICANE ASSISTANCE.

(a) IN GENERAL.—In a State in a which a qualifying natural disaster declaration has been made during a calendar year, the Secretary shall make available to first processors that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) assistance in the form of payments, or commodities in the inventory of the Commodity Credit Corporation from carrying out that section, to partially compensate producers and first processors for crop and other losses that are related to the qualifying natural disaster declaration.

(b) ADMINISTRATION.—Assistance under this section shall be—

(1) shared by an affected first processor with affected producers that provide commodities to the processor in a manner that

reflects contracts entered into between the processor and the producers; and

(2) made available under such terms and conditions as the Secretary determines are necessary to carry out this section.

(c) QUANTITY.—To carry out this section, the Secretary shall—

(1) use 200,000 tons of commodities in the inventory of the Commodity Credit Corporation under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a));

(2) make payments in an aggregate amount equal to the market value of 200,000 tons of commodities described in paragraph (1); or

(3) take any combination of actions described in paragraphs (1) and (2) using commodities or payments with a total market value of 200,000 tons of commodities described in paragraph (1).

(d) LIMITATIONS.—The Secretary shall provide assistance under this section only in a State described in section 359f(c)(1)(A) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(c)(1)(A)) in which a qualifying natural disaster declaration was made during calendar year 2002.

SEC. 210. WEATHER-RELATED LOSSES.

The Secretary shall use not more than $80,000,000 of funds of the Commodity Credit Corporation to provide assistance to sugar beet producers that suffered production losses (including quality losses) for the 2002 crop year, as determined by the Secretary.

SEC. 211. ASSISTANCE TO AGRICULTURAL PRODUCERS LOCATED ALONG RIO GRANDE FOR WATER LOSSES.

(a) IN GENERAL.—The Secretary shall use $10,000,000 of funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande that have suffered economic losses during the 2002 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington February 3, 1944 (59 Stat. 1219; TS 994).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of economic losses described in subsection (a) that were incurred by the producers.

SEC. 212. ASSISTANCE TO AGRICULTURAL PRODUCERS LOCATED IN NEW MEXICO FOR TEBUTHIURON APPLICATION LOSSES.

(a) IN GENERAL.—The Secretary shall use not more than $1,650,000 of funds of the Commodity Credit Corporation to reimburse agricultural producers on farms located in the vicinity of Malaga, New Mexico, for losses incurred during calendar years 2002 and 2003 as the result of the application by the Federal Government of tebuthiuron on land on or near the farms of the producers during August 2002, to remain available until expended.

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of losses described in subsection (a) that were incurred by the producers.

SEC. 213. ADMINISTRATION.

Section 1232(a)(7)(A)(iii) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)(A)(iii)) is amended by inserting before the semicolon the following: ", except that this clause shall not apply during the 2002 calendar year".

SEC. 214. SENSE OF SENATE ON ASSISTANCE FOR PORK PRODUCERS UNDER THE FEED ASSISTANCE PROGRAMS.

It is the sense of the Senate that—

(1) weather-related disasters have caused economic distress for United States pork producers in the form of higher feed costs;

(2) feed assistance programs administered by the Secretary (such as the Livestock Assistance Program established under part 1439 of title 7, Code of Federal Regulations, and the 2002 Cattle Feed Program announced by the Secretary on September 3, 2002 (67 Fed. Reg. 56260)), have been very effective in—

(A) assisting cow-calf producers that have been negatively affected by weather-related disasters; and

(B) reducing Commodity Credit Corporation-owned stocks of powdered nonfat dry milk; and

(3) the Secretary, using authorities of the Commodity Credit Corporation, should expand feed assistance programs admininstered by the Secretary to include United States pork producers that are negatively affected by weather-related disasters.

SEC. 215. FUNDING.

(a) IN GENERAL.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title, to remain available until expended.

(b) ADMINISTRATION.—The Secretary, acting through the Farm Service Agency, may use not more than $70,000,000 of funds of the Commodity Credit Corporation to cover administrative costs associated with the implementation of this title and title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.), to remain available until expended.

SEC. 216. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 205. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. PRICE SUPPORT ADJUSTMENTS.

(a) CARRY FORWARD ADJUSTMENT.—Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended in the fifth sentence—

(1) by striking ": *Provided*, That" and inserting ", except that (1)"; and

(2) by inserting before the period at the end the following: ", (2) the total quantity of all adjustments under this sentence for all farms for any crop year may not exceed 10 percent of the national basic quota for the preceding crop year, and (3) this sentence shall not apply to the establishment of a marketing quota for the 2003 marketing year".

(b) SPECIAL REQUIREMENTS.—During the period beginning on the date of enactment of this Act and ending on the last day of the 2002 marketing year for the kind of tobacco involved, the Secretary of Agriculture may waive the application of section 1464.2(b)(2) of title 7, Code of Federal Regulations.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this section and the amendments made by this section.

(2) PROCEDURE.—The promulgation of the regulations and administration of this section and the amendments made by this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SA 206. Mr. VOINOVICH (for himself, and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 424, between lines 12 and 13, insert the following:

SEC. 5____. EXTENSION OF PROHIBITION OF OIL AND GAS DRILLING IN THE GREAT LAKES.

Section 503 of the Energy and Water Resources Development Approptiations Act, 2002 (115 Stat. 512), is amended by striking "2002 and 2003" and inserting "2002 through 2005".

SA 207. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 547, between lines 4 and 5, insert the following:

TITLE ____—OTTAWA NATIONAL WILDLIFE REFUGE COMPLEX

SEC. ____01. SHORT TITLE.

This title may be cited as the "Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act".

SEC. ____02. DEFINITIONS.

In this title:

(1) INTERNATIONAL REFUGE.—The term "International Refuge" means the Detroit River International Wildlife Refuge established by section 5(a) of the Detroit River International Wildlife Refuge Establishment Act (16 U.S.C. 668dd note; 115 Stat. 894).

(2) REFUGE COMPLEX.—The term "Refuge Complex" means the Ottawa National Wildlife Refuge Complex and the lands and waters in the complex, as described in the document entitled "The Comprehensive Conservation Plan for the Ottawa National Wildlife Refuge Complex" and dated September 22, 2000, including—

(A) the Ottawa National Wildlife Refuge, established by the Secretary in accordance with the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.);

(B) the West Sister Island National Wildlife Refuge established by Executive Order No. 7937, dated August 2, 1937; and

(C) the Cedar Point National Wildlife Refuge established by the Secretary in accordance with the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) WESTERN BASIN.—

(A) IN GENERAL.—The term ''western basin'' means the western basin of Lake Erie, consisting of the land and water in the watersheds of Lake Erie extending from the watershed of the Lower Detroit River in the State of Michigan to and including Sandusky Bay and the watershed of Sandusky Bay in the State of Ohio.

(B) INCLUSION.—The term 'western basin' includes the Bass Island archipelago in the State of Ohio.

SEC. ____03. EXPANSION OF BOUNDARIES.

(a) REFUGE COMPLEX BOUNDARIES.—

(1) EXPANSION.—The boundaries of the Refuge Complex are expanded to include land and water in the State of Ohio from the eastern boundary of Maumee Bay State Park to the eastern boundary of the Darby Unit (including the Bass Island archipelago), as depicted on the map entitled ''Ottawa National Wildlife Refuge Complex Expansion and Detroit River International Wildlife Refuge Expansion Act'' and dated September 6, 2002.

(2) AVAILABILITY OF MAP.—The map referred to in paragraph (1) shall be available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(b) BOUNDARY REVISIONS.—The Secretary may make such revisions of the boundaries of the Refuge Complex as the Secretary determines to be appropriate—

(1) to facilitate the acquisition of property within the Refuge Complex; or

(2) to carry out this title.

(c) ACQUISITION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may acquire by donation, purchase with donated or appropriated funds, or exchange the land and water, and interests in land and water (including conservation easements), within the boundaries of the Refuge Complex.

(2) CONSENT.—No land, water, or interest in land or water described in paragraph (1) may be acquired by the Secretary without the consent of the owner of the land, water, or interest.

(d) TRANSFERS FROM OTHER AGENCIES.—Administrative jurisdiction over any Federal property that is located within the boundaries of the Refuge Complex and under the administrative jurisdiction of an agency of the United States other than the Department of the Interior may, with the concurrence of the head of the administering agency, be transferred without consideration to the Secretary for the purpose of this title.

(e) STUDY OF ASSOCIATED AREA.—

(1) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall conduct a study of fish and wildlife habitat and aquatic and terrestrial communities in and around the 2 dredge spoil disposal sites that are—

(A) referred to by the Toledo-Lucas County Port Authority as ''Port Authority Facility Number Three'' and ''Grassy Island'', respectively; and

(B) located within Toledo Harbor near the mouth of the Maumee River.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(A) complete the study under paragraph (1); and

(B) submit to Congress a report on the results of the study.

SEC. ____04. EXPANSION OF INTERNATIONAL REFUGE BOUNDARIES.

The southern boundary of the International Refuge is extended south to include additional land and water in the State of Michigan located east of Interstate Route 75, extending from the southern boundary of Sterling State Park to the Ohio State boundary, as depicted on the map referred to in section ____03(a)(1).

SEC. ____05. ADMINISTRATION.

(a) REFUGE COMPLEX.—

(1) IN GENERAL.—The Secretary shall administer all federally owned land, water, and interests in land and water that are located within the boundaries of the Refuge Complex in accordance with—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.); and

(B) this title.

(2) ADDITIONAL AUTHORITY.—The Secretary may use such additional statutory authority available to the Secretary for the conservation of fish and wildlife, and the provision of opportunities for fish- and wildlife-dependent recreation, as the Secretary determines to be appropriate to carry out this title.

(b) ADDITIONAL PURPOSES.—In addition to the purposes of the Refuge Complex under other laws, regulations, executive orders, and comprehensive conservation plans, the Refuge Complex shall be managed—

(1) to strengthen and complement existing resource management, conservation, and education programs and activities at the Refuge Complex in a manner consistent with the primary purposes of the Refuge Complex—

(A) to provide major resting, feeding, and wintering habitats for migratory birds and other wildlife; and

(B) to enhance national resource conservation and management in the western basin;

(2) in partnership with nongovernmental and private organizations and private individuals dedicated to habitat enhancement, to conserve, enhance, and restore the native aquatic and terrestrial community characteristics of the western basin (including associated fish, wildlife, and plant species);

(3) to facilitate partnerships among the United States Fish and Wildlife Service, Canadian national and provincial authorities, State and local governments, local communities in the United States and Canada, conservation organizations, and other non-Federal entities to promote public awareness of the resources of the western basin; and

(4) to advance the collective goals and priorities that—

(A) were established in the report entitled ''Great Lakes Strategy 2002—A Plan for the New Millennium'', developed by the United States Policy Committee, comprised of Federal agencies (including the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the United States Geological Survey, the Forest Service, and the Great Lakes Fishery Commission) and State governments and tribal governments in the Great Lakes basin; and

(B) include the goals of cooperating to protect and restore the chemical, physical, and biological integrity of the Great Lakes basin ecosystem.

(c) PRIORITY USES.—In providing opportunities for compatible fish- and wildlife-dependent recreation, the Secretary, in accordance with paragraphs (3) and (4) of section 4(a) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)), shall ensure, to the maximum extent practicable, that hunting, trapping, fishing, wildlife observation and photography, and environmental education and interpretation are the priority public uses of the Refuge Complex.

(d) COOPERATIVE AGREEMENTS REGARDING NON-FEDERAL LAND.—To promote public awareness of the resources of the western basin and encourage public participation in the conservation of those resources, the Secretary may enter into cooperative agreements with the State of Ohio or Michigan, any political subdivision of the State, or any person for the management, in a manner consistent with this title, of land that—

(1) is owned by the State, political subdivision, or person; and

(2) is located within the boundaries of the Refuge Complex.

(e) USE OF EXISTING GREENWAY AUTHORITY.—The Secretary shall encourage the State of Ohio to use authority under the recreational trails program under section 206 of title 23, United States Code, to provide funding for acquisition and development of trails within the boundaries of the Refuge Complex.

SEC. ____06. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary—

(1) to acquire land and water within the Refuge Complex under section ____03(c);

(2) to carry out the study under section ____03(e); and

(3) to develop, operate, and maintain the Refuge Complex.

SA 208. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

''SEC. . BANDON CRANBERRY WATER CONTROL DISTRICT.

''(a) Of the funds made available to the United States Department of Agriculture for the Rural Community Advancement Program, $250,000 shall be made available from the Rural Community Facilities Grant Program for grants to the Bandon Cranberry Water Control District in Coos County, Oregon, to help meet certain debt obligations for existing water supply projects.

''(b) The Department is further directed to work with the Bandon Cranberry Water Control District to restructure its remaining debt on water supply projects, in light of the significant reduction in commodity prices experienced by the cranberry growers in recent years.''

SA 209. Mr. SMITH (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

''SEC. . BANDON CRANBERRY WATER CONTROL DISTRICT.

''(a) Of the funds made available to the United States Department of Agriculture for the Rural Community Advancement Program, $250,000 shall be made available from the Rural Community Facilities Grant Program for grants to the Bandon Cranberry Water Control District in Coos County, Oregon, to help meet certain debt obligations for existing water supply projects.''

SA 210. Mr. NICKLES submitted an amendment intended to be proposed by

him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 578 strike lines 15 through 19.

SA 211. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 772, beginning with line 24, strike through line 2 on page 773.

SA 212. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 745, beginning with ''account; to be available'' in line 24, strike through line 12 on page 749, and insert ''account.''.

SA 213. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 731, beginning with ''the following'' in line 10, strike through line 2 on page 735, and insert, ''sums shall be made available for Intelligent Transportation System projects that are designed to achieve the goals and purposes set forth in section 5203 of the Intelligent Transportation Systems Act of 1998 (subtitle C of title V of Public Law 105–178; 112 Stat. 453; 23 U.S.C. 502 note).''.

SA 214. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 262, beginning with ''That'' in line 2, strike through ''State,'' in line 24, and insert ''That the Secretary of the Army, acting through the Chief of Engineers, may use up to $5,000,000 of Construction, General funding as provided herein for construction of an emergency outlet from Devils Lake, North Dakota, to the Sheyenne River except that the funds shall not become available until completion of the feasibility study required by Public Law 105–245, for the continuation of which the Secretary may use $500,000 of such funding, and except that the funds for such construction shall not become available unless the Secretary of the Army determines that an emergency (as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) exists with respect to the emergency need for the outlet and reports to Congress that the construction is technically sound, economically justified, and environmentally acceptable and in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided further*, That the economic justification for the emergency outlet shall be prepared in accordance with the principles and guidelines for economic evaluation as required by regulations and procedures of the Army Corps of Engineers for all flood control projects: *Provided further*, That the economic justification be fully described, including the analysis of the benefits and costs, in the project plan documents: *Provided further*, That the plans for the emergency outlet shall be reviewed and, to be effective, shall contain assurances provided by the Secretary of State, after consultation with the International Joint Commission,''.

SA 215. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1052, line 5, strike ''1.6 percent'' and insert: ''0.5 percent''.

SA 216. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, line 9, insert the following:

''SEC. 136. At the end of Pub. L. No. 92–203, as amended, insert the following new section:

''Notwithstanding any other provision of law, section 4(5) of Pub. L. 100–497 shall include those entities defined in section 3(g) of Pub. L. 92–203, and 25 U.S.C. sections 465 and 467 shall be applicable to such entities to carry out, within the continental United States, the purposes of Pub. L. 100–497. For the sole purpose of carrying out the activities permitted by Pub. L. 100–497, those entities shall be deemed to be on the list provided for in Pub. L. 103–454 and in carrying out these activities shall have the same powers, authority, status and immunities as if included on that list. The applicable Secretary, utilizing the authority provided in section 22(f) of Pub. L. 92–203 or 1302(h) of Pub. L. 96–487 may in his or her discretion enter into a land exchange pursuant thereto. An entity defined in section 3(g) of Pub. L. 92–203 may apply, for a period of ten years from the date of enactment of this section, to the Secretary of the Interior to have title to any lands that have been or may be acquired by the entity pursuant to section 22(f) of Pub. L. 92–203, section 1302(h) of Pub. L. 96–487, or subsections 12(b)(6) or 12(b)(7) of Pub. L. 94–204, as amended, placed in the status described in 25 U.S.C. sections 465 and 467 to carry out the purposes of Pub. L. 100–497, and the Secretary shall accept title to such lands and place them into such status forthwith, and such lands shall be deemed to have been in such status prior to October 17, 1988.'''

SA 217. Mr. STEVENS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . Funding for the Individuals with Disabilities Education Act. In addition to any amounts otherwise appropriated under this Act for support of Part B of the Individuals with Disabilities Education Act, the following sum is appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2003, $1,500,000,000, which shall become available on October 1, 2003, and shall remain available through September 30, 2004, academic year 2003–2004.

SA 218. Mr. HATCH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC 7(c) OF PL 106–143 IS AMENDED BY STRIKING ''2001'', AND INSERTING 2004.

SA 219. Mr. HATCH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. ___. BLACK REVOLUTIONARY WAR PATRIOTS MEMORIAL.

(a) COST SHARING.—Public Law 99–558 (100 Stat. 3144) is amended by striking section 2 and inserting the following:

''SEC. 2. COST SHARING.

''Up to 25 percent of the total cost of establishing the memorial may be derived from Federal sources.''.

(b) REPEAL OF DUPLICATIVE ENACTMENTS.—

(1) Section 118 of Public Law 99–500 (100 Stat. 1783–266) is repealed.

(2) Title VIII of Public Law 99–590 (100 Stat. 3339) is repealed.

(3) Section 118 of Public Law 99–591 (100 Stat. 3341–266) is repealed.

SA 220. Mrs. BOXER (for herself, Mr. ENSIGN, and Mr. SPECTER) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FUNDING FOR AFTER-SCHOOL PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) There remains a great need for after-school programs. The Census Bureau reported that at least 8 to 15 million children have no place to go after school is out.

(2) According to the FBI, youth are most at risk for committing violent acts and being victims of violent crimes between 3 p.m. and 8 p.m.—after school is out and before parents arrive home.

(3) Studies show that organized extracurricular activities, such as after-school programs, reduce crime, drug use, and teenage pregnancy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that every effort should be made to—

(1) accommodate the waiting lists of children needing access to after-school programs; and

(2) fund after-school programs at the level authorized in the Leave No Child Behind Act.

SA 221. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, between lines 13 and 14, insert the following:

SEC. . SCOPE OF FEDERAL JURISDICTION OVER WATERS OF THE UNITED STATES

None of the funds made available under this Act shall be used—

(1) to promulgate or implement any regulation relating to the scope of Federal jurisdiction under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) over waters of the United States (including the proposed rulemaking described in the notion issued on January 15, 2003 (68 Fed. Reg. 1991 (January 15, 2003)) or any similar regulation); or

(2) to implement as a policy of the Federal Government the holding in Solid Waste Agency of Northern Cook County v. United States Army Corps of Engineers, 531 U.S. 159 (2001), relating to the scope of Federal jurisdiction conferred by Congress under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), so as to apply the holding of that case to any factual situation other than the precise facts in that case.

SA 222. Mrs. BOXER submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, between lines 13 and 14, insert the following:

SEC. . FEDERAL JURISDICTION OVER WATERS OF THE UNITED STATES.

''No funds made available by this Act shall be used by the Administration of the Environmental Protection Agency or the Secretary of the Army Corps of Engineers to exempt any bodies of water that are currently covered by the Clean Water Act from the Clean Water Act.''

SA 223. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 8 and 9, insert the following:

SEC. . CALIFORNIA OFFSHORE OIL LEASES.

''No funds made available by this act shall be used by the Secretary of the Interior to approve any exploration, development, or production plan for, or application for a permit to drill on, the 36 undeveloped leases in southern California planning area of the outer Continental Shelf during any period in which the leases are engaged in settlement negotiations with the Secretary of the Interior for the retirement of the leases.''

SA 224. Mr. BOND submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1014, after line 13, insert the following new section, with the section renumbered as appropriate:

''SEC. 423. SECTION 214 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980 (42. U.S.C. 1436a) IS AMENDED BY:

(1) in subsection (a)(6), by striking out ''or'' at the end;

(2) by renumbering paragraph (7) as (8) in subsection (a);

(3) by adding after paragraph (6) in subsection (a), the following new paragraph: ''(7) a qualified alien described in 8 U.S.C. 1641, or'';

(4) in subsection (c)(1)(A), by striking ''paragraphs (1) through (6)'' and inserting ''paragraphs (1) through (7)''; and

(5) in subsection (c)(2)(A), by inserting ''(other than a qualified alien as described in 8 U.S.C. 1641(c))'' after ''any alien''.''

SA 225. Ms. LANDRIEU (for herself and Mr. BREAUX) submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 259, line 19, strike ''projects:'' and insert ''projects; and of which $55,000,000 shall be available for the Southeast Louisiana project:''.

SA 226. Mr. KOHL submitted an amendment intended to be proposed by her to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, line 7, strike ''$682,814,000'' and insert ''$678,814,000''.

On page 35, line 12 strike ''$86,762,000'' and insert ''$82,762,000''.

On page 43, line 7, strike ''$35,000,000'' and insert ''$34,000,000''.

On page 43, line 18, strike ''$47,498,000'' and insert ''$46,498,000''.

In Division A, at the appropriate place, insert the following new section:

SEC. . There is hereby appropriated $6,000,000 for grants made available in accordance with section 7412 of Public Law 107–171.''

SA 227. Mr. KOHL submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On Page 41, line 20, strike ''$55,956,000'' and insert ''53,956,000''.

On Page 42, line 14, strike ''$730,000,000'' and insert ''722,000,000''.

In Division A, at the appropriate place, insert the following new section:

SEC. . There is hereby appropriated an amount sufficient for expansion of the program described in section 18(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(f)) to include an additional twenty states; *Provided*, That these funds should be used to include states with the lowest program participation rates averaged over the three previous years.

SA 228. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, strike lines 17 through 20.

SA 229. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 24, strike ''$133,155,000'' and insert ''$118,155,000''.

SA 230. Mr. MCCAIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 263, beginning with ''$346,437,000,'' in line 24, strike through line 6 on page 264 and insert ''$331,687,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, using $250,000 of the funds provided herein, is directed to continue environmental review and project plans for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi.''.

SA 231. Mr. GRAHAM of Florida (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, between lines 19 and 20, insert the following:

SEC. 404. (a) The letter to State Medicaid Directors dated December 20, 2002, from Dennis G. Smith, Director, Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services (relating to placing limits on coverage of emergency services under the medicaid program under title XIX of the Social Security Act), shall have no force or effect and State medicaid programs shall be administered without regard to such letter.

(b) None of the funds appropriated or made available in this Act may be used for payments for medicaid expenditures directly or indirectly related to capitation payments (or other forms of premium or risk payments) to a managed care entity (including a primary care case manager) that does not pay for use of emergency services by a medicaid beneficiary enrolled with the entity that meet the prudent layperson standard under 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)).

SA 232. Mr. GRAHAM of Florida (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1047, between lines 19 and 20, insert the following:

SEC. 404. (a) The letter to State Medicaid Directors dated December 20, 2002, from Dennis G. Smith, Director, Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services (relating to placing limits on coverage of emergency services under the medicaid program under title XIX of the Social Security Act), shall have no force or effect and State medicaid programs shall be administered without regard to such letter.

(b) None of the funds appropriated or made available in this Act may be used for payments for medicaid expenditures directly or indirectly related to capitation payments (or other forms of premium or risk payments) to a managed care entity (including a primary care case manager) that does not pay for use of emergency services by a medicaid

beneficiary enrolled with the entity that meet the prudent layperson standard under 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)).

(c) None of the funds appropriated or made available in this Act may be used to approve medicaid plan amendments, waivers, or waiver amendments that restrict payment on behalf of a medicaid beneficiary enrolled with a managed care entity (including a primary care case manager) for use of emergency services that meet the prudent layperson standard under section 1932(b)(2) of the Social Security Act (42 U.S.C. 1396u–2(b)(2)).

SA 233. Mr. CORZINE (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, between lines 23 and 24, insert the following:

SEC. 110. None of the funds appropriated by this Act may be used to remove, deport, or detain an alien spouse or child of an individual who died as a result of a September 11, 2001, terrorist attack, unless the alien spouse or child is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) or deportable under paragraph (2) or (4) of section 237(a) of that Act (8 U.S.C. 1227(a)) (including any terrorist perpetrator of a September 11, 2001, terrorist attack against the United States); or

(2) a member of the family of a person described in paragraph (1).

SA 234. Mr. CORZINE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1026, after line 22, add the following:

SEC. 111. (a) In addition to amounts appropriated in Public Law 107–248, funds are hereby appropriated for the National Commission To Fight Terrorist Attacks Upon the United States for fiscal year 2003 in the total amount of $3,000,000.

(b) The total amount appropriated under the heading ''Departmental offices, salaries, and expenses'' in title I of division J of this Act is hereby reduced by $3,000,000.

SA 235. Mr. CORZINE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1026, after line 22, add the following:

SEC. 111. (a) In addition to amounts appropriated in Public Law 107–248, funds are hereby appropriated for the National Commission To Fight Terrorist Attacks Upon the United States for fiscal year 2003 in the total amount of $300,000,000.

SA 236. Mr. HARKIN submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. SENSE OF THE SENATE CONCERNING CERTAIN FUNDS FOR TECHNICAL ASSISTANCE FOR MANDATORY CONSERVATION PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) conservation technical assistance provided through the Department of Agriculture is essential to help the farmers, ranchers, and landowners of the United States to implement and maintain critical conservation practices;

(2) Congress provided a historic increase in mandatory funding for voluntary conservation efforts in the Farm Security and Rural Investment Act of 2002 (Public Law 107–171);

(3) in that Act, Congress provided mandatory funding sufficient to cover all conservation technical assistance needed to carry out conservation programs;

(4) under that Act, conservation technical assistance is provided to carry out conservation programs;

(5) the General Accounting Office has determined that, under the Farm Security and Rural Investment Act of 2002, funding for conservation technical assistance—

(A) is provided directly for conservation programs; and

(B) is not subject to the limitation specified in section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i); and

(6) the General Accounting Office has determined that funds in the Conservation Operations account cannot be used to fund conservation technical assistance for conservation programs under the Farm Security and Rural Investment Act of 2002.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President should provide full funding for conservation technical assistance in order to implement conservation programs under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.); and

(2) the President should not use funds from the Conservation Operations account to provide conservation technical assistance for carrying out conservation programs directly funded by that title.

SA 237. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 596, between lines 2 and 3, insert the following:

ELECTION REFORM GRANT PROGRAM

Notwithstanding title I of division B, the appropriation under such title of $50,000,000 to the Office of Justice Programs of the Department of Justice for an election reform grant program is rescinded, the proviso relating to such appropriation shall have no effect, and there is appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Health and Human Services for the expenses authorized by part 2 of subtitle D of title II of the Help America Vote Act of 2002 (Public Law 107–252; 116 Stat. 1698), relating to payments to States and units of local government to assure access for individuals with disabilities, $50,000,000, to remain available until expended.

SA 238. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 111, line 25, strike ''*Provided*, That'' and all that follows before the period on page 112, line 4.

SA 239. Mr. DODD submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 1032, strike lines 18 through 20, and insert the following:

carry out the provisions of the Help America Vote Act of 2002 (Public Law 107–252; 116 Stat. 1666), to remain available until expended.

SA 240. Mr. SMITH submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CLARIFICATION OF CERTAIN PATENT PROVISIONS TO RAILROAD CARS.

Section 272 of title 35, United States Code, is amended by adding after the period the following: ''This section shall apply to any vehicle that is a railroad car entering and leaving the United States on a regular basis.''.

SA 241. Mr. CHAFEE submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of Division G, add the following:

SEC. ___. HIGHER EDUCATION FUNDING.

Notwithstanding any other provision of this Act, of the amounts appropriated under this Act for programs or activities under title III of Division G that are in excess of $54,195,685,000 that are available for distribution to States and local educational agencies in accordance with sections 5111 and 5112 of the Elementary and Secondary Education Act of 1965—

(1) $1,350,000,000 shall be available to the Secretary of Education to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 (Federal Pell Grants); and

(2) $150,000,000 shall be available to the Secretary of Education for programs under the Higher Education Act of 1965, other than programs under subpart 1 of part A of title IV of such Act.

SA 242. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J.Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

''The Secretary of the Army, acting through the Chief of Engineers, is directed to provide $2,900,000 of the funds provided therein for the continuation of the shore protection project in Dare County (Bodie Island), North Carolina, as authorized by Section 101

(24) of the Water Resources Development Act of 2000.''

SA 243. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On page 80, between lines 3 and 4, insert the following:

SEC. 7___. RURAL HOUSING SERVICE.

Title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, is amended in the first paragraph under the heading ''RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT (INCLUDING TRANSFER OF FUNDS)'' under the heading ''RURAL HOUSING SERVICE'' (114 Stat. 1549, 1549A–19) by inserting before the period at the end the following: ''*: Provided further*, That after September 30, 2002, any funds remaining for the demonstration program may be used, within the State in which the demonstration program is carried out, for fiscal year 2003 and subsequent fiscal years to make grants, and to cover the costs (as defined in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a)) of loans authorized, under section 504 of the Housing Act of 1949 (42 U.S.C. 1474)''.

SA 244. Mr. EDWARDS submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BLUE RIDGE NATIONAL HERITAGE AREA.

(a) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Blue Ridge National Heritage Area established by subsection (b).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by subsection (d).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area approved under subsection (e).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of North Carolina.

(b) ESTABLISHMENT.—There is established the Blue Ridge National Heritage Area in the State.

(c) BOUNDARIES.—The Heritage Area shall consist of the counties of Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(d) MANAGEMENT ENTITY.—

(1) IN GENERAL.—As a condition of the receipt of funds made available under subsection (i)(1), the Blue Ridge National Heritage Area Partnership shall be the management entity for the Heritage Area.

(2) BOARD OF DIRECTORS.—The management entity shall be governed by a board of directors composed of 9 members, of whom—

(A) 2 members shall be appointed by AdvantageWest;

(B) 2 members shall be appointed by Hand-Made In America, Inc.;

(C) 1 member shall be appointed by the Education and Research Consortium of Western North Carolina;

(D) 1 member shall be appointed by the Eastern Band of the Cherokee Indians; and

(E) 3 members shall—

(i) be appointed by the Governor of the State;

(ii) reside in geographically diverse regions of the Heritage Area;

(iii) be a representative of State or local governments or the private sector; and

(iv) have knowledge of tourism, economic and community development, regional planning, historic preservation, cultural or natural resources development, regional planning, conservation, recreational services, education, or museum services.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(2) CONSIDERATION OF OTHER PLANS AND ACTIONS.—In developing the management plan, the management entity shall—

(A) for the purpose of presenting a unified preservation and interpretation plan, take into consideration Federal, State, and local plans; and

(B) provide for the participation of residents, public agencies, and private organizations in the Heritage Area.

(3) CONTENTS.—The management plan shall—

(A) present comprehensive recommendations and strategies for the conservation, funding, management, and development of the Heritage Area;

(B) identify existing and potential sources of Federal and non-Federal funding for the conservation, management, and development of the Heritage Area; and

(C) include—

(i) an inventory of the cultural, historical, natural, and recreational resources of the Heritage Area, including a list of property that—

(I) relates to the purposes of the Heritage Area; and

(II) should be conserved, restored, managed, developed, or maintained because of the significance of the property;

(ii) a program of strategies and actions for the implementation of the management plan that identifies the roles of agencies and organizations that are involved in the implementation of the management plan;

(iii) an interpretive and educational plan for the Heritage Area;

(iv) a recommendation of policies for resource management and protection that develop intergovernmental cooperative agreements to manage and protect the cultural, historical, natural, and recreational resources of the Heritage Area; and

(v) an analysis of ways in which Federal, State, and local programs may best be coordinated to promote the purposes of this Act.

(4) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date described in paragraph (1), the Secretary shall not provide any additional funding under this Act until a management plan is submitted to the Secretary.

(5) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under paragraph (1), the Secretary shall approve or disapprove the management plan.

(B) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether the management plan—

(i) has strong local support from landowners, business interests, nonprofit organizations, and governments in the Heritage Area; and

(ii) has a high potential for effective partnership mechanisms.

(C) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a management plan under subparagraph (A), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the management entity to submit to the Secretary revisions to the management plan.

(D) DEADLINE FOR APPROVAL OF REVISION.—Not later than 60 days after the date on which a revision is submitted under subparagraph (C), the Secretary shall approve or disapprove the proposed revision.

(6) AMENDMENT OF APPROVED MANAGEMENT PLAN.—

(A) IN GENERAL.—After approval by the Secretary of a management plan, the management entity shall periodically—

(i) review the management plan; and

(ii) submit to the Secretary, for review and approval, the recommendation of the management entity for any amendments to the management plan.

(B) USE OF FUNDS.—No funds made available under subsection (i)(1) shall be used to implement any amendment proposed by the management entity under subparagraph (A)(ii) until the Secretary approves the amendment.

(f) AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.—

(1) AUTHORITIES.—For the purposes of developing and implementing the management plan, the management entity may use funds made available under subsection (i)(1) to—

(A) make loans and grants to, and enter into cooperative agreements with, the State (including a political subdivision), nonprofit organizations, or persons;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(2) DUTIES.—In addition to developing the management plan, the management entity shall—

(A) develop and implement the management plan while considering the interests of diverse units of government, businesses, private property owners, and nonprofit groups in the Heritage Area;

(B) conduct public meetings in the Heritage Area at least semiannually on the development and implementation of the management plan;

(C) give priority to the implementation of actions, goals, and strategies in the management plan, including providing assistance to units of government, nonprofit organizations, and persons in—

(i) carrying out the programs that protect resources in the Heritage Area;

(ii) encouraging economic viability in the Heritage Area in accordance with the goals of the management plan;

(iii) establishing and maintaining interpretive exhibits in the Heritage Area;

(iv) developing recreational and educational opportunities in the Heritage Area; and

(v) increasing public awareness of and appreciation for the cultural, historical, and natural resources of the Heritage Area; and

(D) for any fiscal year for which Federal funds are received under subsection (i)(1)—

(i) submit to the Secretary a report that describes, for the fiscal year—

(I) the accomplishments of the management entity;

(II) the expenses and income of the management entity; and

(III) each entity to which a grant was made;

(ii) make available for audit by Congress, the Secretary, and appropriate units of government, all records relating to the expenditure of funds and any matching funds; and

(iii) require, for all agreements authorizing expenditure of Federal funds by any entity, that the receiving entity make available for audit all records relating to the expenditure of funds.

(3) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The management entity shall not use Federal funds received under subsection (i)(1) to acquire real property or an interest in real property.

(g) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide to the management entity technical assistance and, subject to the availability of appropriations, financial assistance, for use in developing and implementing the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that facilitate—

(A) the preservation of the significant cultural, historical, natural, and recreational resources of the Heritage Area; and

(B) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources of the Heritage Area.

(h) LAND USE REGULATION.—

(1) IN GENERAL.—Nothing in this Act—

(A) grants any power of zoning or land use to the management entity; or

(B) modifies, enlarges, or diminishes any authority of the Federal Government or any State or local government to regulate any use of land under any law (including regulations).

(2) PRIVATE PROPERTY.—Nothing in this Act—

(A) abridges the rights of any person with respect to private property;

(B) affects the authority of the State or local government with respect to private property; or

(C) imposes any additional burden on any property owner.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 shall be made available for any fiscal year.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any activities carried out using Federal funds made available under paragraph (1) shall be not less than 50 percent.

(j) TERMINATION OF AUTHORITY.—The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

SA 245. Mr. DOMENICI submitted an amendment intended to be proposed by him to the joint resolution H.J. Res. 2, making further continuing appropriations for the fiscal year 2003, and for other purposes; which was ordered to lie on the table; as follows:

On Page 1027, strike Title II of Division M in its entirety and insert the following:

TITLE II—PRICE-ANDERSON ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Price-Anderson Amendments Act of 2002''.

SEC. 202. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2017''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. (1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ''December 31, 2004'' and inserting ''August 1, 2017''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2017''.

(d) EFFECTIVE DATE.—The indemnification authority extended by this section shall apply to nuclear incidents occurring on or after August 1, 2002.

SEC. 203. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking ''$63,000,000'' and inserting ''$94,000,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.''; and

(2) in subsection t.(1)—

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''July 1, 2002''; and

(C) by striking ''such date of enactment'' and inserting ''July 1, 2002''.

SEC. 204. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2002, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

''(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 205. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 206. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2013''.

SEC. 207. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 208. TREATMENT OF MODULAR REACTORS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 209. APPLICABILITY.

The amendments made by sections 203, 204, and 205 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 210. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2 282 a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d. (1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any

violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that three hearings have been scheduled before the Committee on Energy and Natural Resources to consider the President's proposed FY 2004 budget.

The Committee will hear testimony from the following:

1. The Department of the Interior on Tuesday, February 11, 2003, beginning at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

2. The Forest Service on Thursday, February 13, 2003, beginning at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

3. The Department of Energy on Tuesday, February 25, 2003, beginning at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

For further information on these hearings, please call Jennifer Owen, Staff Assistant at (202) 224–5305.

PRIVILEGE OF THE FLOOR

Mr. EDWARDS. Mr. President, I ask unanimous consent the privilege of the floor be granted to Erica Burens of my staff during today's business.

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

FILING OF MOTION TO INSTRUCT CONFEREES TO H.J. RES. 2

Ms. STABENOW. Mr. President, I move that the conferees on the part of the Senate on the disagreeing votes of the two Houses on the joint resolution H.J. Res. 2 be instructed to insist that the committee of conference ensure that the joint resolution as reported from the committee includes section 102 of division L relating to Homeland Security Act of 2002 Amendments, as passed by the Senate, (relating to amendments to sections 1714 through 1717 of the Homeland Security Act of 2002 (Public Law 107–296)).

ORDERS FOR WEDNESDAY, JANUARY 22, 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m., on Wednesday, January 22. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.J. Res. 2, the appropriations bill, as under the previous order.

Mr. REID. I have no objection.

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

UNANIMOUS CONSENT AGREEMENT—NOMINATION OF TOM RIDGE

Mr. McCONNELL. As in executive session, I ask unanimous consent that the agreement with respect to the Ridge nomination be modified so that the time allocated to Senator FEINSTEIN be given to Senator NELSON of Nebraska. I further ask unanimous consent that given the statement of the Senator from Delaware this evening, the time allocated to Senator CARPER be vitiated.

Mr. REID. I have no objection.

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

PROGRAM

Mr. McCONNELL. Mr. President, for the information of Senators, there will be two votes beginning at 9:30 tomorrow morning. Following those votes, the Senate will begin consideration of the nomination of Tom Ridge. A vote is expected on that nomination prior to the policy luncheons on Wednesday. It is the intention of the majority leader to recess for those luncheons following the vote on the Ridge nomination. Senators can expect additional votes tomorrow afternoon and into the evening as the Senate continues to consider amendments to the appropriations bill.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. McCONNELL. 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 6:51 p.m., adjourned until Wednesday, January 22, 2003, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate January 21, 2003:

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

DANIEL P. HUDSON, 0000

DEPARTMENT OF DEFENSE

LAWRENCE MOHR, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2003, VICE JOHN E. CONNOLLY, TERM EXPIRED.

LAWRENCE MOHR, JR., OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2009. (REAPPOINTMENT)

DEPARTMENT OF HOMELAND SECURITY

JANET HALE, OF VIRGINIA, TO BE UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

THE JUDICIARY

JUDITH NAN MACALUSO, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–114, APPROVED JANUARY 8, 2002.

JOSEPH MICHAEL FRANCIS RYAN III, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–114, APPROVED JANUARY 8, 2002.

JERRY STEWART BYRD, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE A NEW POSITION CREATED BY PUBLIC LAW 107–114, APPROVED JANUARY 8, 2002.

DEPARTMENT OF EDUCATION

KAREN JOHNSON, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION, VICE REBECCA O. CAMPOVERDE.

RAILROAD RETIREMENT BOARD

MICHAEL SCHWARTZ, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR A TERM EXPIRING AUGUST 28, 2007, VICE CHERRYL T. THOMAS, TERM EXPIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ALBERT T. CHURCH III, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

MARGARET C. GRAM, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JAMES V. ENGLISH, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

JAMES C. BALSERAK, 0000
JAMES H. BARTLETT, 0000
MICHAEL S. BRONSTEIN, 0000
GLENN R. MARKENSON, 0000
REID T. MULLER, 0000
MARTIN E. SELLBERG, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TIMOTHY H. LEWIS, 0000

THE FOLLOWING NAMED OFFICER FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

HOWARD S. LOLLER, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 628, AND 3064:

To be colonel

JOHN F. NEPTUNE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be lieutenant colonel

CHARLES E. SWALLOW, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY CHAPLAINS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

WAYNE C. HOLLENBAUGH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY CHAPLAINS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

JOSEPH T. HUGHES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

GREGORY T. BRAMBLETT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

ALLEN C. WHITFORD, 0000

DEPARTMENT OF DEFENSE

SHARON FALKENHEIMER, OF TEXAS, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 2007, VICE LONNIE R. BRISTOW, TERM EXPIRED.