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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable SAXBY CHAMBLISS, a Senator from the State of Georgia.

The PRESIDING OFFICER. Our guest Chaplain today is the Rev. Neil D. Smith, of Faith Evangelical Presbyterian Church in Kingstown, VA, who will lead the Senate in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Almighty God, from Whom all blessings flow and to Whom all praise belongs:

May Your blessing rest on this Senate and on this Nation, not because we deserve Your blessing but because we need it.

Deliver us, we pray, from the tyranny of the expedient, that we might always seek to do what is right, whether or not it is politically advantageous in the moment.

Deliver us from evil, and from the evil acts and intentions of those who oppose the values of faith and freedom we cherish in this Nation.

Grant to the men and women of this Senate wisdom, grace, and courage for the living of these days. May Your grace abound to them so that, in all things at all times, having all that they need, they may abound in every good work, to the glory of Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAXBY CHAMBLISS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication

to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 27, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. CHAMBLISS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning, we will have a period of morning business for up to 60 minutes. The first 30 minutes of that time will be under the control of the Democratic leader, and the second 30 minutes will be controlled by this side of the aisle. Following morning business, the Senate will resume consideration of the motion to proceed to S. 150, a bill relating to the taxation of Internet access.

Last night, the Senate invoked cloture on the motion to proceed by a vote of 74 to 11. Under the agreement reached following that vote, there will be an additional 2 hours 40 minutes remaining for debate on the motion. Following that debate, the motion will be agreed to, and the Senate will begin consideration of the Internet tax legislation. No vote will be necessary on proceeding. However, votes are expected today in relation to amendments that may be offered to the underlying bill.

I stated yesterday that it is my desire to consider the Internet access tax bill over the course of the next few days and to complete the bill prior to the end of the week. Hopefully, we can make progress today. Senators are encouraged to notify the managers of the bill if they intend to offer amendments to the bill.

I also remind my colleagues that the Senate will recess from 12:45 p.m. until 2:15 p.m. today for the weekly policy lunches.

I yield the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, the two leaders have some business to transact. I ask unanimous consent that when the Chair announces morning business, on our side Senator BOXER be given the first 5 minutes; Senator DURBIN the next 5 minutes; Senator WYDEN, 10 minutes; Senator LEAHY, 10 minutes. I ask unanimous consent that, as the leader just indicated, the morning business time be a full 30 minutes on each side, taking into consideration the fact that the Democratic leader and, perhaps, the Republican leader will give statements to the Senate under their leader time—so a full 30 minutes on each side.

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

RESERVATION OF LEADER TIME

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

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



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MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from California is recognized for 5 minutes.

RELEASE OF ENERGY TASK FORCE RECORDS

Mrs. BOXER. Mr. President, I stand here today to call on Vice President DICK CHENEY to immediately open his records of his secret energy task force meetings and tell the American people the truth about who attended those meetings.

The administration needs to stop fighting this wasteful lawsuit. It has cost hundreds of thousands, if not millions of dollars, that belong to the taxpayers. And it has consumed an enormous amount of time with the Justice Department and other agencies. Today the case is to be heard across the street at the Supreme Court.

It is not too late for the Vice President to come clean. Just tell the American people who attended the secret meetings he held before he issued his energy policy which took the form of this very expensive, beautiful-colored brochure which has, for example, this picture of "Energy for a New Century," and it shows an oil rig in the ocean. By the way, that is not exactly the energy of the future.

The time has come for the Vice President to stop the stonewalling. Simply tell the truth. Who did he meet with in preparing our Nation's energy plan?

First, the American people have the right to know. The last I checked, this country was a free country. It is a country where there is access to information for the people. We pay the salaries of our President, our Vice President, our Senators, our House Members. Unless it is a question of the highest national security, the people have a right to know how their money is being spent or misspent. Why does the administration continue to hide the truth about how its energy policy was formed? It is not necessary to be secretive. It is wrong. The public needs to know how public policies are formulated.

To know that, they need to know who was sitting at the table when this national energy policy was put together. Who was there? Was it a broad array of citizens from all sides of the issue—consumers, environmentalists, people from the oil companies, the gas companies, the nuclear industry—or was it just one set of people?

Second, it is time to stop wasting taxpayers' money. The cost of that lawsuit across the street is very dif-

ficult to pin down. We know the General Accounting Office, which tried to force the Vice President to reveal who was at the meetings, spent over \$300,000 in legal fees to fight DICK CHENEY's stonewalling. From my office's research, we believe attorneys from Justice and the Office of Solicitor General have spent thousands of work hours preparing these documents.

Let me show a chart on what other things these persons could be doing other than keeping the meetings that the Vice President had secreted from the people. They could have been fighting terrorism by seeking and freezing assets of terrorist groups such as Hamas. They could have been prosecuting Medicare fraud. They could have been prosecuting drug companies that falsify data for FDA drug approval. They could have been prosecuting corporations that violate consumer safety laws with toxic products. All those things are in the public interest.

But, no, this Vice President says to these people who work hard every day: Just forget about this. We know we said a lot about cracking down on terrorism, money laundering. We said a lot about cracking down on Medicare fraud and drug company fraud and corporations that violate consumer safety laws with toxic products. Just forget it. Defend me. I am so important. I am the Vice President and the people have no right to know with whom I meet.

It is outrageous. I want the Justice Department to go after criminals, not to keep meetings secret that should be made public.

The Supreme Court has other things to do as well. They defend our way of life, our civil liberties, our human rights. For this court to spend its time listening to Mr. CHENEY defend his secrecy pulls it away from other important issues it could address. It is a waste of the Court's time. It is a waste of money.

I ask unanimous consent for an additional 2 minutes and ask that Senator DURBIN have an additional 2 minutes as well.

Mr. REID. Mr. President, we ask unanimous consent that the majority have an additional 2 minutes as well, a total of 2 extra minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized for an additional 2 minutes.

Mrs. BOXER. Two Federal judges have already found that the administration has violated the Freedom of Information Act. Openness is an American value. In the end, openness is a way of life. Do you remember how Condi Rice was not going to testify because the President said that she only reports to him and what she tells him is secret? Well, they caved on that one. They caved on that one because that is not in the public interest, and the people wouldn't stand for it.

Do you remember when First Lady HILLARY CLINTON said she believed she didn't have to reveal who was sitting in

on the health care task force meetings? Well, they were sued. And HILLARY CLINTON, now Senator CLINTON, said: OK, OK. Let's not go to court. I will reveal this information.

But not this administration, not DICK CHENEY. He has a lot of time to bash Senator JOHN KERRY, but he doesn't have time to open up the files and show the people who sat in on those meetings that led to the formulation of the national energy policy. It is remarkable—someone who didn't serve 1 minute, 1 hour in the military is taking on a war hero, JOHN KERRY. But he doesn't have time to pay attention to this issue on which the New York Times editorialized today and said:

[The Cheney] case also raises more substantive issues about the degree to which a vice president can claim to be above the law.

This is a sad day. We already know because the Vice President admitted that Ken Lay attended those secret meetings. Yes, he did. Ken Lay, the man we are hoping will wind up in prison for defrauding the people of California and the people of the west coast of billions of dollars. We know he was in the meeting. We also know he handed the Vice President a document that said: Don't take any action in California.

I call on the Vice President, tell the truth. Cut it out. Walk away from this case and let the people know with whom you met.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois is recognized for 5 minutes.

ATTACK ON JOHN KERRY'S MILITARY SERVICE

Mr. DURBIN. Mr. President, over 35 years ago, JOHN KERRY faced his enemies in Vietnam. There were enemies there who were involved in sniper fire against JOHN KERRY, trying to take his life and kill him because he wore the uniform of the United States of America. Sadly, the Vietnam snipers are still trying to cause damage to JOHN KERRY.

The new Vietnam snipers come from the Bush-Cheney campaign: Karen Hughes, sadly the Vice President, and other campaign operatives who are now attacking JOHN KERRY because he served our country. He wore the uniform of the United States of America. He volunteered and put his life on the line in Vietnam.

This shameless exercise by the Bush-Cheney campaign must be called for what it is. Many of us did not serve in the military, even those of us in the Vietnam era. We did not volunteer for service as JOHN KERRY did. We didn't wear the uniform of our country proudly as he did. We did not risk our lives. Included in this group is Vice President CHENEY, who used his deferments to avoid military service, as he was legally allowed to do. Yet we now hear Vice President CHENEY leading the attack against JOHN KERRY, a man who

volunteered, risked his life, and received awards from this country for his heroism.

This is an outrageous campaign tactic by the Bush-Cheney campaign. The Republican attack machine on JOHN KERRY has, frankly, criticized him for his two tours of duty in Vietnam. Apparently, that was not enough. The fact that JOHN KERRY earned a Silver Star, a Bronze Star, and three Purple Hearts wasn't good enough for these Bush-Cheney campaign operatives who never miss a chance to attack JOHN KERRY for his military record.

Thank goodness, Senators of the stature of JOHN MCCAIN have stood up to defend his fellow Vietnam veteran, JOHN KERRY. They have said that JOHN'S service is clear and unequivocal. He risked his life for America. I have met men who were in his crew, those who travel with him in his campaign, his so-called "band of brothers." They are in their late fifties and early sixties. They give up what they are doing to join JOHN MCCAIN on the campaign trail. They tell the story. They tell the story of a young Navy lieutenant volunteering to serve this country, literally risking his life for those in his crew. They join him on the campaign trail, saying they are prepared to follow him into battle again.

But listen to what is coming from the other side. To think that those who did not serve in the military are now criticizing JOHN KERRY for his war record is reprehensible. It is time to put the cards on the table. JOHN KERRY not only has nothing to apologize for when it comes to his military record, he can be very proud of that. For those who say when he came back after the war and was critical of our Vietnam policy, somehow that was wrong, once again, listen to Senator JOHN MCCAIN, a man who not only served in the U.S. Navy as well but was a prisoner of war. JOHN MCCAIN came forward and said JOHN KERRY had every right to make the statements after the war about his disagreement with our foreign policy.

What we face today is incredible—that the Bush-Cheney campaign is going to attack a decorated Vietnam war veteran, raise questions as to whether he was deserving of a Purple Heart. How could they stoop so low? How could they do this when so many other men and women who have served our country, who have been wounded in battle and received Purple Hearts, have given all we could ever ask of an American citizen? And now to disparage JOHN KERRY and say that perhaps he doesn't deserve all of the recognition he has been given for his service in Vietnam is about as low as it gets.

I have listened to these comments, and I am particularly disturbed that Vice President DICK CHENEY has been the author of so many of these comments as well. Yesterday he was at Westminster College in Fulton, MO. He was supposed to give a speech on the foreign policy of the United States. Vice President CHENEY was supposed to

speak at Westminster College about foreign policy issues in Iraq. Instead, he went on the attack on JOHN KERRY and his patriotism and defense of America. It was such an embarrassing moment that, when he left, the president of Westminster College e-mailed the students, staff, and faculty basically apologizing for what Vice President CHENEY had said there.

Vice President CHENEY should know better. He should know that JOHN KERRY served our country and served it with distinction and honor. While Vice President CHENEY did not serve in the military, JOHN KERRY did. It is time to end this shameful Bush-Cheney campaign tactic and to recognize the obvious: JOHN KERRY led men into battle. He defended America. As President of the United States, he will do exactly the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized for 10 minutes.

OIL COMPANY INCENTIVES

Mr. WYDEN. Mr. President, most American companies make their profit by selling the best product at the best price. But too often in the oil industry it just doesn't seem to work that way. For example, oil companies can even get a subsidy from the Federal taxpayers for shutting down a profitable oil refinery by deducting the cost of that shutdown from their taxes.

I come to the floor today because I hope Congress will put a stop to the perverse incentives that reward oil companies when they reduce the supply of gasoline and gouge our consumers at the pump. In my view, the Tax Code simply should not reward companies that shut down a refinery to reduce the supply and drive up the price of gasoline. My own view is that Congress ought to be providing incentives to oil companies that increase their production, as long as they comply with the applicable environmental law.

I think we are all pleased when we see corporate profits go up, and we are all pleased when the stocks of those companies go up as well. But what I am troubled about with respect to what is going on in the oil industry—and we are going to see profits up again this week, and I gather some have already been announced—is that too often our consumers are getting hosed.

I have been traveling about Oregon over the last few weeks. I have watched as gasoline prices hit over \$2 per gallon in some towns. In Eugene, Springfield, Medford, and Ashland—a number of our communities—the average price has been \$2.06 per gallon. Each penny of that cost is coming out of the pockets of working Oregonians. It is, of course, helping to increase oil company profits. What I am troubled about is that the taxpayers at the same time are subsidizing practices that are detrimental to their interests.

There has clearly been a pattern of extraordinary profits in the oil indus-

try. A prime example was ExxonMobil, which last year announced an all-time record earnings of \$21.5 billion. That is not just the highest earnings ever recorded by an oil company; that is the highest by any company in history.

Again, I want it understood that I like to see our companies make profits. I like it when their stock prices are high. What I don't like is when the consumer has to subsidize anti-competitive practices that are detrimental to their interests. That has certainly been the case with respect to refineries, when an oil company gets an actual subsidy from the Federal taxpayers for shutting down a profitable refinery by deducting the cost of the shutdown from their taxes.

This matter has special implications out in the West. I see my friend from Nevada on the floor. He made an excellent presentation with respect to how his State is affected by gasoline prices. All of us in the West are going to be hit, and hit very hard, by Shell's decision to close its Bakersfield refinery. In that instance, there seems to be no evidence that Shell has gone out and aggressively tried to find a buyer.

Independent analysts have made it clear there is a substantial amount of oil in the area. I will tell you, for those of us in the West, looking at that refinery closure in Bakersfield, that deal smells. It just doesn't add up to have a profitable refinery going down at a time when the company doesn't look as if it is moving aggressively to find a buyer. There is oil in the area and, as I have pointed out, the taxpayer subsidizes the closures of these profitable refineries. Yet the Federal Trade Commission has refused to act.

I hope to be on the floor very shortly with a bipartisan effort to address the anti-consumer practices. At a minimum, let us not have the taxpayers of America subsidizing anti-competitive practices in the oil industry, such as the shutdown of profitable refineries.

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

Mr. WYDEN. I will be happy to yield.

Mr. REID. Last week, I gave a speech about what is going on in Nevada. In Nevada, we have gas prices now approaching \$2.50 a gallon. If someone wants to put 4 gallons of gas in a vehicle, they have to bring a \$10 bill with them to do that.

I ask my friend his comments on this: Senator ENSIGN and I asked the Federal Trade Commission to take a look at what was going on in Nevada. They took a look and came back and said: We can't tell you why the price is that high. It is unusual, is what they said. It is unusual and they could not determine why gas prices were that high.

Does the Senator agree, with the prices going haywire as they are, and the consumer being hit very hard, especially in the western part of the United States, that the Federal Trade Commission should do something more aggressively than what they have done?

Mr. WYDEN. The Senator from Nevada is correct. The fact is the Federal Trade Commission is AWOL on this issue. It has sent letters to all of us in the West saying they are concerned about the issue, but they have not been aggressive in standing up for the consumer.

I pointed out today that the oil companies ought to be rewarded financially when they take actions that benefit the consumer, not when they gouge the consumer. The consumers today are, in effect, getting fleeced from this unfair subsidy that is in the Tax Code when a profitable refinery goes down.

The Senator from Nevada is absolutely correct. The Federal Trade Commission, in my view, is just going through the motions. I think they hope somehow this issue is going to pass. All of us in the West—a part of the country where there is a very tight supply situation—understand this problem is not going away. I intend to join with the Senator from Nevada in trying to put the heat on the Federal Trade Commission.

Mr. REID. Mr. President, I would like to ask the Senator one more question. The Senator heard the remarks of the Senator from California saying that the Bush administration was actually doing nothing to look at the prices. In fact, the administration is in the Supreme Court today trying to keep secret its dealings with big oil.

The Senator would acknowledge that this administration, the President, and Vice President made their living—certainly part of their wealth they have accumulated—dealing with oil companies.

Does the Senator from Oregon acknowledge that the President has the bully pulpit and can certainly ask our so-called friends, Saudi Arabia and other countries, to stop cutting back the supply of oil but increase the supply of oil? Would that not also help, I repeat, the President putting whatever pressure he has—and that is significant—to tell the Saudis to start giving us more oil?

Mr. WYDEN. I agree fully with the Senator from Nevada. In fact, I submitted a resolution urging the President do that. In fact, my resolution mirrors the resolution that was drafted by our former colleagues, Spence Abraham and John Ashcroft, that passed in 2000 when President Clinton was faced with the same kind of situation.

I am very hopeful that the Senate will take up that resolution and do exactly as the Senator from Nevada has said.

I also point out that it was very striking, even before this debate about Mr. Woodward's book, that the Saudi Foreign Minister said recently when they cut production—and he was quoted on the news services saying that he was not even contacted by the Bush administration. He heard that the Bush administration was disappointed from the press, but he was not even contacted by the Bush administration.

If ever there were an administration that had earned some chips with the Saudis, given all that our country has done, this is an administration that has done so. I think the points made by the Senator from Nevada are extremely important.

Mr. President, I believe my time has expired. I yield the floor.

The ACTING PRESIDENT pro tempore. The Democratic leader.

Mr. DASCHLE. Mr. President, I will use my leader time.

NO CHILD LEFT BEHIND

Mr. DASCHLE. Mr. President, I wish to talk this morning about the ambitious education reforms the President signed into law just 2 years ago. We all recall 2 years ago when President Bush signed the No Child Left Behind Act. We also know it requires States to set high standards for all students and place a well-qualified teacher in every classroom and holds schools responsible for results. In exchange, it promises schools they will have the resources to meet the new standards and to make the law work.

When the President signed it, No Child Left Behind enjoyed overwhelming bipartisan support in Congress. It also had strong public support. Unfortunately, when implementing the law, the administration has often acted in a heavy-handed manner, and it has failed to provide schools the resources they need to make sure every child is given the opportunity to learn. As a result, there is now a growing backlash against No Child Left Behind.

This is not a partisan issue. A good deal of criticism is coming from Republican lawmakers. In Utah, the Republican-controlled House of Representatives voted 64 to 8 not to comply with any requirements in the No Child Left Behind Act that are not paid for by the Federal Government. In Virginia, the Republican-controlled House of Delegates voted 98 to 1 to ask Congress to exempt it from the new law. According to the National Conference of State Legislatures, 23 States have now lodged formal complaints against No Child Left Behind.

One reason for the erosion of support is the initial difficulty many school districts had getting answers from the Department of Education on how the law would work. It took the Department a long time to issue its regulations, and when the rules were finally announced, many educators considered them overly rigid.

Fortunately, the administration has begun to address some of these concerns. In recent months, the Department of Education has announced changes in the testing requirements for students with serious disabilities and for children who speak English as a second language. It has announced it is giving schools more leeway to meet the requirement that 95 percent of all students be tested.

Last month, the Department announced it is giving States more flexi-

bility to determine when a teacher is highly qualified. In addition, it announced it is giving teachers in rural school districts an extra year, until 2007, to show they are qualified in all of their subjects.

These are all important changes. The extra year for teachers in rural districts to meet the new standards is especially important to rural States such as mine which have a harder time attracting and keeping good teachers. I commend the administration for its newfound willingness to try to address some of the real problems.

None of us who voted for No Child Left Behind ever intended for the Federal Government to dictate to local communities exactly what they should teach their children and how they should test them. It was never the intention of Congress to strangle local decisionmaking and creativity with Federal redtape.

It is important the Department of Education continue to listen. It is counterproductive when the education Secretary labels as "terrorists" people who raise questions about the way the law is being implemented.

It may be, and certainly in this case if it is going to be successful, that No Child Left Behind requires something we have not seen enough of: a committed partnership. It is the most comprehensive overhaul of our Nation's education laws in a generation. Making adjustments is not admitting defeat; it is a necessary part of making this ambitious law work. But some of the most serious concerns being expressed about No Child Left Behind cannot be fixed simply by rewriting legislation or the regulations.

Since he signed No Child Left Behind into law, President Bush sent Congress three proposed budgets. When you add all three of his budget proposals together, the President has recommended underfunding No Child Left Behind by a staggering \$26.5 billion.

The President's proposed budget for next year contains \$9.4 billion less for the act than the law promises. More than \$7 billion of that shortfall is in title I, the very program that is most critical to closing the achievement gap for minority students, poor children, and children who do not speak English. The President's education budget does not leave no child behind; it leaves 4.6 million children behind. The alternative budget proposed by our Republican colleagues in the Senate is much better. It underfunds No Child Left Behind by \$8.6 billion.

The reason we are underfunding education is clear: The administration and congressional leadership would rather take more of these resources for tax breaks to the very wealthy than keep the promise we made when we passed No Child Left Behind.

The repeated refusal to adequately fund education is hurting schools and not just in big cities.

In my State, schools in small towns and rural communities are stretched

thin because of their shrinking tax bases and high transportation and other costs. They cannot afford any more unfunded mandates from Washington.

They need help attracting and keeping good teachers.

They need help to keep up with advances in technology.

I talk to teachers and principals in South Dakota all the time who tell me, "We're not afraid of accountability. We welcome high standards; we know we can meet them. Please, just don't set us up to fail."

Last month, during the Senate debate on the budget resolution, we offered an amendment sponsored by Senator TED KENNEDY and Senator PATTY MURRAY to fully fund No Child Left Behind. Our amendment would have provided exactly what Democrats and Republicans agreed was needed to make the law work when we passed it 2 years ago.

Regrettably, Republicans defeated our amendment.

But this is not over. There are still months to go before Congress passes a final budget. At every opportunity, we are going to continue to press for full funding of No Child Left Behind. We will also press for the Federal Government to honor its commitment to shoulder 40 percent of the cost of special education.

Accountability in education is essential. But accountability has to work both ways. Congress cannot pass the most sweeping education reforms in a generation and then refuse, year after year, to pay for them. The reforms in No Child Left Behind are the right reforms for our children's schools. But they will not work if we refuse to fund them.

I recently received a letter from an elementary-school student in South Dakota. Because of budget shortfalls, her school district is considering merging with another district.

She wrote, "Even though we are just two small towns in South Dakota, the Burke school means very much to me."

Then she added, "I know that NASA is trying to help mankind, but right now, my school needs that \$3 trillion more! . . . I'm in the fifth grade. . . . The school means very much to me, so please HURRY."

Budgets are statements of our priorities and values.

Before we vote to spend trillions of dollars to make permanent the President's tax breaks for the very wealthiest Americans, and before we spend hundreds of billions more to send a person to Mars, we need to fund our children's schools.

In his first budget address to Congress, President Bush said, "The highest percentage increase in our budget should go to our children's education." Yet, the President's proposed budget for next year includes the smallest increase for education in 9 years.

We must restore the broad, bipartisan support for No Child Left Behind

that existed 2 years ago. To do that, we must fund the law.

The Federal Government needs to keep its end of the agreement. Words alone are not enough. Real reform requires real resources.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. How much time remains for morning business on our side?

The ACTING PRESIDENT pro tempore. Thirty-two minutes.

NATIONAL ENERGY POLICY

Mr. GRASSLEY. Mr. President, I rise to address the issue of prescription drugs as part of Medicare, a new provision dealing with Medicare, but before I do I will comment on the two issues that have been brought up by Democratic Members of the Senate. I only do that because I think it is appropriate people know that there are two sides to every story—maybe five sides but at least two in the Senate.

I do not find fault with my Democratic friends for bringing issues to the Senate floor, but in the case of the high cost of gasoline as an example, which the Senator from Oregon was talking about, all I can say is we had a national energy policy before the Senate. It passed the House last year; it passed the Senate last year. We spent a couple of months in conference and worked out a very good compromise. It passed the House of Representatives by a wide margin. Exactly how much I do not recall. Then it came to the Senate and we were faced with a filibuster.

In that filibuster cloture vote, we got 58 votes. It obviously takes 60 votes to stop a filibuster. Out of those 58 votes, we only had 13 out of 49 Democrats vote to break that filibuster. So there are another 36 Democrats that if they want to help us reduce the cost of energy, I would beg them to tell our leader that they are prepared to break that filibuster. The leader filed a motion to reconsider. We could bring that up again and within 2 minutes we would have a national energy policy that would send a clear signal to OPEC that we have our energy house in order in this country, and hopefully let them know they are not going to have an economic stranglehold on our economy as they evidently think they have by reducing their production of oil by 4 percent as they did a month ago.

Why would we not expect the OPEC nations to take advantage of a divided Congress when we all know, with the energy blackout in the Northeast last August and with \$2 gasoline right now in the United States, that this country ought to be doing everything it can to solve its energy problem?

The national energy policy we had before Congress last fall that there was a Democrat filibuster against would be a solution because it emphasizes in a very balanced way three things: One, tax incentives for the enhanced produc-

tion of fossil fuels; No. 2, tax incentives for renewable fuels, wind energy, ethanol, biodiesel, biomass; and tax incentives for conservation, such as fuel cell cars.

So when we have an effort to bring a national energy policy before this Congress, and it is defeated by a filibuster that only 13 out of 49 Democrats would support, then it seems to me very wrong for people on the other side of the aisle to be complaining about the high price of gasoline.

Now, it is all right to complain about the high price of gasoline because I do every time I go to fill up my car, but on the other hand, it is one thing to complain about it and not do anything about it. What we need to do is join forces to get this national energy bill passed. It would help if we could get two more Democrats to help us defeat that filibuster.

EDUCATION FUNDING

Mr. GRASSLEY. As to the issue of education, all I can point out is that this President has always had education very high on his agenda. Except for September 11 and the war that we are now involved in, education would be No. 1 on this President's agenda. But because of the war, we are in a budget situation now where we are having 10-percent increases for homeland security, 7-percent increases for defense because of the war, and we are having 3-percent increases for education. Now, that may be, as the distinguished Democratic leader said, the smallest increase in education for years, but this 3-percent increase in education is far higher than anything else in the domestic budget that the President proposed to the Congress of the United States because every other domestic program in that budget is going to be increased nine-tenths of 1 percent.

So when we are involved in war, whether it is the 21st century war on terrorism or whether it is the 20th century war on fascism, World War II, this country puts all of its efforts behind the men and women who are on the front line, giving them all of the resources they need to win that war because we only go to war if we go to war to win. This President has done that. But, after taking care of our responsibilities to the men and women on the battlefield, this President has always had education at the top of his agenda. With the way this year's budget treats education compared to every other domestic program, and only third to homeland security and the war, this President is keeping his commitment to education.

MEDICARE PRESCRIPTION DRUG PROGRAM

Mr. GRASSLEY. Now I would like to address the issue of the Medicare prescription drug program, because on January 1, the seniors of America are going to make a voluntary decision

whether they want to take advantage of this new program, and January 1 would be the opportunity to take advantage of the interim program for the years 2004 and 2005, before the permanent insurance program on prescription drugs kicks in November 15, 2005.

It was just under 5 months ago that the President signed this Medicare Prescription Drug Improvement and Modernization Act. It was the first strengthening of Medicare in its 30-year history. Next Monday, then, beneficiaries can begin enrolling in the Medicare-approved drug discount card, the first stage of what I call the temporary program of the new comprehensive Medicare Modernization Act. The cards go into effect June 1 and will offer seniors much needed discounts and information on brand name and generic prescription drugs.

Medicare beneficiaries who choose to enroll in the voluntary discount card will have choices. I emphasize, this is not something the seniors of America have to do. This is a voluntary program. Not only is it voluntary whether you join the program, but the seniors will have choices within their voluntary decision to join, because there are 38 sponsors offering cards to Medicare beneficiaries nationwide, with some sponsors offering more than one card. More than 40 Medicare advantage plans—the Medicare+Choice, or let's say the Medicare HMOs, as some people know it—offer Medicare beneficiaries additional coverage. They will offer exclusive cards to their members.

There also will be regional cards offered to certain beneficiaries, such as those in nursing homes throughout our country.

Under the drug discount card, beneficiaries will save 10 percent to 25 percent off the retail prices that they paid before they had a Medicare-endorsed discount card. In fact, a study recently in *Health Affairs*, a peer-reviewed journal of health policy, estimates that if seniors who currently lack prescription drug coverage enroll in a Medicare-approved drug discount program, they can expect to reduce their out-of-pocket drug spending by approximately 17.4 percent.

There is still more good news. One of the most important parts of this drug bill is the nearly immediate help to very low income Medicare beneficiaries, people who do not have prescription drug coverage and who do not qualify for Medicaid.

Low-income beneficiaries—and that would be generally those with incomes under 135 percent of poverty—are helped in two ways. They get a discounted price and they get up to \$600 annually in 2004 and 2005 to help buy drugs they need at the pharmacy. The beneficiaries would get access to the \$600 in assistance through the Medicare-endorsed discount card. The card will be just like a debit card. When the card is presented to your pharmacy, the beneficiaries are able to draw down from the \$600 and purchase their pre-

scription drugs. They can continue to use that until it has run out, between now and December 31.

If they have some money left over on that card on December 31, 2004, that can carry over until year 2005, and they can get an additional \$600 in the year 2005. If they didn't have that full \$1,200 used by December 1, 2005, it can carry over until 2006, until it is all used and they take full advantage of the insurance program that is going into effect at that particular time.

Also, let me make it very clear that if there are two in the family who would qualify for the \$600, then that family would get \$1,200 in 2004, and an additional \$1,200 in 2005, until it is used then, either in 2005 or carried over to 2006.

I should probably use a lot of examples but I just want to use one example of a woman enrolled in Medicare in Waterloo, IA, near my farm. If she had an income of \$12,000 a year and she needed to fill a prescription for Celebrex, the retail price for 30 tablets would be \$86.28. This woman from Waterloo, IA, would save nearly \$22 a month off the retail price and be able to draw down some of her \$600 in assistance to pay for the discounted prescription that lady needs. The \$600 credit in conjunction with the discount card will give these most vulnerable low-income citizens immediate help in purchasing prescription drugs that they otherwise, maybe, would not be able to afford or maybe would have to make a very difficult choice between buying food or buying prescription drugs. We hope this eases that choice which some seniors and disabled people in America must make today.

We expect more than 7 million beneficiaries to enroll in this program. Nearly 5 million low-income beneficiaries are expected to apply for this \$600 of assistance—\$600 in 2004 and \$600 in 2005; husband and wife qualifying, that will be \$1,200 in 2004 and \$1,200 in 2005.

What we need to do now is to continue to let people know about the availability of the card and to help them get information to make enrollment decisions to sign up for the \$600 in additional assistance.

I commend the Center for Medicare Services' staff for their work in this area. They are doing much to help people understand this situation.

If I were going to summarize before I go into it, I could say, as I did in my 36 town meetings in Iowa that I have held since January to acquaint Iowans with this new prescription drug program, that I provided four sources of information. One would be if they want to contact any congressional office, including mine, I think they would find that as a source of information. No. 2 would be the 1-800 Medicare toll-free number to which I will soon refer. Also, I had the benefit of having personnel from the federally financed but State-insurance-department-administered program called SHIP, the Senior Health Insur-

ance Information Program. That program in my State of Iowa, and I assume in most States, will give people one-on-one consultation about how to compare the benefits of the prescription drug program with what their health care needs are and what their income happens to be. Those are all private matters that our constituents are not going to want to make public. So they have the benefit of the SHIP employees and volunteers working with them to help them work through which program might be best for them.

Then, of course, we have the AARP, which is an organization, I tell Iowa constituents, that deserves great benefit for bringing about the bipartisanship in the Senate that it took to get this legislation passed and signed by the President.

Without the AARP we would not have a prescription drug program for seniors. The AARP has attended a lot of my meetings. I have not heard one criticism of the AARP at any of my 36 town meetings. The AARP representative has been present to tell how that organization can help people get information about this new prescription drug program. The AARP probably has the best layperson's explanation of this legislation that is available. I hand those out at my town meetings as well.

I commend the Center for Medicare Services for their help in this area. I would like to say what their help has been beyond what I have just said.

They helped develop an Internet-based tool that will help seniors learn more about the available discount card options. By using this tool, which will be up and running yet this week, beneficiaries will be able to compare the particular drugs and prices offered by senior sponsors. The Internet site can even tell them whether their neighborhood pharmacy participates in a particular card. But we know that not all beneficiaries feel comfortable using the Internet. Those who don't can call 1-800-Medicare and ask for information about the card being sent to them.

The Center for Medicare Services also has taken important steps to streamline the enrollment process by having the standard enrollment form and allowing States under certain circumstances to enroll low-income Medicare beneficiaries into this card program. This will make it easier for low-income beneficiaries in States with pharmacy assistance programs to get the additional \$600.

The card sponsors will also be closely monitored by CMS to ensure that they are playing by the rules and not cheating anybody. CMS will track any changes made in the drug prices and complaints received by their 1-800-Medicare number or other sources. They will also "mystery shop" to make sure the sponsors are not falsely advertising. They will be on the lookout out for scam artists who claim to be offering an approved card. While I am confident that most card sponsors will do the right thing, I am very pleased that

CMS will be dedicating resources to protect beneficiaries and in turn the Medicare trust fund as well.

I want to respond to some accusations that were made yesterday by Senators from the other side of the aisle about this bill. It is a carping we often hear that is very inaccurate, and I want to make sure that constituents know what the true story is.

I want to clarify once again important details and answer concerns—particularly inaccurate concerns—that were offered on the other side of the aisle.

Some have argued that our seniors would receive a greater benefit under this Part D drug benefit which I have been speaking about, set to begin in 2006, if the Government would step in on negotiations between drug manufacturers and prescription drug plans. This is not accurate. This noninterference provision allows seniors to get a good deal through market competition rather than through price fixing by the Federal Government.

A basic concern we have is that in writing the legislation the way we did, we don't want some government bureaucrat in the medicine cabinets of our seniors. We don't want that bureaucrat coming between our doctor and our patient. That is why that provision is in this bill. The provision protects patients by keeping government out of decisions about which medicines they will be able to receive. Under this section, the Government will not be able to dictate which drug should or should not be included in the prescription drug plan.

The new Medicare Part D drug benefit allows seniors to use their group buying power to drive down drug prices. We rely on market competition—not price fixing by the Government—to deliver the drug benefit.

The reason we know this works is because it has worked for 40 years in the Federal Employee Health Benefit Plan. There is no bureaucrat telling some Federal employee what their plan can provide to them in the way of drugs.

The law's entire approach is to get seniors the best deal through vigorous market competition and not through price controls.

These private plans have strong incentives under this legislation to negotiate the best possible deals on drug prices. These plans are at risk for a large part of the cost of the benefit. They also have the market clout to obtain large discounts. By driving hard bargains, they will be able to offer lower Part D premiums and attract more enrollees.

The alternative is a command-and-control system that would not be responsive to consumer desires or to marketplace reality. Bureaucrats would swing between adding benefit requirements without a means of paying for them and then restricting choices and access in an effort to contain costs. The noninterference provision is a fundamental protection against such inex-

plicable government bureaucratic action.

We are also hearing complaints from the other side of the aisle even after three or four times last month straightening them out about what the true cost of this drug program is. What is the true cost? You look ahead 10 years to what a program is going to cost, and you make the best judgment you can of what it is going to cost. There are good people in the Congressional Budget Office who are good at that and who try to do the best thing, but you aren't going to know until 10 years have passed what the true cost is.

It seems to me to be intellectually dishonest for people telling us that somebody downtown can tell us what the true cost of this legislation is. I am going to respond to those accusations about what the true cost of the Medicare bill is for a third time. I am going to do it for a fourth time and a fifth time if I have to until somebody on the other side of the aisle learns something about what this bill does or doesn't do.

They are trying to say that somehow the true cost was hidden from Congress. This is simply election year hyperbole. The opponents of the drug benefit are making this claim because the final cost estimate from the Center for Medicare Service's Office of the Actuary was not completed before the vote took place. But let us be clear: The cost estimate was not withheld from Congress because there was not a final cost estimate from the Center for Medicare Services to withhold. But they don't even know what this so-called cost is because they have to look ahead 10 years and make the best educated estimate they can 10 years ahead of time just like the Congressional Budget Office does. But their estimate wasn't even completed until December 23. The President signed the bill December 10.

Let me also make clear that the Congress had an official cost estimate on the Medicare bill before the vote, and that is the one from the Congressional Budget Office. I keep telling people who don't understand the importance of the Congressional Budget Office, which guides every Member of U.S. Senate, that when they say something costs something, even if they are wrong, that is what it costs. You don't dispute it. The ability to raise a point of order against the bill if you exceed that cost takes 60 votes. That is how important the Congressional Budget Office is. That is the only office we go by.

Somebody can make a complaint that maybe some administrator downtown was muzzled into not talking to Congress, but they were talking to me. I don't know why other Members of Congress couldn't have had the same information I had, and it wasn't much information at that. But you can talk. If somebody was muzzled in our Government where transparency and openness ought to be the rule, that is

wrong, I agree, but these accusations about whether the information was withheld have raised questions of whether Congress had access to a valid and thorough cost estimate for the prescription drug bill before the final vote in November.

It should also be made clear while the cost analysis by the Office of the Actuary is perhaps helpful, it is not the one Congress relies on. Congress relies exclusively upon cost projections by the Congressional Budget Office. It is CBO's cost estimate we use to determine whether legislation is within authorized budget limits.

For Congress, if there is a true cost estimate, that is CBO's. And true costs can, at best, be said as a 10-year guesstimate, an educated guess into the future, and it would be the Congressional Budget Office's. CBO's cost estimate is the only one that matters.

When Congress approved a \$400 billion reserve fund to create a Medicare prescription drug benefit, this meant \$400 billion according to the Congressional Budget Office, not according to the Center for Medicare Services, as the other side would somehow say, that would have a definitive impact upon Congress.

You do not raise a point of order in this body against an estimate by the Center for Medicare Services or even the Office of Management and Budget that speaks for the entire executive branch of Government.

With all due respect to the dedicated staff who work at the Center for Medicare Services, Office of the Actuary, their cost estimates were irrelevant to our decision making process.

The Congressional Budget Office worked closely with the conferees—and I was one of those conferees—to the prescription drug bill and the staff of our Finance and Ways and Means Committees to ensure a full analysis of the projected costs was completed. The conferees and the staff regularly and constantly consulted with the Congressional Budget Office throughout the development of the Senate bill and in the preparation of the conference agreement.

The Congressional Budget Office worked nearly around the clock and on weekends for months to complete an extremely thorough and rigorous cost analysis of the prescription drug bill. That cost estimate—our official cost estimate, straight from the god of Congress's finance estimating, the Congressional Budget Office—was available to every Member of Congress before the measure was presented to the House and Senate for a vote.

It is also pretty disingenuous for opponents of the Medicare bill, especially on the other side of the aisle, to suggest the pricetag for the Medicare bill causes concern because the fact is they supported proposals that cost hundreds of billions of dollars more. You would think they would say: Thank God for the Center for Medicare Services that this bill is going to cost \$134 billion

more than what the Congressional Budget Office said it was going to cost because we like to spend money. We want to spend more on Medicare prescription drugs.

The House Democratic proposal, for instance, last year would have cost \$1 trillion compared to the \$395 billion the President signed. The Senate Democratic proposal in 2002 cost \$200 billion more than the bill that was enacted into law.

Further, there were more than 50 amendments offered on the floor of the Senate during the debate on the Senate bill that would have increased the cost of the bill by tens of billions of dollars.

The bottom line is, there should be no doubt in anyone's mind we had as true a cost estimate—or if they want to put it in their words, the true cost estimate—for the prescription drug bill last year. Everyone had access to it before the vote.

But let me explain to the people of this country that whether it is the Congressional Budget Office or the Center for Medicare Services, when they look ahead 10 years, and the farther out you go, it is a fairly imprecise way of deciding what a bill we passed last year is actually going to cost. The true cost is going to be known on that 10th year.

But these professional people with green eyeshades, without any political predilection, study what we put on paper and they say: Senator GRASSLEY, as chairman of the Finance Committee, if you do this, it is going to cost X number of dollars. So if it does not all fit into \$400 billion, you kind of tailor it to fit, because if you do not, you are going to be subject to a point of order and you will have to have 60 votes to override it.

I hope I have once again cleared up any misunderstandings about these issues. We should move on and not lose sight of what really matters: helping our Nation's seniors get the drugs they need at lower prices through the Medicare discount card, and \$600 of additional assistance, which beneficiaries can begin enrolling in next week, and through the voluntary Part D drug benefit in 2006, which is what really matters.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. TALENT). Morning business is closed.

INTERNET TAX NONDISCRIMINATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 150, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the bill (S. 150) to make permanent the moratorium on taxes

on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee controls 2 hours of time.

Who seeks recognition?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, yesterday we began our discussion of legislation which, if it should pass, would be a Federal law giving a tax break or a subsidy to the high-speed Internet industry, and the Federal law would then send the bill for that to State and local governments. There is a bipartisan group of us who object to that, who believe if Congress wants to give a subsidy to the fastest growing technology, high-speed Internet access, then Congress ought to pay for it and not send the bill to State and local governments.

I, for one, also question whether there is any need to spend additional taxpayer dollars on this sort of subsidy since, as far as I can tell, high-speed Internet access must already be the most heavily subsidized technology in the country. But, nevertheless, we have reached a point in the discussion where we are trying to create a compromise result.

To go back through a little bit of history, the House of Representatives sent a bill to the Senate toward the end of last year, and that bill, while it was named "Internet tax moratorium," did much more than that. It purported to make permanent the temporary time-out from taxes the Federal Government set in 1998, and then renewed in 2000, on State and local taxation of Internet access, but the bill did much more than that.

As I pointed out at length last night, the House bill exempted this industry from a great many State and local taxes—telephone taxes States currently collect, business taxes States currently collect, more business taxes, and then sales taxes. So for all of these, we had the Federal Government saying to the State governments: You cannot do this; You cannot collect these taxes.

We have a phrase for this. We call it unfunded Federal mandates. It means: Do no harm to State and local governments.

The Republican majority was elected in 1995, promising to end the practice of we Congressmen and Senators coming up with some big idea, taking credit for it, and then sending the bill to State and local governments. So we went to work to try to change the bill. Senator CARPER of Delaware and I and nine other Senators of both parties offered a compromise. We said: Since the Federal Communications Commission, and since Senator MCCAIN and the Commerce Committee, and Senator STEVENS, our President pro tempore, and others, have said we need to take a comprehensive look at this phenomenon of digital migration of services to the Internet that is being

caused by this new high-speed Internet access, since we want to do that, let's take a comprehensive look at it, so let's just extend the old moratorium for a couple more years.

In the meantime, let's try to create a level playing field so all high-speed Internet access providers are treated the same and do no harm to State and local governments. That is the Alexander-Carper proposal.

The majority leader and Senator MCCAIN and others asked me and Senator CARPER to work with Senator ALLEN and Senator WYDEN and others to see if we could narrow our differences. We did, but we still had differences.

As I pointed out yesterday, Senator ALLEN's bill, S. 150, which is the bill we are now considering, is permanent, not temporary. It still puts at risk \$3 to \$10 billion that State and local governments collect. It also causes the sales taxes that were being collected to expire.

Let's recall that what we are talking about is not lowering anybody's taxes. If you lower one tax, another tax is going to go up, or the government is going to be cut. Lower taxes for the service industry means higher taxes for somebody else. That is a fact.

Then Senator MCCAIN came to the floor yesterday and offered a new proposal. I want to comment for the next 3 or 4 minutes on that. I have written Senator MCCAIN a letter outlining my reaction to it, which I hope is being delivered now, but since we only received his proposal yesterday afternoon at about 2:15, I want to let the full Senate and others know my reaction to his proposal.

First, I appreciate his proposal and his efforts to create a compromise. We all want a result. That is why we are moving ahead at 2:15 to consider his proposal. Unfortunately, Senator MCCAIN's new proposal still harms States and still creates a huge loophole for the high-speed Internet industry.

Let me be specific. No. 1, the definition that the McCain proposal uses is the same definition the Allen-Wyden proposal uses. That definition eliminates \$500 million annually of telephone taxes, business taxes that State and local governments collect today. That is an unfunded mandate.

No. 2, the bill does not protect States and their ability to make a decision about whether to continue collecting taxes on telephone services. This is very important to State and local governments. Last year, according to the National Governors Association, State and local governments collected \$18 billion in taxes on telephone services. In the State of Tennessee, it was \$361 million. In California and Florida and Texas, it is more than \$1 billion. It is 5 percent of our State budget. Almost every State is affected by this. While Senator MCCAIN's legislation in one section appears to try to protect telephone calls made over the Internet so that States may choose to continue to

tax telephone services as opposed to food, for example, it doesn't do that. So that is the second problem with the bill. It takes away from the States a substantial tax base.

No. 3, the bill is 4 years in duration. We think 15 months, 2 years would be much better. Four years is better than permanent, but once you freeze into place these decisions, it is like trying to take a billboard down. You can prevent one going up, but you can't ever take it down. We believe 4 years is not much better than permanent. And then there is the grandfather clause. The moratorium is 4 years starting last November. The States that were already taxing Internet access with sales taxes before this legislation moratorium took effect in 1998, we think those States and other States now collecting taxes on high-speed Internet access should be permitted to continue to exercise their option to collect those taxes.

I have suggested to Senator MCCAIN in my letter that there is a way to fix each of these four problems. The way to fix the definition problem is to use the language of the original moratorium. After all, if all we are doing is extending for 4 years the original moratorium on State and local taxation of Internet access, why not use the original moratorium?

No. 2, make the extension for no more than 2 years.

No. 3, express in plain English what I have heard the Senator from Virginia say, that he has no intention of trying to ban State and local taxation of telephone calls made over the Internet. So why not say, "nothing in this Act shall preclude State and local governments from taxing telephone services, including telephone calls made over the Internet"?

And, finally, all the grandfather clauses should end at the same time the moratorium expires.

I am glad Senator MCCAIN worked to offer this new proposal. I regret that it still has many of the same problems of the original proposal. The term is a little better. The protection for State prerogatives on taxing telephone services is worse. But I would hope we could take the four suggestions I have made and correct the McCain proposal. If we can, we can pass a bill and get on to something else. I wanted to come to the floor quickly, after we have had a chance to review the proposal, to make those suggestions.

I will return to the floor within a few minutes with further comments. For now, 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. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Chair wishes to inform the Senator he has approximately 81 minutes remaining.

Mr. ALEXANDER. Mr. President, sometimes when we talk about this Internet tax proposal, eyes glaze over. It is a hard subject for people to get into their brain because we are talking about a new way of doing things. We are talking about Internet access, how one connects their computer, for example, to the Internet, but we are especially, in this case, talking about high-speed Internet access.

High-speed Internet access has been known to us just for the last few years. When Congress passed the Telecommunications Act of 1996, it is possible that nobody in Congress had ever heard of high-speed Internet access. The commercial Internet was just a few years old at that time.

High-speed Internet access is another one of America's great adventures. The Industrial Revolution was caused by the internal combustion engine. That was a great invention.

The telephone was a great invention. Television was a great invention. The use of high-speed Internet access is a great discovery. What is possible with it is that suddenly a lot of the everyday services of life, such as making telephone calls as an example, downloading movies, even watching our regular television channels, may be done through the Internet. Maybe it will be easier; maybe it will be less expensive; maybe there will be some other advantages.

So for a long time, everybody has been excited about high-speed Internet access, which we call broadband. As a result of that excitement, there has been a phenomenal amount of subsidy of high-speed Internet access by the Government.

The Federal Government spends approximately \$4 billion a year already to encourage the spread of high-speed Internet access. Almost every State spends its taxpayers' money to encourage the growth of the high-speed Internet access industry.

The State of Texas, for example, has done at least two things. One is that it has a fund. Texas does things in a big way. So it is collecting \$1.5 billion over 10 years, which will be spent to encourage high-speed Internet access just in Texas.

Also, in 1999, when President Bush was Governor Bush, Texas decided it would give consumers a break on high-speed Internet access. Texas said the first \$25 a consumer pays for their high-speed Internet access bill each month is exempt from the State sales tax. That is what Texas has done since 1999.

Now, the irony is that the Governors and States of this country came to Congress and said, Why do we not make President Bush's Texas plan the national plan? That really helps consumers. It is pretty easy to understand.

I am in Tennessee, the Chair is in Missouri, somebody else is in Texas,

and we all get the bill each month from our Internet service provider. Now consumers can get this high-speed Internet access a lot of places. They can get it from their Internet service provider, such as America Online, for example, or they can get it from their cable company, the person who brings people television, or they can get it from their telephone company. They will charge about \$30 or \$40 a month for that.

In Manassas, VA, consumers can get it from their power company. That has helped us understand that there is not going to be any digital divide problem. Almost everybody, thanks to the rural electrification system, has a power wire running to their home or near their home and they can get their high-speed Internet access from the electric company. They do it in Manassas, VA. It costs \$25 a month, which is just the amount of money President Bush, when he was Governor Bush, thought ought to be the subsidy to consumers who decided to use this fastest growing new technology in the United States, high-speed Internet access.

The reason I raise that is, since we already had that in Texas, what if the States say to the Congress that we will accept that unfunded Federal mandate? We will ask for that one. You know, just exempt all of our 100 million consumers across the country from the \$1-to-\$3-a-month bill that they will pay in taxes on high-speed Internet access.

But, no, from the House comes this legislation last year that would drive a Mack truck through the State budgets of virtually every State. It would drive it through the State of Texas, too. The State of Texas collects \$1.7 billion a year in taxes on telephone services. That comes from the National Governors Association. This year they called up all the States and got this information. State and local governments, in taxes, collect \$1.7 billion a year on telephone services.

Under the proposal that is coming to the floor this afternoon that Senator MCCAIN has suggested, as those telephone calls are made over the Internet, they would be tax free. That sounds good at first, until you think about what comes next. Let's say Texas loses a third of its revenues from telecommunications taxes. Let's be conservative about this. Of the \$1.7 billion that Texas collects on taxes on telephone services, only about a billion comes from telephone calls. These are the monthly bills that you get.

So Texas collects \$1 billion a year. According to the Congressional Budget Office, in a letter to the Senate that I had printed in the RECORD yesterday, the estimate is that within the next 5 years at least a third of all the telephone calls will be made over the Internet.

I think it is coming faster than that. I believe Michael Powell, the Chairman of the Federal Communications Commission, believes it is coming faster than that.

So under the McCain proposal, Texas loses one-third of the revenues it collects in telephone services. That is \$300 million a year. In Tennessee, it is \$100 million.

Then that keeps going. So gradually if you are the Governor of Texas, you are the legislators of Texas—and I know right now they, as most States, are going through a difficult time financially—they are talking about other taxes in Texas so they can pay for their schools.

But I can predict what is going to happen in Texas and in Tennessee and in Washington State and in Florida. Florida collects \$1.4 billion in taxes a year on telephone services. About \$1 billion of that is from telephone calls.

Take all that out and what happens, dancing in the streets because people aren't paying taxes on telephone calls over the Internet? No. What is going to happen is that some unfortunate Governor in Texas and in Florida is going to have to propose a State income tax.

You may stand up and say we should reduce taxes by \$1 billion in Texas, or reduce it by \$1 billion in Florida, and maybe you can. Maybe you can. But that is a substantial challenge to those States.

What we are really doing here is something I never thought I would see. We have legislation which has zoomed through the House and which the distinguished chairman of the Commerce Committee, despite his efforts to have meetings and to compromise, is still insisting on, is that we in the Congress give a big subsidy to the high-speed Internet access industry and send the bill to State and local governments, and it is a potentially big bill.

I suggested in my earlier remarks that the McCain proposal can be easily fixed. For example, we can just say: Nothing in this act shall preclude State and local governments from taxing telephone services, including telephone calls made over the Internet. That is very plain English.

I don't know why we don't try plain English in a statute every now and then. That would remove a lot of that problem. Then we could make it a 2-year extension instead of 4 and that only leaves two problems. One is the definition of Internet access. They have cooked up a new one. We had one since 1998. We banned taxes on Internet access in 1998. We did it again in 2000. I supported that. Instead of really banning taxes on Internet access, they are creating a big tax subsidy to a whole industry. We could fix the definition problem by going to the Alexander-Carper definition, which we suggested in December, or just by going to the 1998 definition. Then we could make all the grandfather clauses expire at the same time the moratorium ends, that would be it, and we could pass the bill and be on to reducing taxes for manufacturing companies.

Sometimes I think I have not been able to get my point across as effectively as I would like. I was thinking

about it this way. The Presiding Officer is the Senator from Kentucky. Kentucky has a big Toyota plant. I visited with the chairman of Toyota in Tokyo a few weeks ago. Toyota is leading the way—Ford is doing a lot, Nissan is doing a great deal, other companies are—in hybrid cars. I see the Senator from Delaware, and I am going to yield to him within 3 or 4 minutes. They tell me at Toyota in Tokyo that Toyota is selling hybrid cars in America this year at the rate of 100,000 this year. That is very important in Tennessee because we have a big clean air problem and hybrid cars have electric motors and internal combustion engines both and burn less gas and pollute the air less, so the air would be cleaner in Tennessee. So I am thinking about, perhaps, recommending a Federal law that tells Kentucky and Tennessee and Delaware they cannot tax hybrid cars.

Why wouldn't that be a good idea? That would clean the air.

The reason it would not be a good idea is that in Delaware and Kentucky and Tennessee, some unfortunate Governor and some unfortunate mayor is going to have to figure out what to do about the property tax to pay for the schools and whether to raise the tax on food if you can't raise it on telephones. And even though he or she might want to lower taxes, if we give a big break to one industry, if we give them lower taxes, it is going to be higher taxes at some tax level for somebody else.

Whether it is hybrid cars or whether it is solving the obesity problem by passing a Federal law that we can't tax low-carb foods, or solving the energy problem by saying we can't have a State tax on solar panels on the roof—all those things sound good, but it is not our responsibility in a Federal system to tell State and local governments what services they can provide and what taxes they can charge. And especially that is true when already the Congress and the States are subsidizing this industry.

I believe if Congress wants to give a big subsidy to the high-speed Internet access business, Congress ought to pay for it. The way to do it is to adopt the George W. Bush Texas proposal that was enacted in 1999. That is relatively inexpensive. It benefits consumers. It would say to everybody in the country, the first \$25 you pay on high-speed Internet access every month is tax exempt. The States have asked us to do it. Why don't we do it? Why do we insist on rushing through the Congress legislation that gives a big break to the industry that is already, at least as far as my research shows, the most highly subsidized and fastest growing new technology in America today?

The Department of Commerce and the Congressional Budget Office both have advised us it is growing so fast it needs no subsidy, that there is no need to spend more taxpayer money on that.

I see the distinguished Senator from Delaware, former chairman of the National Governors Association. He has

been a leader in the fight to remind us we have a Federal system, and that it is not up to us to come up with big ideas, take credit for it, and send the bill to the local governments. I would like to yield to him whatever time he may require.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator from Tennessee for yielding the time. Let me say how much I enjoyed the opportunity to work with the Senator on this issue and, frankly, on a number of other issues. I think he has shown a lot of courage, and I am grateful to him. I thank him for the opportunity to be his partner.

I take some time this morning to address one of the important arguments made by our colleagues on the other side of this debate. Proponents of the legislation argue the only way to encourage broadband deployment is to provide subsidies to telecommunication industries with no strings attached. Furthermore, they argue the only way to create such subsidies is to pass a large, new, unfunded Federal mandate. I submit if what all of us here want to do is determine the taxes and spending policies of our State governments, then we should do what Senator ALEXANDER did, what Senator VOINOVICH did, what Senator HOLLINGS, I, and others did. We ran for Governor. We were elected. As a result we had the opportunity—in my case for 8 years—to decide what the taxing and spending policies of our States' governments should be. That is what we did.

The authority we are granted here in the Senate by the Constitution is to decide the taxes and spending policies of the Federal Government, not the taxing and spending policies of the State governments, and not the spending and taxing policies of local governments. Our job is to determine the taxing and spending policies of the Federal Government.

That being said, it is not as if we the Senate are somehow without the power to create incentives for industries to encourage certain activities we deem to be desirable. Senator ALEXANDER mentioned a couple of areas where we are involved with tax policies in other cases and with spending policies to encourage the development of fuel cell vehicles, or to develop the creation of leaner burning diesel vehicles, or to incentivize creation of coal-fired plants that don't pollute a great deal. We have that spending and taxing authority, and we are using it—some would argue not to great effect, but that is our responsibility. We have the authority, after all, of a Federal budget. It is over \$2 trillion.

If we believe telecommunications companies need more money to build and market their broadband networks, and if we believe we can do better than the private sector in providing that money, then there are any number of ways we can provide money at the Federal level. After we do that, first of all,

we could provide Federal grants. We can provide Federal tax breaks. We can provide loan guarantees. We can provide additional spectrum for unlicensed use. The only reason not to provide the money in these ways, if it is needed, is because Congress would have to find a way to pay for it rather than simply sending the bill to our friends in our State and local governments. If we pass a new unfunded mandate this week or next week, it will be a matter of choice rather than a matter of necessity.

In case anyone doubts that, I would like to bring to the attention of our colleagues here in the Senate a few of the many bills that have been introduced in the Congress to create Federal incentives for broadband deployment. These bills have already been written. These bills have already been introduced. Many of them have a rather broad cosponsorship. If we wanted to, we could bring one or several of them to the floor today, debate them, and perhaps pass them.

I will mention a number of those bills. I want to start first with bills that have been introduced by Senators who have joined us in opposing the unfunded Federal mandate we are debating here today. I do so because there has been some suggestion made by our colleague on the other side of this issue that those of us who oppose unfunded mandates also oppose the Internet, or oppose efforts to encourage the development of broadband. That is not true. While I doubt many of our colleagues believe this to be the case, I do believe it is important we clarify matters for the record.

Let me start with a bill authored by Senator HOLLINGS, a distinguished ranking member of the Commerce Committee. One year ago, Senator HOLLINGS introduced the Broadband Deployment Act. It is a true Federal broadband bill, and as such it would be a much more appropriate piece of legislation for us to be debating here today. Instead of handing State and local governments an unfunded mandate, Senator HOLLINGS' bill would provide broadband to support State and local broadband initiatives. Rather than being unfunded, Senator HOLLINGS' proposal would be financed by moneys from the Federal telephone access tax.

Besides block grants, Senator HOLLINGS' bill would also provide direct grants for broadband deployment. It would also support university research on next-generation broadband technology and pilot projects deploying new wireless broadband technology. I think that sounds like a worthwhile proposal.

However, for Senators who are opposed to providing outright grants, perhaps we should consider another proposal; that is, one by Senator DORGAN.

His proposal is to make low-interest loans available to companies that are deploying broadband technologies in rural areas such as North Dakota. We have rural areas in Kentucky. There are rural areas in Tennessee. Believe it

or not, we still have rural areas in Delaware. That proposal might be of some interest to a lot of us, and I suspect to other of our colleagues.

On the other hand, if Senators would rather provide tax incentives and either grants or loans, then perhaps we should be debating Senator ROCKEFELLER's Broadband Internet Access Act. Senator ROCKEFELLER's legislation would provide tax credits for companies investing in broadband equipment. It would provide a 10-percent tax credit for investments in so-called "current generation" broadband services.

For investment in higher speeds for next-generation broadband services, his bill would provide a 20-percent tax credit.

If it is a Republican tax proposal my colleagues are looking for, we could always turn to Montana and Senator BURNS' proposal to allow the expensing of broadband investments by companies. That might work. I find that attractive.

If party affiliation is not the hangup, but Senators are uncomfortable with providing tax incentives directly to companies, perhaps they would prefer the approach suggested by our colleague from New York, Senator CLINTON. She proposes a different approach. She proposes providing an income tax credit to holders of bonds that are used to finance the deployment of broadband technology.

Finally, if Senators don't want to provide grants, loans, or tax incentives, they can consider an approach advocated by one of our colleagues who happens to represent, among other places in California, Silicon Valley; that is, Senator BOXER. Senator BOXER has proposed we allocate additional spectrum for unlicensed use by wireless broadband devices.

Those are only a few of the proposals that have been made, introduced, discussed, and in some cases subject to hearings, and which have cosponsors.

Those are a sampling of the things we can do as Federal legislators in a proactive way if we are interested in strengthening the ability of companies to market and extend their broadband systems.

What I think this array of proposals indicates is there is no limit to the ways in which we could act, if we wanted to, to encourage broadband deployment at the Federal level. The Senators I have mentioned—I mentioned five of them—span the ideological spectrum, from liberal to conservative. They come from different parts of our country. Their proposals reflect their ideological diversity. Some would increase spending; others would cut taxes. Some would finance their proposals by reallocating existing resources; others would add to the deficit.

But what is clear is all these proposals are harder to pass here in Washington than an unfunded mandate because we would have to pay the bill

ourselves. We could not stick anyone else with the tab. We would have to pay the tab.

Admittedly, at a time when our Federal budget deficit is out of control, I have to confess passing the buck does have a certain amount of appeal. But it is not as though State and local governments are in much better shape financially than we are. State and local governments are struggling to cope with the worst financial crisis they have faced, I am told, since World War II. Classrooms are becoming overcrowded as school budgets are cut. Prisoners are being released from jails as correction budgets are cut. Governors and mayors are pushing through unpopular and frequently regressive tax increases.

New industry subsidies can be created for all sorts of wonderful purposes, but if they are conceived in Washington, and then the cost of those subsidies is passed on to State and local governments, what it all amounts to is political welfare. We spend, they pay.

If we are going to pass on our costs to our friends in State and local governments, we ought to at the very least have the courtesy to tell them how much expense we are planning to run up on their tab. Perhaps the worst part about this new unfunded Federal mandate we are proposing is we cannot honestly look our Governors in the eye, we cannot honestly look our mayors in the eye, we cannot honestly look our State legislators in the eye, and even tell them how much this unfunded mandate is going to cost them and their State or their city or their county. We cannot do that because, in truth, we have no idea.

I would ask how my colleagues would react to the following proposal from me: Suppose I proposed a bill to create new Federal subsidies for the poultry industry.

The poultry industry is big in our State and the entire Delmarva Peninsula. In fact, for every person living in Delaware, there are 300 chickens. Let's say I proposed a bill to create new Federal subsidies for the poultry industry, or any industry, for that matter. Suppose these subsidies would be provided in the form of mandatory spending outside the control of annual appropriations. Suppose CBO evaluated my proposal and indicated they could not estimate, they could not even guess how much my proposal would cost, except to say: We believe it could grow to be large. We believe it could grow to be large.

That is what CBO has said about S. 150: We believe its cost to State and local governments could grow to be large. But they are unable to say how large and how soon.

If I proposed some kind of proposal that helped our poultry industry, and CBO said, "We don't know how much this is going to cost," would my colleagues in the Senate pass that kind of a proposal? Would they even allow it to be considered on the floor of the Senate? As convincing as I might be, I do

not think they would. Yet this is exactly what we are asking our Governors to accept from us. This is why the Governors united—Republican and Democrat alike—in opposing the subsidies in the underlying bill we are debating today.

If my colleagues have not yet read CBO's analysis of this bill, I urge they do so. The Congressional Budget Office tells us this legislation is written in a way that is so broad and so vague they cannot even give us a rough estimate of what its effect will be on State and local governments, except to say: We expect it to grow to be large. They say the language in this legislation is so confusing that lawyers will ultimately have to get involved, and we will not know what the implications for State and local budgets will be until it all gets sorted out in the courts.

My friends, that is unacceptable. It is beneath us as the world's greatest deliberative body. It is an abdication of our responsibility as the body our Founders created in part to protect the interests of the respective States of our Union.

We can do better. We all agree the current moratorium on Internet access taxes should be extended. I say "the current moratorium." It is a moratorium that was in place for 5 years and expired last November. But we agree the moratorium should be restored. We disagree, though, on what should be done beyond that. But we all agree the moratorium should be extended.

If we are going to write this bill on the floor rather than negotiating a compromise everyone can live with, we ought to begin with what we can all agree on, and debate what to do beyond that. We ought to call up a bill that simply extends the old moratorium.

I want to expand that moratorium to make it technology neutral. Along with Senator ALEXANDER, I expect to offer an amendment to do that. If others want to add billions in new subsidies to the bill on top of that, then they can offer their own amendments. If we want to propose ways to pay for such subsidies, as others may propose, and to do so here at the Federal level rather than passing the bill to the States, then we should put our proposals forward. If others want to propose different inducements to industries, such as low-interest loans or allocations of spectrum, then they should bring those proposals forward as well.

That seems, to me at least, to be the fairest way to proceed. If the goal is to have a genuine debate on this issue and to let the Senate work its will, we would welcome that. On the other hand, if the intention is to proceed to a fundamentally flawed bill, and then immediately file cloture to close off debate, we have no choice but to use every procedure available to us to protect our rights and to protect the interests of our States.

My hope is we will still be able to work this one out and reach an accept-

able compromise, one that extends the moratorium and makes it neutral with respect to technology, but also one that first does no harm to State and local governments, that are struggling to cope, as I said earlier, with their worst financial crisis since World War II.

In 1995, when the Senate debated and, along with the House of Representatives, passed the unfunded mandates law, I was not working in the Senate. I had been a Member of the House of Representatives, but I left at the end of 1992. Former Governor Mike Castle and I sort of swapped jobs. He became a Congressman from Delaware, and I was privileged to become its Governor.

Starting in 1993, my first year as Governor, I began working with other Governors, including Senator VOINOVICH. What we sought to do was to work actually initially with a bunch of Republicans who were part of the so-called "Gingrich Revolution" which was able to capture the majorities in the House and Senate in 1994. One of the platforms of the "Gingrich Revolution" was the Federal Government should not tell the State and local governments what to spend their money on, and then not provide that money; nor should the Federal Government tell State and local governments what they could or could not tax without providing some offset if we cut their revenue base.

One of the first laws enacted in the year 1995, signed by then-President Clinton, is one that said: Unfunded mandates are wrong, whether they are on the spending side or on the revenue side.

In 1998, the Congress passed an unfunded mandate, not a big one but a little bitty one. The reason they did it, they said, was to make sure the Internet has an opportunity to get up on its feet and successful because we think it could mean good things for our economy. It has.

At a time when State and local governments were beginning to put taxes or fees in place on access to the Internet, the Congress and President Clinton said: State and local governments, if you are already imposing some kind of tax on access to the Internet or some fees on access to the Internet, essentially your AOL bills of consumers, if you already have one in place, you may keep it in place, but if you haven't done it, you are not going to be able to do so. So a moratorium was put in place in 1998. Most people thought it was a good idea. States went along with it. They were not crazy about the idea, but they went along with it.

After 3 years the moratorium was supposed to expire. When it was about to expire, it was extended, almost by acclamation, in 2001. The States were not crazy about the idea, but there was not a whole lot of push back. Then late last year, that 2-year extension expired.

With Senators ALEXANDER, VOINOVICH, GRAHAM of Florida, FEINSTEIN,

DORGAN, ENZI, HOLLINGS and I, and others opposing the underlying bill, I don't believe you would see that kind of opposition if some things were different.

If there had never been an unfunded mandates law in 1995, we may not feel so strongly, although the idea that the Federal Government is telling the States what to do and to pay for it, the Federal Government is taking away the revenue base of the States and not making up the difference, that still rubs me the wrong way. I find it galling. But if there were no unfunded mandates law, we would probably not be making this kind of fuss today over this issue.

If the Internet were still in its infancy, still struggling to hit its stride, not yet making the impact it does today in our economy here and around the world, we probably wouldn't be making the fuss we are today in opposition to the underlying bill.

If States today were awash in money and not facing the largest fiscal crisis they have faced in over 50 years, we probably would not be making the kind of noise we are in opposition to the underlying bill.

If telecom companies were not beginning to enjoy very decent profits as they are today—and the prospect is for more of the same—then we might not be making the kind of fuss we are in opposition to the underlying bill.

As it turns out, there is an unfunded mandate law, and even if there were not, what we are seeking to do in my judgment is morally wrong. The Internet is no longer in its infancy. It is a grown child, not just trying to walk or crawl. This grown child is running at full speed. The States are not awash in money. They are hurting. They are hurting in ways we have not seen in a long time.

It is not just the classrooms that are crowded. It is not just the prison doors being opened to let people out who frankly should still be incarcerated in many cases. It is not just the caseload burdens of folks whose job it is to work with families in trouble. All of those problems are facing State and local governments, and they do not have the revenues to cope with them in many cases.

The telecoms are doing pretty well these days. They went through a tough patch, but they seem to be coming through it.

I don't know if Senator ALEXANDER still has to go somewhere or not. Is he able to stay on the floor a bit longer?

Mr. ALEXANDER. I am going to leave within 4 or 5 minutes.

Mr. CARPER. Let me yield before the Senator leaves, if he would like to make some comments. I have a few more things I would like to say.

Mr. ALEXANDER. I have been listening to the Senator from Delaware carefully.

Mr. CARPER. You have heard some of this before.

Mr. ALEXANDER. What was going through my mind was: I don't recall a

time when I was Governor of Tennessee that I ever saw the Congress do anything like this. There were unfunded Federal mandates that we didn't like. Back in the early 1970s, before I was Governor, Congress said: We ought to help children with disabilities. We will pay for a certain percentage of it, but they never did. I hear about that all the time from local school boards and local people. But I cannot remember a time when the Congress passed a law saying: We have come up with a great idea here, and we are going to give a State tax break to somebody to pay for it. I think we would have laughed about that.

Then we would have gotten really mad about it. It is so farfetched.

We are having a very serious debate about this in the Congress. Everybody is going through the motions, making bills doing all these things. But what we are doing is, U.S. Senators are passing State laws. That is what we are doing.

If I had known that I could have run for the Senate in 2002, I could have probably been elected by a big margin in Tennessee. I could have said: When I get to Washington, I am going to pass a Federal law abolishing the State income tax, in case you ever pass it, making it illegal for Tennessee to pass a State income tax. We don't have one and people don't want one, although they may get one, if this bill passes. Or I could say, as we have said a little earlier, hybrid cars are a great invention. I think I will pass a Federal law telling Tennessee, Kentucky, and Delaware they can't tax cars. Car taxes are hated. Or obesity is a national problem. I think I will pass a Federal law saying: No sales taxes on low-carb or low-fat food.

Housing is important to all of us in the United States and in the Senate, but we don't pass a Federal law lowering local property taxes in Louisville or Nashville or Wilmington in order to encourage housing. Why don't we do that? It is because we have a Federal system. We are not Belgium. We are not France. We have Governors. We have mayors. This is America. It is a part of the American character that we like to make our decisions at home.

When I go to a Lincoln Day dinner—I don't go to the Democratic meetings—I always say something about local control. If I were to go to any Republican meeting in Tennessee and say, I especially don't like it when a Congressman gets up and passes a Federal law and takes credit for the idea and sends the bill to the Governor or the mayor, I would get a big round of applause for that because we believe that in the Republican Party in Tennessee, and most Tennesseans do as well.

I was enjoying the remarks of the Senator, and that was going through my mind. I wish I could think of some way to convey to my colleagues that we are talking out of the box here. We are not talking about Federal taxes, Federal subsidies, or Federal programs;

we are talking about State programs. That is what we are doing here. It is totally inappropriate, against the spirit of the tenth amendment and Ronald Reagan and everything else we stood for on the Republican side in the Contract with America. It is offensive to that spirit. That is why I am here today.

Mr. CARPER. Mr. President, it is ironic. The Senator talks about some of us here who would like to almost usurp the responsibilities of our State and local officials.

I always describe myself, when people ask what I do, as a "recovering Governor." Although I love being in the Senate and working with particularly the folks we are engaged with on this particular issue, we are not Governors, we are not mayors, we are not county executives, and we are not State legislators; we are Federal legislators. We have the ability, the power, through the Federal purse, through our appropriations process, to offer grants and provide tax credits. We are in a position to nurture industries, promote them. We have talked about some of them today. This is one industry that should be nurtured and strengthened. We can do that and we should do that on our dime.

I see the Senator from New Hampshire on his feet. I will make one more comment and then I will yield the floor.

Senators ALEXANDER, VOINOVICH, and I just returned from a press conference upstairs a couple minutes ago. We were asked about the proposal Senator MCCAIN has offered. I have a huge respect for him. We were colleagues in the House together, and we served in the Navy at about the same time. I believe what he submitted is a proposal made in good faith. However, I also ask my colleagues to keep this in mind. Whether you look at the underlying bill, S. 150, considering the alternative Senator ALEXANDER and I offered, also on behalf of other colleagues, and consider what Senator MCCAIN offered and other proposals that may come to the floor, there are really four areas of contention. They include, No. 1, and maybe most important, what is the definition of what is tax exempt under the moratorium? I will say that again. The first area of contention may be the most important. It is the definition of what is tax exempt under whatever moratorium is being proposed.

Other areas of contention, though I think not as important, include the duration of the moratorium. Should it be 15 months, 2 years, 3 years, or 4 years? That is an area of contention. But it is not as critical as the definition of what is tax exempt under whatever moratorium is being proposed.

The third area of contention is, what is the duration of the grandfather clauses for State and local governments which would be deprived of revenue that they currently collect?

Finally, what is the application of the moratorium to traditional taxable

voice communications, when those communications are routed over the Internet? Those are really the four areas of contention.

If you look carefully at the proposal submitted by Senator MCCAIN, the definition of what is tax exempt under his proposal looks a whole lot like that which is included in the bill authored by Senators ALLEN and WYDEN. While the duration of the moratorium is a little different, it is shorter. That, in my judgment, is not really the key factor here. Of interest, though, is the duration of the grandfather clause. I think the moratorium under the McCain proposal is 4 years, but the grandfather clause protecting State and local governments is only for 3 years. There appears to be, superficially, an effort in the McCain bill to address the issue of the application of the moratorium to traditional taxable voice communications when those forms of communications are routed over the Internet. On the one hand, the legislation appears to address, with some sensitivity, that concern. But on the other hand, it takes it back. We have to look at the entire language as it pertains to this provision.

These are not easy issues to understand. I have spent a fair amount of time on them and they are not easy for me. For those of us not on the Commerce Committee and have not had the benefit of the extensive hearings, these are not easy issues. I have tried to come up to speed on these issues, and the rest of us in this body have struggled to come up to speed. I want to make sure we use the time before us this week, and maybe next week, to provide the kind of primer that I have been privileged to have for others of our colleagues, so that at the end of the day, when we vote, we are casting an informed vote.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I ask unanimous consent to be allowed to proceed for 5 minutes and that it not be charged to anyone's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I wanted to speak on this topic to address a couple points that have been made. I appreciate the sincerity and the interests of those who oppose this bill. They have opposed it vigorously and aggressively. But I believe very strongly, having seen this debate unfold, that this is not a question of their support for an alternative as much as it is their opposition to any legislation that protects the Internet from taxation.

I draw that conclusion because we are debating a motion to proceed. If there was a genuine interest in bringing different alternatives to the floor and having a vote on those alternatives or amendments, we would not be in what is effectively a stonewalling scenario, delaying tactic, if you will, to

have to force a cloture vote on simply proceeding to the bill. There are a handful of people who vehemently oppose any legislation that protects the Internet from taxation. I think that is why this has taken so long to move forward.

Some people do not support the underlying legislation, and it is certainly true that it would protect the Internet from taxation. But what it would not do is create special considerations for the Internet or broadband access. The legislation specifically says we will preempt, or prohibit, any discriminatory taxes, taxes that are specifically addressed to Internet service providers or broadband providers, but those businesses are still subject to State property taxes, sales taxes, capital gains taxes, and all of the other taxes that are levied broadly and uniformly within a State.

Second, the suggestion was made that we are writing State law here, and that is simply wrong. This is an item and an interest and issue of interstate commerce. Just as the Federal Government exercises its prerogative to clarify legislation with regard to other interstate commerce activities, such as shipping, trucking, railroads, or aviation, the national and global Internet broadband communication system that has been established by entrepreneurs over the past 15 years ought to, at some level, be protected from multiple and discriminatory regulations and taxation because of its importance to interstate commerce.

We are writing Federal law here, not State law. I think it is a little bit disingenuous to suggest we are writing State law and to raise concerns about us writing State law, when in fact, when this bill is dispensed with—and I hope passed and signed into law—the very opponents of this bill who said they are worried about us writing State law will come right back to the floor of this Senate and support legislation to authorize States to collect taxes from businesses that do not reside or have facilities or domiciles in those States.

Many opponents of this bill also want the Federal Government to authorize the collection of taxation from businesses outside of their States, which is not only an intervention in States' rights or State laws, but it is effectively an authorization of taxation without representation because the residents of those States will then have to remit taxes to other States in which they do not have a voice.

We will have that debate and discussion. Some will support that process; some will oppose that process. But the very opponents of this bill who raise the concern about writing State law will come back and ask for that very power to be authorized and approved by the Congress because only Congress can give States that power.

I think there is a little bit of a mixed message here looking for an argument that might seem to be useful in stop-

ping or thwarting this bill, but it is an unfair argument and an improper argument.

Some people think that cities, counties, and States should have the right and the ability to tax the Internet. They want those cities and States to tax the Internet. I do not think that is right for consumers, it is not right for America, it is not right for investment, and it is not right for broadband access or deployment. If they want to take the floor and say, We don't support Internet taxes, we are looking out for the interest of these cities and States, I say think again because the whole reason they are raising the issue of the unfunded mandate and supporting a point of order against this bill because of the so-called unfunded mandate is precisely because of those States that are collecting the tax today.

If you support striking this bill on the unfunded mandate, then you are effectively standing up for those States, cities, towns, and counties that are taxing the Internet today. That should not be allowed to continue. It is not good for our economy, and it is certainly not the right incentive to create if we want to ensure broadband reaches throughout the country.

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

Mr. SUNUNU. Mr. President, I ask unanimous consent that when the Senate resumes debate on the motion to proceed at 2:15 p.m., the debate time be allocated as follows: 20 minutes to Senator ALEXANDER, 20 minutes to Senator DORGAN, 20 minutes to Senator MCCAIN. I further ask unanimous consent that the Senate now recess until 2:15 p.m., subject to the previous order.

Mr. REID. Mr. President, reserving the right to object, what this does for Members and staff, so they fully understand, is this adds 20 minutes to the debate. That is all it does. I ask my friend modify his unanimous consent request to allow me to speak as in morning business, and following my remarks, we will go into our normal Tuesday recess.

Mr. SUNUNU. Mr. President, I have no objection to that request.

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

MILITARY RECORD OF SENATOR JOHN KERRY

Mr. REID. Mr. President, I had the good fortune a week ago this past Saturday to be in Las Vegas. At that time, I spoke about the military record of Senator JOHN KERRY. In fact, I not only spoke about the military record of JOHN KERRY, but I read verbatim from the two citations for heroism he received.

The first citation for heroism he received was presented to him by Admiral Zumwalt. In that citation, it talked about what Senator KERRY did to earn the Silver Star. In effect, what he did is as follows:

Senator KERRY was the commander of a swift boat. A swift boat was a boat that would move very quickly, and they used it in the rivers of Southeast Asia. They were subject to ambushes and attacks, especially before there was something done to make sure the shoreline was free of foliage. They were attacked often.

In this instance, a rocket hit his swift boat, blew all the windows out of it, and, of course, injured people on board the boat. Senator KERRY at that time directed the swift boat to, rather than go away from the battle, go into the battle and go to shore. As soon as he got close enough to the shore to get off the boat, he got off the boat, and before the enemy had time to fire the second rocket, they were killed by Senator JOHN KERRY. This is the reason he was given his first Silver Star.

The Bronze Star was awarded when again his boat was hit from shore. One crewman was blown off the craft in the water. They were taking fire at this time. Senator KERRY, even though he was injured—his right arm was bleeding badly—directed fire toward the enemy, got the swift boat close enough to the man in the water, and he personally pulled the man out of the water.

These are, in synopsis, the two acts of heroism for which Senator KERRY was decorated. He was decorated with the Silver Star and the Bronze Star. He was, of course, also given three Purple Hearts. Purple Hearts are given when someone is injured in battle.

There is no question that what JOHN KERRY did in Southeast Asia, specifically in Vietnam, was heroic. That is why he was given these medals. I think it is outrageous for people to criticize his military service to our country.

It is obvious this administration knows America loves a war hero, and JOHN KERRY is a war hero. So what does the administration do? They do everything they can to denigrate this fine man rather than talk about policy in Iraq, tax policy, environmental policy, economic policy, and health care policy. I think it is wrong that they are doing this, and I think they should get back to talking about the issues that are important.

America knows JOHN KERRY is a war hero. No matter how many times the Vice President speaks at universities criticizing JOHN KERRY's military record, you cannot take away the facts. He was presented by the military authorities of our country two medals for heroism. They speak for themselves.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

INTERNET TAX NONDISCRIMINATION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. In my capacity as the Senator from the State of Ohio, I suggest the absence of a quorum.

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, there is a quorum call in effect at this stage. How is the time being charged?

The PRESIDING OFFICER. The time is not being charged.

Mr. REID. I ask unanimous consent that the time be charged equally against the three who will control 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 assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 18½ minutes.

Mr. MCCAIN. Mr. President, I yield myself 4 minutes.

Mr. President, I have here in my hand a document prepared by the National Governors Association that expresses support for extending the Federal ban on State and local taxation of Internet access, so long as the moratorium respects three principles. One: Do no harm to State and local revenues. Two: Be clear about what services are covered by the moratorium to ensure that voice services and other services that use the Internet are excluded from the scope of the moratorium. Three: Stay flexible by extending the moratorium temporarily. These are the same principles that Senator ALEXANDER and others have stated they want to respect.

I agree with these principles, which is why I will offer today a compromise amendment to S. 150, the Internet Tax Non-discrimination Act.

The amendment would ensure that a significant portion—in fact, an overwhelming portion—of State and local telecommunications services tax revenues would remain protected. This means that almost \$20 billion of revenue would not be impacted by the proposal that I support. I would contrast this with the \$18 billion that the NGA claims the version of S. 150 that passed in the House last year would cost State and local governments, and the almost \$12 billion that the association claims

S. 150 would take away from States and localities.

I respectfully submit that the relatively small impact that the compromise amendment would have on States and local revenues would stem primarily from our wish to treat all States equally under this moratorium. Still, to accommodate the States that were taxing the Internet in 1998 when the moratorium was first enacted, the amendment would propose to give those States 3 more years of Internet access tax revenues. The compromise amendment would even permit those States that were not originally grandfathered but that nevertheless have begun taxing Internet access 2 years of additional revenue.

The NGA has also asked for clarity in the definition of Internet access. I agree that there should be clarity in this matter. To that end, the compromise amendment provides as plainly as possible that it would not prohibit States and localities from taxing traditional telephone services, voice services that use the Internet, and other services that use the Internet. The amendment also makes clear that e-mail could not be taxed by the compromise amendment. Once again, I have respected another core principle of the NGA in the matter.

And finally, the NGA seeks a temporary, rather than a permanent extension of the moratorium under the premise that, as the association and Senator ALEXANDER say “A temporary solution is better than permanent confusion.” The compromise amendment would extend the moratorium for a period of 4 years from November 1, 2003. Simply put, anything shorter would put us back on this floor debating this measure right after it is signed by the President.

So I remind my colleagues: What I will offer today does very clearly address the concerns raised by the NGA and other State and local groups. I hope, therefore, that my colleagues will support me in passing this reasonable compromise.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Arizona for his courtesy, his hard work, and his meetings on a complex issue, about which there are differences of opinion. People might wonder why are we having a hard time agreeing. One of the reasons is we have a difference of opinion, which I will talk about in a minute. A second is that sometimes even when we agree, when we sit down and try to write down what we agree on, we then disagree.

I am not sure if that is because we don't agree, or because our staffs have missed the boat, or because we Senators are not as wise as we should be. But let me be responsive to Senator MCCAIN, because he has come to the table with a specific proposal. I appreciate that. We got that yesterday after-

noon and we read it carefully last night, and I sent him a letter which he got just a little while ago. I tried to say to him my thanks for it. I identified four areas which are the principles he just talked about that I see as concerns and four ways to fix the problems.

He then asked me if I would be willing to offer an amendment to fix the problems, and I am preparing such an amendment to do that. But maybe we can speed that up. Let me go through the points he made and say where I have concern.

The first problem with the most recent McCain proposal is the definition. The definition is basically the same definition as in the last proposal, which is the Allen-Wyden bill. It does not simply extend the moratorium on State and local taxes on Internet access; it broadens the definition to include business taxes State and local governments collect, and those business taxes amount to a half billion dollars a year. That is the first problem.

How would we fix it? We would fix it by adopting the narrower definition of the Alexander-Carper amendment which was introduced 6 months ago with 11 bipartisan sponsors, or we could go to the original definition that was in the 1998 moratorium.

Let's remember what we are talking about here. Everybody is saying we have had a moratorium since 1998 that says, let's not allow State and local governments to tax Internet access. Certainly access is a very little thing. It was just the connection between you and AOL at the time it was passed. Now it is the connection between you and a variety of people—maybe the connection between you and your telephone company providing high-speed Internet access, your cable company providing high-speed Internet access, or it may be between you and DIRECTV providing high-speed Internet access, or in Manassas, VA, they provide it to you by the electric company. So it is just you and your provider.

The problem with this definition—it is the same problem with the definition of the distinguished Senator from Virginia—is that it broadens that, not to include just the end user and the provider, but the business taxes, the whole process. It would be as if we were to say, OK, we want to pass a Federal law saying in Virginia and Arizona and Tennessee you can't tax hybrid cars. You can't collect State taxes on hybrid cars because that will help clean the air. We will pass a Federal law: No State tax. But not just the sales tax on the hybrid car, also on the sales taxes that might apply to the supplier tier 1, supplier tier 2, supplier tier 3, and all the way back to the supplier of steel for the raw material.

That is the first problem. It is the same old definition, and that is the biggest problem. The fix would be just, if all we are doing is extending the 1998

moratorium another 4 years so Congress can work on this comprehensively, why don't we use that definition? That would be No. 1.

No. 2, Senator MCCAIN says and Senator ALLEN said in a debate we had at Heritage—and if I am misrepresenting their point of view, I hope they will correct me—that it was not the intent of their legislation to stop States from taxing telephone services, including telephone calls made over the Internet. It was not their intention to preclude State and local governments from taxing telephone services including telephone calls made over the Internet.

I would respectfully submit if that is their intention, the newest McCain proposal does not do that. Perhaps, if he doesn't intend to do that, our staffs could meet and we could work that out, or I could offer an amendment to try to fix it. If I were offering an amendment, it would simply say: Nothing in this act would preclude State and local governments from taxing telephone services, including telephone calls made over the Internet.

That is the second issue. That is a big issue because certain local governments collect \$18 billion a year in State and local taxes. We may not like that but that is what they do. They choose to do that in Tennessee and Texas instead of imposing a State income tax. They prefer to do that instead of putting a higher tax on food. That is their decision. I don't think we intend by this bill which purports to just extend the Internet access moratorium to decide the huge question of whether State and local governments should be permitted to tax telephone calls. Senator SUNUNU has a bill on the subject. He has done that in the normal order, and it will be considered by the Commerce Committee of which Senator MCCAIN is chairman. That is the place for that. That is No. 2. Maybe that is just a misunderstanding. If we both want the same thing, we ought to be able to write that down. Senator ALLEN and I have trouble in doing that.

Mr. WYDEN. Mr. President, will the Senator yield?

Mr. ALEXANDER. I would like to finish with the other points, and then of course I will.

The other two points are on duration. Four years is better than permanent, and I thank the Senator for that. But 4 years is a long time. We don't need more than 15 months or 2 years for the Commerce Committee and the Congress to look at this in a comprehensive way.

What I am afraid of is once we make a fix here it will never get out of the law. And if we get the wrong definition in here, or if somehow I am right but I am defeated and the result is that we really do ban State and local governments from collecting taxes on telephone services, then we will have driven a hole through State and local budgets that we didn't intend.

Finally, on the grandfather clauses, I think they should all end at the same

time the moratorium ends, whenever that ends.

Those are four points, and that is not many points. If they were all fixed, I could go for the bill, and maybe some other people could as well.

Let me conclude with this, and I will be glad to yield to someone else, including Senator WYDEN.

The reason I am on the floor has nothing to do at all with the Internet. It has everything to do with my view of federalism. I do not think we should be passing laws that cost money and send the bill to State and local governments. I think we promised not to do that.

The way I read Senator MCCAIN's proposal is it costs at least \$½ billion a year to State and local governments with his view of the definition. If the telephone language isn't fixed, it is \$3 billion to \$10 billion a year, according to the Congressional Budget Office. The grandfather clauses which exist at least in 27 States today where they are collecting taxes on Internet access are \$200 million or \$300 million a year. Those are significant dollars.

I wish I could find a more effective way to say this. If we want to give another subsidy to high-speed Internet access, which is the most rapidly growing technology in America, according to the New York Times of last week, and which has \$4 billion in Federal subsidies and subsidies from every State, if we want to give one more subsidy to this business, then why don't we pay for it? Why don't we pay for it instead of sending the bill to local governments? I am afraid this compromise doesn't do that.

I have mentioned this several times. I would like to mention it again. I am preparing an amendment on this. President Bush's plan in 1999 when he was Governor of Texas exempted the first \$25 that you pay on high-speed Internet access. It was exempted from taxation in Texas. That might cost you \$1 to \$3 a month. That is what we are talking about.

Everybody in Manassas, VA, can get high-speed Internet access for \$25 from their electric company.

The Governors, State and local governments asked us to pass the Texas plan—to pass the Bush plan. But we are insisting on passing another plan that doesn't benefit the consumers. It benefits the most highly subsidized technology company that I can find, if we have time—and we will have time later—I have a book called "The Nation of Laboratory Broadband Policy Experiences in the States." It details all of the wonderful State and local subsidies that are now being granted in addition to the \$4 billion.

Put the subsidies aside. My major concern is if we want to impose a cost on State and local governments, we should not break our promise of 1995, which was: No money, no mandate. If we break our promise, throw us out.

I am afraid that the McCain substitute breaks the promise. I would

like to work with Senator MCCAIN to resolve those last four differences. I look forward to the opportunity of joining with him, Senator ALLEN, and Senator WYDEN in coming to a result quickly this week.

Mr. WYDEN. Mr. President, will the Senator yield?

Mr. ALEXANDER. Yes.

Mr. WYDEN. I appreciate the Senator yielding. He has been very gracious.

Mr. ALEXANDER. I yield on the Senator's time.

Mr. MCCAIN. Mr. President, I yield 3 minutes to the Senator from Oregon.

Mr. WYDEN. Mr. President, I want to ask the Senator a question because I have the sense that the Senator from Tennessee thinks we ought to just use the 1998 definition of Internet access. Is that correct? Is that what the Senator from Tennessee is saying?

Mr. ALEXANDER. I thank the Senator for his question. I suggest that the 1998 definition is a better definition than the one in the latest McCain proposal. The best definition is in the Alexander-Carper compromise in December, but in the interest of trying to get to a result, I could vote for either one of those two definitions.

Mr. WYDEN. What concerns me is that both the 1998 definition and the proposal of the Senator from Tennessee essentially discriminates against the future because the future is about broadband, particularly for rural areas, for job creation, and highly skilled jobs. If you use the 1998 definition, or essentially the Senator's proposal for just Internet access—I emphasize that is all we are talking about, Internet access—what you will have is a situation where folks could get Internet access through cable and those folks end up essentially getting a free ride. But if you get the Internet access and future DSL, you are going to get taxed.

That is why Senator MCCAIN and I and others would like to essentially continue the 7-year path we have had which is to promote technological neutrality—not to advantage one technology against another.

On the question of Internet access, which is what the President talked about yesterday where he said he doesn't want to see Internet access get taxed, that is what is in the McCain proposal. That is what I was trying to do. Unfortunately, that is not in the Senator's proposal or in the 1998 definition.

What will happen is this country will have the technology policy that discriminates against the future and discriminates against the field in which it is going to create highly skilled jobs.

By the way, cable isn't going to be serving those rural areas. It is going to be broadband and DSL which serves them.

I very much appreciate the Senator from Arizona yielding me this time. We have clarified an important concept. Both in the 1998 definition that the Senator from Tennessee said he would

be for or his compromise, in my view, would have the Senate taking a position with respect to the future of the Internet and with respect to the future of technology that would not be in the public interest.

I thank my colleague from Arizona for yielding me the time.

I wrap up by way of saying I am going to continue to work with the Senator from Tennessee who has been very thoughtful and generous with his time. We can find a common ground.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ALEXANDER. Mr. President, how much time do I have?

The PRESIDING OFFICER. Six and one-half minutes.

Mr. ALEXANDER. Mr. President, I wish to make two points to the Senator from Oregon who has worked hard on this legislation from the very beginning. He is an original cosponsor.

No. 1, he is right about the 1998 definition. It isn't high-speed Internet access. There is a difference between the way high-speed Internet access offered over a telephone line and high-speed Internet access offered over a cable is treated.

But there are two solutions to that. One is, the Ninth Circuit just solved the problem—the Ninth Circuit Court of Appeals—by treating them the same. Now that is on appeal to the Supreme Court. So whatever we do here might be changed by the courts. That is why we need a short moratorium, so Senator MCCAIN's committee and your committee can go into a comprehensive look and solve this whole problem over the next 2 years. We are ready to do that. The FCC is ready to do that.

The second answer is, the Alexander-Carper amendment endeavors to treat all providers of high-speed Internet access the same. It is the best we can do from here. If the courts and the FCC do something in addition to that, we cannot control it.

Finally, I am concerned about the digital divide, too. But if power companies are going to be offering high-speed Internet access in Manassas, VA, which they do for \$25 a month—thanks to the Rural Electrification Association, everybody is going to have high-speed Internet access available to them if they have an electric wire to their house. If they do not, DirecTV will sell it to them from the sky, or their telephone company will sell it to them, or their cable company will sell it to them. Yet another way may be invented.

So I do not think we have any problem with encouraging high-speed Internet access. It is the fastest growing technology in America today. It is the most heavily subsidized. They are giving it away in LaGrange, GA, and only about half the people will take it. It is coming. It is available. But if we are going to give any kind of subsidy, let's pay for it here. Let's not send the bill to State and local governments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I yield 2 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, again, I want to make it clear to the Senator from Tennessee, I am anxious to work with him. But what we have seen, essentially, in this iteration of the debate, is a dusting off of the same arguments we have heard on the floor of the Senate in the past, that somehow this is going to result in extraordinary losses of revenue.

For example, in 1997, we were told by a number of the organizations at the State and local level that this was going to produce massive losses of revenue. In fact, the exact quote is: Our efforts, the efforts of Senator MCCAIN and I, and others, in 1997, would lead to a collapse of the State and local revenue system. The very next year, the year after we passed our first moratorium on multiple and discriminatory Internet taxes, we saw revenue go up \$7 billion. So we have had essentially all of these dire projections, these calamitous projections year after year—and I put them all in the RECORD—and they have not come to pass.

The reason they have not come to pass is that nobody is talking about the Internet getting a free ride. All we have said, from the very beginning, is that under this legislation you have to treat the online world like you treat the offline world.

When I came to the floor of the Senate with the distinguished chairman of the Commerce Committee on this more than 7 years ago—and folks probably found this subject even more difficult then than they do now; I know that is hard to believe—we said: Look, if you buy the newspaper—essentially “snail mail”—you are not paying any taxes, but if you buy the newspaper in the interactive edition, you pay a tax.

That was discriminatory. All we have tried to do over the last 7 years is essentially keep that principle in place and allow it to evolve with the technology. So for 7 years this has been about technology neutrality and dealing with these questions of State and local finance. The States have not lost money as a result of our making sure that you are not going to see multiple and discriminatory taxes on Internet access.

Mr. President, I yield the floor.

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

Mr. MCCAIN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I appreciate the letter from the Senator from Tennessee. My understanding is, he has four major concerns. I hope to work with him to resolve these concerns. If not, I hope we will see amendments and let the Senate work its will as to

whether those concerns are valid in the view of a majority of the Senate. I look forward to seeing and debating and voting on these amendments.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes.

Mr. ALEXANDER. Mr. President, I thank the Senator from Arizona and look forward to doing that.

If I may continue the discussion for a moment with the Senator from Oregon, the reason State and local governments did not lose much money in the last few years from the moratorium on State and local taxation is because, one, there was a very narrow definition—narrower than the one this latest proposal and your proposal makes. You broaden the definition to include the whole Internet access backbone. You are not just talking about the connection between the end user and provider; you are talking about this backbone. You are talking about the normal business taxes that any other business would pay.

The other thing is, high-speed Internet access really had not arrived 5 or 6 years ago. It has arrived today. It is the fastest-growing technology. If we make a mistake on the telephone section of this bill, we will drive a Mack truck through State and local governments, and we can rename this bill the “Higher Local Property Tax” bill of 2004 or the “State Income Tax Bill in Tennessee” or the “State Income Tax Bill in Texas,” because if you take away hundreds of millions of dollars from State and local governments—or billions of dollars eventually—they have to look for another source of revenue. They may cut government some, but they will have to look for another source of revenue. We should be neutral about it. Ronald Reagan, the Republican Party—we have stood on the notion that we would return more responsibility, return more decisionmaking to local governments.

I urge my colleagues to look carefully at this legislation and vote for something that does no harm to State and local governments, and vote for something that gives the Commerce Committee a short time to figure this out properly, and vote for something that does not give an unnecessary benefit, unnecessary subsidy to what I judge to be already the most heavily subsidized and fastest growing new technology existing in the United States today.

I yield the floor.

Mr. MCCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Arizona has 9 minutes, the Senator from Tennessee has 1 minute 15 seconds, and the Senator from North Dakota has 18½ minutes.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, it is obvious from the most recent discussion

between my colleagues—Senator ALEXANDER, Senator WYDEN, and others—that if this had been easy to fix, it would have been fixed.

I talked to Senator MCCAIN last evening before we broke, and we talked a bit about the process that brought this bill to the floor of the Senate. This bill came from the Commerce Committee. We tried, during the markup in the Commerce Committee, to reach an agreement about the definition. The definition is really the critical piece here, and we were not successful in the committee.

We agreed, when we reported it out of the Commerce Committee, that we would continue to work to try to see if we could find an acceptable definition that would represent a compromise. Frankly, we did that. Senator MCCAIN kept his word. We all continued to talk and work to see if, before we brought this bill to the floor, we would have that agreement. But the fact is, we did not reach an agreement. So now we have very differing views about exactly how we should proceed.

For my purpose, it does not matter to me whether the moratorium is 1 year, 2 years, 5 years. That is much less relevant to me than the question of this definition, of exactly what cannot be taxed, exactly what we are doing with the definition, exactly what consequences that definition would have on State and local revenues, and on the taxation of certain products and services. The determination of how we create a definition that represents the interests that all of us want is what is critical. At this point, we have been unable to do that.

So my hope would be that while this bill is on the floor of the Senate, we can find a way to reach a compromise that is satisfactory. At this point, I would not support the underlying bill that is on the floor with the definition as it currently exists. But what we ought to do is find a way by which we create a definition that does exactly what the Senate wants it to do, without being broader than is necessary to substantially erode the revenue base that now exists with State and local governments. I think that is possible, but it is not easy.

Listening to the discussion of Senator ALEXANDER and Senator WYDEN and others demonstrates this is very complicated. It happens I have worked in this area for some while because of the issue Senator ENZI and I have worked on, which is not a part of this discussion today, but the one in which we talk about the issue of the consumption tax that exists when you buy a product, for example, from a catalog, from a remote seller, or perhaps over the Internet. When you purchase that product over the Internet or from a catalog, you actually owe a tax; you just don't pay it. Nobody pays that tax or almost no one pays the tax. It is called a use tax.

The use tax is applied when the sales tax is not collected. But no one pays,

or almost no one pays the use tax. So there is a substantial amount of money being lost to State and local governments for the support of schools and other services.

In addition, the folks on Main Street who actually sell the product from their storefront must charge the tax, and their competitor over the Internet sells without charging a tax. So there is a competitive issue that is a problem for local businesses as well. But the issue Senator ENZI and I and many others are concerned about and want to fix is not a part of the discussion. This is a narrower discussion about the moratorium that previously existed with respect to the imposition of a tax on the connection to the Internet. I have no disagreement with respect to the goals of those who want to prevent taxing "the Internet connection" in order not to retard the growth of broadband and the buildout of the infrastructure. We have no disagreement about that. I support the moratorium. I supported the previous moratorium. Again, it is of little matter to me whether it is 1 year or 5 years or even longer.

What is of great moment to me is how this definition is written. Because if it is written inappropriately, there could be a very significant set of unintended consequences that could be very costly to State and local governments and to their ability to fund education and other matters.

In summary, what I say is this: The bill is on the floor at the moment. One of the central pieces of the bill is at this point in great dispute. Unless we can find a way to negotiate a compromise on that definition, my guess is this legislation will not advance. I would prefer that it does advance. I hope we can find a compromise in the coming hours and days so that we write this definition in a manner that expresses the intent of the Senate and are able to move the legislation forward.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

Mr. WYDEN. I believe this time should be taken from the time allocated to Chairman MCCAIN.

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

Mr. WYDEN. Mr. President, Chairman MCCAIN, I and others who have worked on this effort to try to find

common ground thought it was important early on to begin efforts to find some areas of agreement that would bring the sides together. Let me outline 10 particular areas of compromise we have essentially offered in the managers' proposal.

I, for example, strongly believe there should be a permanent ban on multiple and discriminatory taxes on Internet access. But in the name of trying to find a compromise, now we have a 4-year moratorium. We have a 3-year phaseout of the grandfather clause. This was something that was important to the States. We have a 2-year grandfather of taxes on DSL. Again, as I talked earlier, that is the technology of the future.

A fourth compromise reflects the concern about voiceover. What we have done is clarified that our legislation is not going to affect taxation of voice communication services utilizing the voiceover Internet protocol. We have clarified the taxes that would be covered, addressed a number of concerns the States had with respect to income and property taxes. We want to make sure those taxes, those opportunities for State and local revenue are protected.

We clarified the House language on DSL which was something State and local groups complained was too open-ended and vague.

With respect to the bundling of services, States and localities asked for a clear and uniform accounting rule. We protected universal services. We protected e-911 taxes, and we also made clear nontax regulatory powers would not be affected.

I thank the chairman for this time. I only wanted the Senate to know that as you tried to bring both sides together, there were 10 specific areas of compromise that were offered. I thank him for the time.

Mr. MCCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes 40 seconds.

Mr. MCCAIN. Mr. President, I reserve 5 minutes for the Senator from Virginia when he arrives. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume.

Let me, in response to my colleague from Oregon, say once again I believe we ought to pass this legislation dealing with a moratorium. There might be 5, 10, 15, or 50 areas in which we have worked to try to reach compromise. I don't know the exact number, but I would not dispute that. I simply say again: The problem remains the definition of what is determined to be in the law that represents the moratorium impact; that is, what is the definition of the Internet service? What exactly are you precluding from a State and local tax base? Is it now taxed? Would it be taxed in the future. It is obviously very complicated. If it were not complicated, I believe Senator ALEXANDER

and Senator ALLEN and Senator VOINOVICH and others would have long ago reached a compromise. But that has not been the case.

Perhaps one of the things we could do during this discussion and the ensuing debate today, tomorrow, and beyond, if that is what it takes, is at least begin to understand exactly what is in the compromise that is being proposed and what is in the legislation that has been offered by Senator ALEXANDER and Senator CARPER in their 2-year moratorium, called S. 2084. But again, if this were easy, compromise would already have been reached. It is not easy. It is very complicated and difficult and hard to understand.

I have been in a good number of meetings in which it appears to me virtually everyone, including myself, failed to understand what we were debating, but we debated it aggressively nonetheless. My hope is we can do better than that this time. We have had a good start with some of the discussion back and forth earlier today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia has 5 minutes.

Mr. ALLEN. Mr. President, I would like to address this issue as it lays right now as we are moving to proceed, and some of the misinformation, mischaracterizations of where we are. This issue is not a novel or new one for the Senate. We have debated this in the committee. It has been on the floor. Senator WYDEN and I were ready to roll with this back in November—a permanent moratorium making sure forever there would not be discriminatory taxes, multiple taxes, or access taxes for consumers on the Internet. Now we get to this point and there are a lot of mischaracterizations.

The Senator from Arizona, chairman of the Commerce Committee, has come up with a proposal, an amendment to the bill, which is not permanent. To me it is not ideal. It is not perfect. But a lot of what happens in the Senate fails to meet that standard of ideal and perfect. Once in a while, one has to be practical, pragmatic, and sometimes cut back on what you think is the ideal.

This amendment of the Senator from Arizona is a 4-year moratorium rather than a permanent moratorium. I look at a "Dear Colleague" letter from some of my colleagues, Senator CARPER and Senator ALEXANDER, and they say: A moratorium of 4 years, that is tantamount to a permanent moratorium while they argue for a 2-year extension of a moratorium.

Well, if 4 years is permanent, I guess whoever gets elected President next year is going to be there permanently; Senators with a 6-year term, that must be ad infinitum. Four years is temporary; it is not ideal. I would prefer it to be permanent, and the reason I would like it to be permanent is because companies have to invest millions, tens of millions of dollars, if they are going to get broadband out, espe-

cially small towns and rural areas. In the event there is a shorter duration, then that means it is less likely that there will be stability, predictability, and confidence that the laws will stay the same. Anyone, even those with a fourth grade education—at least those students who have the benefit of Virginia's standards of learning—will understand that if you tax something, fewer people will be able to afford it.

The question before the Senate is whether we want to have Internet access and the Internet service monthly bills to be burdened with, on average, about a 17-percent tax, as is the case on telephone bills. Senator WYDEN, myself, and many others believe that if we want more people to have access to broadband and the Internet, then the best way is not to burden it with regulations or taxes. This is particularly true for those with lower incomes and those in rural areas and small towns, who need access to the ability to conduct commerce, access to education, access to telemedicine—access to all forms of information, which is key to competitiveness these days.

The grandfather clause has also been changed from the bill Senator WYDEN and I originally introduced. We wanted to stop those who found a loophole in the original moratorium and started taxing the backbone of the Internet. They are taxing that and, of course, ultimately the consumer has to pay for those taxes. We wanted to stop that immediately. Senator MCCAIN's amendment gives those States greater leeway and gives them up to 2 years to wean themselves off of this latest loophole for taxation. For those who have been taxing prior to 1998—and many States are still taxing—although States such as Iowa, South Carolina, Connecticut, and the District of Columbia, which were grandfathered, have stopped taxing Internet access. But other States are continuing to do so. Senator MCCAIN's amendment—unlike what the House did, which was stopping these States from taxing instantly—gives them 3 years to wean themselves off of it.

The compromise that Senator MCCAIN put forward, to me, is not ideal; it is beneficial, though, in that at least for the next 4 years we are protecting consumers from being hit with these burdensome, counterproductive, undesirable taxes on their access to the Internet. While not perfect, it is a measure that we can move forward with. It will have the Senate on record as not being in favor of taxing access to the Internet, but rather on the side of the consumers, on the side of freedom, and on the side of opportunity.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. ALLEN. Therefore, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from North Dakota has 10 minutes 45 seconds. The Senator from Arizona has 1 minute 26 seconds. The Senator from Tennessee has 1 minute 15 seconds.

Mr. DORGAN. Mr. President, I think we are probably ready to go to the bill. Let me make a point, however, with respect to my colleague from Virginia.

Look, once again, there is no disagreement in this Chamber about the question of whether we would support punitive or discriminatory taxes with respect to the Internet. The answer is, of course not. I don't care how long the moratorium is for. Let it be forever, as far as I am concerned. That is not the issue. The issue with the legislation proposed is what kind of definition exists, and what will the impact of that definition be on the revenue base of the State and local governments?

If we can get that definition squared away in a thoughtful and appropriate way, we ought to pass this 100-0. I regret that that is not the case with respect to the compromise offered. That should not surprise anybody because this has gone on now for some months. It is complicated, and we have found it difficult to reach agreement or an acceptable compromise at this point. I expect the likely thing to have happen here is we will be on the bill itself and it will be open to amendment. We can have amendments, and perhaps second degrees, and we will have discussion and votes and find out how the Senate feels about the specific definitions.

Again, the question of whether there should be support for a discriminatory or punitive tax on the Internet—that ought not to be a question. I think the answer to that is, no, absolutely not. Whether it is 1 year, 3 years, or 5 years, that is not a very big issue for me. We need, in the coming hours, to focus on the question of, What is the right definition? What do we intend to accomplish, and how do we define it in a way that is fair to everybody?

I believe we ought to have public policy that encourages the buildout of broadband in this country. I think it will help this country's economy and be something that stimulates economic growth in our country. Whatever we do with this legislation, I don't want to retard the growth of broadband and the development of the Internet. I think that I speak for almost all of my colleagues when I say that. Let's find a way to write this definition in an appropriate manner and that is satisfactory and move ahead. At this point, it hasn't been done even with the compromise. We have much work to do to reach that point.

Mr. President, I ask, does the Senator from Tennessee seek time?

Mr. ALEXANDER. Yes, I seek 30 to 45 seconds.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 45 seconds.

Mr. ALEXANDER. Mr. President, I want to simply echo what the distinguished Senator from North Dakota

said. I am perfectly willing and prepared to vote for a short-term ban on State and local taxation of pure Internet access, and I have been ready to do that since December. So I am for that. I can step over here and take my purist position and give you a long argument on why we don't need to do that and make that kind of subsidy, but I know there are 100 Members here and we all have to pitch in. I am ready to do that.

All we have to fix in the McCain proposal is the definition, which the Senator has just mentioned. We have to make clear, in my view, that nothing in this bill should preclude State and local governments from taxing telephone services, including telephone calls made over the Internet. That is two. The short term is three. I prefer 2 years, not 4 years. The fourth item is the grandfather clause, which ought to be easy to fix. They ought to end at the same time the moratorium ends. So that is not many points of difference—the definition, telephone calls over the Internet, and the term of the grandfather clause.

The PRESIDING OFFICER. Who yields time?

Mr. DORGAN. Mr. President, my understanding is that Senator McCain is just off the Senate floor and will be returning in a moment. Until he returns, 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes 55 seconds remaining, and the Senator from Arizona has 1 minute 26 seconds remaining.

Mr. DORGAN. I am prepared to yield back my time if that is the intention of the Senator from Arizona. That being the case, I yield back my time.

Mr. McCain. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, under the previous order, the motion to proceed is agreed to.

INTERNET TAX NONDISCRIMINATION ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 150) to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Pending:

McCain amendment No. 2136, in the nature of a substitute.

Stabenow amendment No. 2141 (to amendment No. 2136) to express the sense of the Senate that the White House and all executive branch agencies should respond promptly and completely to all requests by Members of Congress of both parties for information about public expenditures.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 2136 WITHDRAWN

Mr. McCain. Mr. President, I now withdraw the pending substitute amendment No. 2136.

The PRESIDING OFFICER. The Senator has a right to withdraw the amendment.

AMENDMENT NO. 3048

Mr. McCain. Mr. President, I send a new substitute amendment to the desk. The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 3048.

The amendment is as follows:

(Purpose: To extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act for 4 years, and for other purposes)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

SEC. 2. FOUR-YEAR EXTENSION OF INTERNET TAX MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

“(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes during the period beginning November 1, 2003, and ending November 1, 2007:

“(1) Taxes on Internet access.
“(2) Multiple or discriminatory taxes on electronic commerce.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

“(10) TAX ON INTERNET ACCESS.—
“(A) IN GENERAL.—The term ‘tax on Internet access’ means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.
“(B) GENERAL EXCEPTION.—The term ‘tax on Internet access’ does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.”.

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking “except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998.”.

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting “The term ‘Internet access service’ does not include telecommunications serv-

ices, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting “The term ‘Internet access’ does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

“SEC. 1104. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

“(a) PRE-OCTOBER 1998 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

“(A) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

“(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—This subsection shall not apply after November 1, 2006.

“(b) PRE-NOVEMBER 2003 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

“(A) a provider of Internet access services had a reasonable opportunity to know by virtue of a public rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; and

“(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—This subsection shall not apply after November 1, 2005.”.

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

“SEC. 1106. ACCOUNTING RULE.

“(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

“(b) DEFINITIONS.—In this section:

“(1) CHARGES FOR INTERNET ACCESS.—The term ‘charges for Internet access’ means all charges for Internet access as defined in section 1105(5).

“(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term ‘charges for telecommunications services’ means all charges for telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

“SEC. 1107. EFFECT ON OTHER LAWS.

“(a) Universal Service.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

“(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

“(2) in effect on February 8, 1996.

“(b) 911 AND E-911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

“(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.”.

SEC. 6. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 5, is amended by adding at the end the following:

“SEC. 1108. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

“Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or any other service utilizing Internet Protocol or any successor protocol. This section shall not apply to Internet access or to any services that are incidental to Internet access, such as e-mail, text instant messaging, and instant messaging with voice capability.”.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect on November 1, 2003.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this substitute, which I will describe in more detail in a minute, is, I hope, a fair and true compromise between the opposing sides in this debate. At least I hope it is viewed by a majority of the Senate as such.

I also understand there are very strongly held views on this issue. This is not the first time we have been to the Senate floor on this issue. This is the third time we have had debate and votes on it, and each time it becomes more difficult because we are talking about a lot more money, a lot more involvement, a lot more taxes and, of course, as technology evolves, of greater importance to America, whether it be economically, whether it be entertainment, or politically. The rise of the Internet in political campaigns in America today is one of the most recent phenomena.

I hope since we have, at least according to a letter I received from Senator ALEXANDER, boiled down our differences to four major differences—I in no way understate the importance of those differences, but there are only four—perhaps we could propose amendments and vote on those four differences and, in the meantime, continue our dialog in trying to reach a reasonable compromise.

I would like to point out it does not one any good for us to leave this issue in limbo. If we are going to allow tax-

ation of the Internet in a broad variety of ways, then the Senate should decide to do so. If we are going to adopt this compromise, then the Senate should do so. The House, as we know, long ago passed legislation.

This particular legislation, before I offered a substitute amendment, was reported out of the committee 10 months ago. I hope all will act together in good faith and try and resolve it.

By the way, those four major differences, as defined in the letter to me from Senator ALEXANDER, are definition, voice over IP, duration, and grandfather clause. I hope we can address each of those either, as I said, in the form of negotiation or in the form of amendments which would be up or down.

I have been told the majority leader says we are going to complete action on this bill by Thursday night late. The Democrats have a retreat beginning on Friday which we all respect. I hope we can get a lot done so we do not find ourselves here at a very late hour on Thursday night.

Mr. President, I offer this amendment to the Internet Tax Non-discrimination Act which offers, I believe, a true and fair compromise. On one end of the spectrum are those who do not believe the tax moratorium should be extended, and on the other end are those who want to make it permanent. This proposal, I believe, offers a middle-ground alternative to this debate and addresses the concerns State and local governments have expressed, while retaining some—many have said too few—aspects of the bill that was favorably reported by the Commerce Committee last year.

Before I summarize the substance of the amendment, I would like to spend a moment addressing a couple criticisms that have been raised about the compromise proposal.

First, I have heard a few Members talk about how consideration of S. 150 is moving too fast and that Members and their staffs have not had adequate opportunity to consider the substance of this matter.

With all due respect to my colleagues who believe this has been a less than deliberative process, I can think of few debates recently in which Members have had more time to prepare and negotiate. We voted the bill out of the Commerce Committee in July of last year. The Finance Committee, after requesting a sequential referral, discharged the bill without amending it.

Throughout this time, Members, including Senators DORGAN, HOLLINGS, ALLEN, WYDEN, SUNUNU, and many others who have spoken on this floor about this matter, continued to negotiate the substance of the legislation.

During that time, we heard from State and local groups such as the National Governors Association and the National Association of Counties. They had several opportunities, and did, to provide significant input.

We are here after almost 1 year of considering this matter, not because

we have not discussed the issue thoroughly enough. Nor are we here because we have not properly defined Internet access or otherwise adequately dealt with the specifics of the Internet tax moratorium. We are debating this measure because the two opposing sides will not budge from their positions.

To be clear, the compromise amendment will not likely move those who are firmly on one side or the other. As Senator VOINOVICH said yesterday, for some Members the philosophical divide in this debate may be “too deep to bridge.” Its purpose is only to offer a compromise that other Members can vote for knowing that it strikes a reasonable balance between those who want a permanent and broad Internet access tax moratorium and those who want no moratorium at all.

Second, some Members who do not want to reinstate the Internet tax moratorium have expressed their view that the amendment is not a true compromise; that it does not go all the way to meeting their concerns about State and local revenues. I must respond to them by saying the amendment is a compromise precisely because it does not completely satisfy one side or the other. However, the amendment does protect a significant portion of the \$20 billion in tax revenues from telecommunications services that States and localities claim they could lose as a result of S. 150.

In fact, even using the most aggressive revenue loss estimates available, it appears what is at stake is not more than 3.5 percent of total State and local tax revenues from telecommunications services. In my opinion, that is not just a compromise but a very generous concession to those who want to defeat the Internet tax moratorium. To criticize this proposal at this point as somehow not enough is just an empty exercise in moving the proverbial goalpost of this debate.

It seems to me the goalpost continues to move so much that it would not surprise me to hear at the end of this week that some Members actually support a Federal law requiring States to tax Internet access. I remind my colleagues that this debate is about striking a balance between S. 150, the Allen-Wyden bill, and S. 2084, the Alexander-Carper bill.

Clearly, this amendment goes a long way to compromising with the opponents of the Internet tax moratorium. Again, I have to repeat this because it is a crucial point: This body does not typically operate by capitulating 100 percent to one side or the other on a particular matter that is before it. In its normal course of business, the Senate compromises, and that is exactly what this amendment does.

Simply put, the amendment offered today is truly a reasonable compromise that addresses a host of concerns the States and localities have raised over the past 10 months. Throughout the negotiation process, State and local

groups have asked for a temporary extension to the Internet tax moratorium. Specifically, they have asked for a 2-year extension of the moratorium. The compromise amendment would extend the moratorium to 4 years.

Why 4 years? If we do it for 2 years, we would almost automatically be back revisiting the issue immediately when one looks at the process we have just been through. I think 4 years is a great deal less than permanent and not much more than 2 years, as the opponents of this legislation have alleged.

Another concern we have heard from State and local government is extending the Internet tax moratorium would somehow impact traditional telephone services. This amendment would ensure that State and local revenues from traditional phone service would not be impacted in any way, shape, or form. Again, the amendment would accommodate a concern raised by States and localities to the full satisfaction of State and local authorities.

State and local governments have also expressed concern that this bill would hamper their ability to tax voice services provided over the Internet. This amendment addresses that matter by setting forth a broad definition of services, including voice services that are provided over the Internet that would not be considered Internet access and therefore not be subject to the Internet tax moratorium. Once again, I believe this provision should fully address the concern of State and local governments.

The list of concessions made to State and local government interests in the amendment is extensive. For example, the compromise amendment would clarify that the Internet tax moratorium does not apply to nontransactional taxes such as taxes on net income, net worth, or property value. The amendment would clarify that otherwise taxable services would not become tax free solely because they are offered as a package with Internet access. The amendment would grandfather for 3 years, from November 1, 2003, the States that were taxing Internet access in October 1998. It would grandfather for 2 years, from November 1, 2003, the States that began to tax—according to many, improperly—Internet access after October 1998. It would ensure that universal service would not be affected by the moratorium. It would ensure that 9-1-1 and e-9-1-1 services would not be affected by the moratorium. Finally, it would ensure that regulatory proceedings that do not relate to taxation would not be impacted by the Internet tax moratorium.

I want to point out again, there are really 10 compromises offered in this: the 4-year moratorium, the 3-year phaseout of the grandfather clause, the 2-year grandfather of taxes on DSL, and voice over IP carve-out. It clarifies taxes covered. It clarifies the House's language on DSL. It provides a clear and uniform accounting rule. The uni-

versal service fees are unaffected. As I mentioned, e-9-1-1 taxes are unaffected, and nontax regulatory powers are unaffected.

I hope we can move forward if there is not agreement. Meanwhile, we continue to discuss the issue.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague from Arizona talks about four issues. There are three of them we really ought to be able to reach agreement on reasonably soon, and the other one is a very difficult issue, there is no question about that. That is the definition. But on grandfathering and VOIP, for example, the length of time of a moratorium, frankly, I think we can reach an agreement on those three areas.

Frankly, if we are able to reach an agreement on the definition, I do not care much about the grandfathering. I know some of my colleagues do, but that is a lot less important to me. I would also say that the length of a moratorium on Internet taxation is of much less importance to me as well. I would be willing to lengthen it by a substantial number of years provided we have the right definition. So I think the thing that is going to be difficult for us but one that we should attempt to resolve is this definition.

I want to just make this point: If the purpose of those who are most insistent on moving this legislation—and there are several in the Chamber who have really worked on this a long time—would be, for example, to create a broad new exemption from taxation for certain services and certain parts of the backbone of the Internet and so on, then that is a problem. I do not support that. I do not think we ought to carve out things that are now being taxed by State and local governments and say, by the way, we are going to federally preempt that. If that is not the purpose, though, then we surely should be able to find common ground on a definition that works.

My hope is that as we proceed we will understand that all of us—I think I speak for all of us—believe we ought to have a moratorium on taxing the Internet, that is, the connection to the Internet. I support that. I believe virtually all of us in this Chamber would agree we ought not levy punitive or discriminatory taxes on the Internet. I believe we would all agree on the goal that we would want to encourage through public policy the build out of broadband and the use of the Internet and particularly advanced telecommunications services. All of those represent areas of broad, substantial agreement in the Senate Chamber.

As we work through this now, the one area where I think we have substantial difficulties is trying to understand what each side means with respect to the definition of Internet service. How far up the backbone of the Internet does it go? Is it a definition that, in fact, would prevent the tax-

ation of certain services that are now taxed, and on which State and local governments rely for that revenue? If that is the case, we ought to know that and discuss that. If it is not the case, we should be able to reach an agreement on the definition.

Senator ALLEN, for example, and many others who have been at this, Senator WYDEN and on the other side Senators CARPER and ALEXANDER and many others—we need to once again get our heads together and see if we can find agreement on this definition. But until that happens and unless that happens, it is my guess we are just going to be around here spinning our big old tractor wheels and nothing is going to happen. We are not going to pass legislation.

We are not going to agree to amendments. I am guessing the consensus wouldn't exist to do that. I wouldn't object to going to vote on some things, speaking for myself, but we have a lot of work to do to reach some sort of compromise. Let me say to my colleague Senator MCCAIN, I recall being in meetings with him a year ago and beyond that, and the attempt was to try to figure out, how can we find common ground? How can we extend the moratorium that then existed? We never got to the point of reaching any kind of agreement, but it wasn't because of any lack of effort on the part of the chairman of the committee. I am here. I will be here during consideration of this, and I want to work with Senator MCCAIN and others to see if we can find a way to make this work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3049 TO AMENDMENT NO. 3048

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 3049 to amendment No. 3048.

Mrs. HUTCHISON. 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 change the definition of Internet access service)

At the appropriate place, insert the following:

SEC. ____ . CHANGE IN DEFINITION OF INTERNET ACCESS SERVICE.

Paragraph (10) of section 1105 of the Internet Tax Freedom Act, as redesignated by this Act, is amended—

(1) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”;

(2) by adding at the end the following:

“(B) GENERAL EXCEPTION.—The term does not—

“(i) include a tax levied upon or measured by net income, capital stock, net worth, or property value; or

“(ii) apply to any payment made for use of the public right-of-way or made in lieu of a

fee for use of the public right-of-way, however it may be denominated, including but not limited to an access line fee, franchise fee, license fee, or gross receipts or gross revenue fee.”

Mrs. HUTCHISON. Mr. President, I thank the Senator from Arizona, the chairman of the Commerce Committee, and the distinguished ranking member, Senator DORGAN, for bringing this to the floor. As has been said by everyone, I think, we have been talking about this issue for a long time. It is such a crucial issue for many States and many cities, that we must get it right.

I think the bill of Senator ALLEN, the underlying bill, and now the bill of Senator MCCAIN are attempting to do something that is right. They are attempting to assure that interstate commerce is not obstructed by taxes on Internet access.

I am afraid, however, that the language is not clear enough as it deals with franchise taxes and right-of-way fees that have been in place in cities in many States in our country for a long time. That is why I have introduced an amendment that will clarify the definition of what is excepted from this Internet access tax ban. It says:

... any payment made for the use of a public right-of-way or made in lieu of a fee for use of the public right-of-way, however it may be denominated, including but not limited to an access line fee, a franchise fee, license fee or gross receipts or gross revenue fee.

I think we have found out since we started debating this issue years ago that cities determine their franchise fees, their right-of-way fees, in many different ways. I think it is very important that we not make a mistake here that would cause years of litigation, after which a city might win, it might lose, but it would certainly disrupt what it has been doing. The franchise fee is basically a local tax, not on Internet access, not meant to be on Internet access.

My position is that we should not tax Internet access. I do believe it is a taxation of interstate commerce. However, I think that once you get off the basic access, just as we have telephone lines' access, use of right-of-way, that we must create a level playing field so a line that is used for telephone and an Internet computer line will be able to be taxed in the same way.

In my State of Texas, prior to 1999 cities were compensated by telecommunications providers for the use of their rights-of-way pursuant to individual franchise agreements negotiated between the telecommunications company and the cities.

In the late 1990s, Texas cities and the providers began negotiating and drafting major compromises that would lead to more uniformity, more regulatory certainty. So the Texas law has established a uniform method of compensating cities for use of public rights-of-way. It is called a per access line fee. It is implemented to compensate cities for use of public rights-of-way.

The access lines are reported by the individual telecommunications pro-

viders to the Texas Public Utility Commission. The PUC then applies the individual city rate per access line to the total number of lines that a particular city may have within their corporate limits. It is a fair and equitable system that is used in Texas. An average city gets about 3.5 percent of its general revenue from telecommunications right-of-way compensation fees.

Passing Federal legislation that would call into question the validity of this Texas system could have disastrous effects on the ability of Texas cities to provide essential services such as police and fire, water, waste water, and parks, just to name a few. The right-of-way fees represent as much as \$39 million annually to the city of Dallas; \$9 million for Fort Worth; and \$15 million for the city of San Antonio.

Cities in California, Nevada, Florida, Kentucky, and other States would also be adversely affected by the bill as it is written. So I am trying to clarify why franchise fees should be included. I am hoping we are all trying to go in the same direction here. I just want to make sure that we don't make a mistake.

There will be people who say it is really covered. It is covered in the underlying law. It is covered in the amendment that is offered by Senator MCCAIN and the one underlying by Senator ALLEN. People will say that. However, it is not clear and the city attorneys and these Texas cities and other States have looked at the language and they are very concerned they are going to be in litigation over this issue. If we know today that it is not clear, after the lawyers have looked at it, why not be sure? Why not be sure?

Everyone I have talked to believes that right-of-way and franchise fees should not be disturbed. It is part of the level playing field we are trying to create. My amendment will make it very clear what is accepted by definition. This should not have any impact on Internet access as both of the underlying bills would try to protect that from taxation. But it does protect cities, particularly since we have certain laws in some States that do have a component of a gross receipts fee within the access line issue, and I hope we will not step on a State with its local issues, trying to stay consistent with what has been done and accepted through all these years by passing this law without being very clear.

Mine is a clarification amendment. Mr. WYDEN. Will my colleague yield?

Mrs. HUTCHISON. I am happy to yield to the Senator.

Mr. WYDEN. I want to make sure I understand this. Cable already pays a franchise fee when the streets are torn up in order to offer cable. My understanding of this amendment is that now there would be a new special tax for right-of-way for the very same service.

In effect, my reading of this is that cable would be taxed twice. They al-

ready get hit with a franchise fee and now your right-of-way provision would allow for a new special fee, which troubles me, again, because it has been our point all along through Internet access that you have already paid once.

Could my colleague from Texas clarify? Otherwise, I would have to strongly oppose this.

Mrs. HUTCHISON. Mr. President, I appreciate the question.

This is, of course, not to put a new tax in place. This is to try to acknowledge that different cities and different States have different definitions of franchise tax. It happens that in Texas there is a gross-receipts component in the franchise right-of-way access tax. It is a standardized law now for the cities of Texas, for cable companies and telecommunications companies.

We have a different definition which I am trying to protect. Certainly these cities have already made their contracts with their cable companies. This is not meant to change contracts; it is meant to allow the contracts which are in existence and use a well recognized and different definition of franchise or right-of-way tax.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this amendment excludes from the definition of tax on Internet access transactional taxes such as gross receipts or gross revenue fees, constitutes an end run around Internet tax freedom, and eviscerates the moratorium itself. If we allow this to exclude payments made for use of the public right-of-way, including access line fees, franchise fees, et cetera, this amendment should be rejected.

I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. I announce that the Senator from South Carolina (Mr. GRAHAM) and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—64

Allard	Burns	Crapo
Allen	Campbell	Daschle
Baucus	Cantwell	Dayton
Bayh	Chambliss	DeWine
Bennett	Cochran	Dole
Bond	Coleman	Dorgan
Boxer	Collins	Ensign
Brownback	Conrad	Fitzgerald
Bunning	Craig	Frist

Grassley	McCain	Santorum
Gregg	McConnell	Sessions
Hagel	Mikulski	Shelby
Harkin	Miller	Smith
Hatch	Murkowski	Snowe
Inhofe	Murray	Stabenow
Johnson	Nelson (NE)	Stevens
Kohl	Nickles	Sununu
Kyl	Pryor	Talent
Leahy	Reed	Warner
Lincoln	Reid	Wyden
Lott	Roberts	
Lugar	Rockefeller	

NAYS—32

Akaka	Dodd	Kennedy
Alexander	Domenici	Landrieu
Biden	Durbin	Lautenberg
Bingaman	Edwards	Levin
Breaux	Enzi	Lieberman
Byrd	Feingold	Nelson (FL)
Carper	Feinstein	Sarbanes
Chafee	Hollings	Schumer
Clinton	Hutchison	Thomas
Cornyn	Inouye	Voivovich
Corzine	Jeffords	

NOT VOTING—4

Graham (FL)	Kerry
Graham (SC)	Specter

The motion was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Democratic leader is recognized.

AMENDMENT NO. 3050

(Purpose: To eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence)

Mr. DASCHLE. Mr. President, I have an amendment at the desk to the underlying bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3050.

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

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

[The amendment is printed in today's RECORD under "Text of Amendments."]

Mr. DASCHLE. Mr. President, I want very much to be able to continue to work on the underlying bill and find a way to resolve many of the outstanding issues. I think we have made some progress today.

Obviously, this is a piece of legislation that provides an opportunity for many of us who have concerns about other matters relating to our Senate agenda as well.

I was very concerned this morning to read in Energy Daily that the leadership has abandoned its plan to bring up the comprehensive Energy bill in May, and may wait now until fall to revisit comprehensive energy legislation.

Now, nearly 6 months after we could have enacted an Energy bill with the renewable fuels standard and other important components there is no prospect now of action on the legislation

any time soon. So I have no recourse but to offer the renewable fuels amendment to another legislative vehicle, which I have done with this amendment.

The amendment is very straightforward. It is based on language that has passed in the Senate on two previous occasions. It eliminates the reformulated gasoline program, RFG, oxygenate standard and replaces it with a renewable fuels standard that sets a 10-year schedule for assured growth in ethanol demand.

It contains the same waiver authority agreed to in the energy conference report, strikes all liability protection for MTBE as well as ethanol.

It also bans MTBE within 4 years.

Over two-thirds of the Senate has now gone on record in support of a renewable fuels standard and the renewable fuels standard we create with this legislation. It has been reported out of committee twice, passed by the Senate twice, both times by a margin of more than two-thirds. A similar proposal has been reported out of the Environment and Public Works Committee and is pending now on the Senate calendar.

Last June, 68 Senators voted to add at that time the Frist-Daschle RFS amendment to the Energy bill. It is time to break the impasse.

As I said, my first choice would have been to bring the Energy bill to the floor, have a good debate, and send it on to the President without the MTBE liability immunity.

However, the Energy bill conference report stalled last November because of bipartisan opposition to the special interest MTBE liability relief provision included in that legislation, in spite of the efforts made by many of us to warn that is exactly what would happen. Dropping the liability protection from the bill for both MTBE and ethanol would have attracted more than enough votes to enact the Energy bill. Yet despite the direct intervention by President Bush, the defenders of MTBE liability relief remain defiant.

Senator FRIST placed a revised energy bill without MTBE on the Senate calendar last February, now almost 3 months ago. He has not chosen to call up that bill.

Today, Energy Daily has reported our Republican friends have abandoned plans to move comprehensive energy legislation any time in the near future. That is troubling for many of us who wanted to see it pass. Now we have little choice but to offer very important components of this bill to other legislation that may move through the Senate as well as the House.

The energy tax provisions, for example, that Senator FRIST placed on the calendar have now been added to the FSC/ETI bill. Senators Cantwell and Bingaman are leading the effort to pass stand-alone electricity standards to address the circumstances that caused the blackout last August.

It appears it is time to shift gears, not only for the tax provisions and the

reliability standards, but for the renewable fuels standard as well. This bipartisan amendment is a careful balance of the often desperate and competing interests and a compromise in the finest tradition of the Senate. As I have said on many occasions, two-thirds of the Senate is on record in support of the bill. So I hope we can get legislation such as this considered quickly.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, I send a cloture motion to the desk. We can vitiate it if we get an agreement on a rollcall vote shortly. I am very concerned that we move this legislation quickly and comprehensively. This amendment is yet another attempt to do that in this body.

I ask that the motion be reported.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle amendment No. 3050 to S. 150:

Thomas Daschle, Harry Reid, Jeff Bingaman, Kent Conrad, Byron L. Dorgan, Tom Harkin, Dick Durbin, Max Baucus, Daniel L. Akaka, Evan Bayh, Debbie Stabenow, Mark Dayton, Jay Rockefeller, Ben Nelson, Tim Johnson, Carl Levin.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I was not aware, and I do not believe the manager of the legislation who is temporarily off the floor was aware, this amendment would be offered at this time. He will return shortly. I am sure there are going to be some discussions about the amendment and the appropriate way for us to deal with it.

I understand the importance of this amendment that has been offered by Senator DASCHLE to a number of Senators on both sides of the aisle. I agree we should have a national energy policy. We have been talking about it for at least 3 years or longer. Yet here we stand today with no national energy policy. We do not have legislation on the books that gives incentives for more production of oil and gas to relieve some of the regulatory problems that delay or make it almost impossible to have nuclear plants, hydro-power, conservation, alternative fuels, ethanol—the whole package. Yet last year, the Senate passed energy legislation. The House passed it. We had a conference.

Problems developed in the conference, and we have not been able, unfortunately, to move the energy legislation through the Senate because we have not been able to get 60 votes, even though we had, I think, 57 or 58 who voted for the bill.

I still think we should find a way to get this legislation through a conference or through to completion and

send it to the President. If we do not, a pox on all our houses because problems are here. They are going to stay, and they are going to get worse. We are not going to conserve. We are not going to produce. We are not going to do anything. We are at the mercy, then, of countries all over the world to provide the oil for over 50 percent of our energy needs in this country. This is dangerous.

We need a national energy policy because of economic security and national security. So I agree we need to do this. I do not agree with all the features in it. I did not like some of the provisions added at the end in the conference. I have my reservations about some of the renewable fuels. I have reservations about a lot of it, but I voted for it, and I am prepared to vote for it again in its current form with warts or with another problem. We should deal with this problem.

There is one way we will not deal with it comprehensively or deal with it at all, probably, and that is to pick it apart, pick all the meat off the bones of this national energy policy legislation. Piece by piece we will devour this good legislation, for example by putting a piece of it on the FSC/ETI jobs growth bill. If we put tax policies there, put ethanol here, or put it somewhere else, and start picking it apart piece by piece, what will happen is we will probably not get a comprehensive bill, and we probably will not even get the pieces. This is not wise.

I do not have the impression that it has been indicated by our leadership that we are not going to do an energy bill. I think it is on the agenda to be considered further, and it should be considered further.

We should work in a bipartisan and a bicameral way to get this legislation done. For that reason, I think it is a huge mistake to come pull out this one piece a lot of people do like and stick it on this legislation, because it is one of the engines that could possibly pull us to a national energy policy.

We will have discussion over the next few minutes about the way we would like to deal with it. But I personally do not think we should be adding this nongermane amendment, a critical part of the Energy bill, on this bill.

I would also like to say briefly that I think we have a good compromise package which Senator MCCAIN, the chairman of the Commerce Committee, has developed. He has worked over a long period of time with both the proponents and opponents to see if we could find compromise language on this Internet tax issue that was acceptable to get the job done.

It has not been easy because neither side wants to give. The proponents do not want even a 4-year moratorium. They want a permanent moratorium on Internet access taxes. I have in the past been inclined to be in that camp.

However, I have listened to Senator ALEXANDER and Senator VOINOVICH. I have heard from the Governor of my

own State, and there is an argument on the other side, there is no question about this. We need to deal with this whole issue in a comprehensive way. The Commerce Committee needs some time and it will not be easy.

I went through the legislative process for telecommunications reform that we passed in 1996. We worked on it for 2 years. It was very laborious and it had the possibility of just falling apart right up until the end. It will probably take us a couple of years to get further comprehensive telecommunications reform done. In the meantime, we should have in place a moratorium on taxing the Internet. In fact, I believe there is an overwhelming majority that agrees. We saw the vote yesterday. I know that was not a vote on the substance, but anytime around here of late that there is a vote of 74 to 11 to go to the substance of a bill, that is pretty strong.

I believe most Senators want to get this moratorium in place. Could we tinker with it here or there? Surely, and there will be legitimate amendments that we should consider.

We are on the legislation now. We can begin the amendment process. We have had a relevant amendment. Senator ALEXANDER, the opponents, were reasonable and have allowed us to do this. They are going to have some really good and tough amendments that we are going to have to deal with, and that is the way the legislative process is supposed to work, I think. To have voted against proceeding to this bill at all would have been it. The year would have been over if we could not get on the substance of a bill of this nature with such a strong majority being in favor of getting results.

So the 4-year moratorium that is in this proposal that makes Internet access 100-percent tax free, while taking care to narrow the definition of Internet access to ensure that traditional telephone service is not included and while excluding voice over Internet protocol, is the right way to go. The Commerce Committee is already beginning to have hearings on comprehensive telecom legislation, and that will be the appropriate place to address matters such as voice over Internet protocol.

Senator SUNUNU has introduced legislation on VOIP, or voice over Internet protocol. We should not address that until we know exactly what we are doing. Certainly, we should not be saying that taxes are going to begin to be assessed in this area until we have thought it through. The compromise does grandfather States that taxed Internet access prior to the 1998 Internet Tax Freedom Act, and there are some 10 or 11 States that are in that category. This legislation would extend that grandfather status for 3 more years. For a 2-year period, it grandfathers the States that currently tax Internet access but were not protected under the 1998 grandfather clause.

So that is an oversimplification, but basically the rest of the bill just incor-

porates the common components between the two bills that were pending, the Alexander bill and the Allen bill. We should go forward with this legislation. We should get the job done.

What is happening once again is that while we have had one amendment that is germane to the substance, we now have an energy amendment being offered to the Internet tax moratorium. We hear there will be other nongermane amendments. This is the Senate. That is the way we do business, but we have work to do. We all agree this is something we want to do in a bipartisan way. My colleagues should take their shot or take their shots but make them count, and let's not get hung up on this legislation and drag it out with nongermane killer or poison amendments, because it will wind up killing or doing great damage to what I think is a reasonable compromise.

Again, I understand the Senate rules very well. My colleagues can offer anything on any subject at any time, unless there is agreement to the contrary. So Senators on both sides can dump their outbasket on this bill, but that would be a mistake. I do not believe the leadership on either side wants that to happen.

The best thing that could happen is for the Senators to get this off of our agenda right now. Let's get it off our backs. My colleagues would like to be able to vote both ways, or not be able to vote at all. We cannot do that because the moratorium has already ended and there are a lot of innovative people out there thinking of ways to tax Internet access.

Before my colleagues vote to allow a tax on the Internet, they should check with their children. If my colleagues have teenagers or kids in college, they will tear their head off. They do not want this interconnection to the Internet to be taxed, and if we were to go around and ask Senators if they want that, no, we do not want that. Let's vote on this issue. Let's deal with the substantive amendments and the germane amendments, if my colleagues want to offer a couple of relevant amendments.

I plead with the Senate, do not make this a punching bag because, if we do, we are going to show once again that we are incompetent to produce anything.

We did a pension bill. We saw we could do it. It still may not be perfect, but we got it done. This is one of those issues that is bipartisan. We need to get it done, and we need to get it done this week. I hope my colleagues will join in finding a way to make that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the amendment that has been offered a few moments ago by my colleague Senator DASCHLE is not some mysterious amendment. It is not some amendment that was offered under some mysterious procedure. This is the way the

Senate allows amendments to be offered.

Senator DASCHLE has offered an amendment that deals with the subject of energy, and specifically renewable fuels. My colleague from Mississippi, Senator LOTT, indicated that it is the way the Senate can do business. He is absolutely correct about that. The rules allow this amendment to be offered. However, I point out that the Senate really does not do business much anymore. We are not voting much. We are kind of at parade rest. If there was a "gone fishing" sign, it would long ago have been hung on all three doors of the Senate.

There is very little activity in the Senate. Very little is happening. I expect that is one of the reasons my colleague offered this amendment to this bill.

I will talk for a moment about the Energy bill. The Senator from Mississippi and the Senator from South Dakota both indicated that we ought to have an energy policy, and indeed we should. I was a conferee on the Energy bill. I signed the conference report, much to the consternation of some of my friends, because I thought on the whole it advanced our country's interest in energy.

It was not perfect. There were some things in it I did not like much, but the fact is, it came to the Senate floor and it lost by two votes. Everyone in this Chamber understands why it lost. It lost by two votes because the White House and the majority over in the House of Representatives decided to put in a retroactive waiver for liability of MTBE. They stubbornly persisted and demanded it be part of the bill even when they were told it was likely to kill the bill.

They preferred the bill die rather than take out that provision, the provision that was a favoritism provision for a few enterprises. So the bill died. Now they want to blame others for the death of that energy bill. It does not wash. That energy bill died on the Senate floor, lost by two votes, because there were some that stubbornly persisted in putting a favor in that bill for some of their friends and they would not back away from it. So they lost the bill. They were willing to let the bill go down because of that.

For example, that bill contained important provisions that I thought advanced the country's interests: production incentives, conservation, an efficiency title, a renewable fuels title. I will talk for a moment about the renewable fuels title because that is the subject of Senator DASCHLE's amendment.

I think the renewal fuels title is very important and advances this country's interests. I am a strong supporter of it. Incidentally, I will support this amendment, and I hope we get a vote on this amendment. It does not do damage to the underlying bill at all. We can, should, and will, in my judgment, have a vote on this amendment.

If we are not going to do a big energy bill, if instead of this week having energy on the Senate floor, which I would have preferred, we have the underlying Internet tax bill, if the priority is always going to be something other than an energy bill for the majority leader, then we have no choice but to take provisions of this energy bill that we think advances this country's interests, bring it to the Senate floor, and see if we can legislate on it.

I will now talk about the renewable fuels provision. The renewable fuels provision is pretty simple. Drive to the gas pump this afternoon and see what is going on. We used to see 55 percent of our oil come from off of our shores. It is now 60 percent. Sixty percent of the oil every single day that we use in this country comes from other parts of the world, much of it very troubled.

We are putting this country at great risk if we do not understand that endangers this country's economy, that endangers the opportunity for us to expand, grow, and promote opportunity in the future. Yet people seem oblivious to it. They say it is 60 percent coming from offshore, from Saudi Arabia, from Iraq, from Venezuela, from Kuwait, so what? Well, I think many of us understand the so what.

This country's economy, this country's well-being in the future, is held hostage by others, some of whom wish this country ill. In the new age of terrorism, we would be well advised to understand that this excessive and growing dependence on foreign sources of oil, foreign oil specifically, is very dangerous to this country.

My colleague offers an amendment that says at least one part of the Energy bill dealing with renewable fuels allows us to increase supply of energy in this country in a very significant way that is not only friendly to the environment but allows us to grow some energy in America's fields. It allows us to be innovative in creating new forms of energy to extend America's energy supply. Let me use ethanol as an example. Incidentally, let me say, for those who have heartburn over the offering of this amendment, 69 Senators have already voted for this amendment. This will not be a big problem if you just allow us to have the vote, put it on the bill. If the bill gets signed by the President, we have at least advanced this portion of the Energy bill.

But let me talk for a moment about ethanol. The ability to take the drop of ethanol from a kernel of corn and have the protein feedstock left and use that drop of alcohol to extend America's energy supply—good for us. That is called renewable energy. It expands the supply of energy. It means we can grow our energy in our fields.

We have a prodigious appetite for energy in our country. As all of us know, when the price of energy goes way up, the price of gasoline at the pumps continues to increase relentlessly, and we know we have to do something. It ought to be a warning sign.

My colleague brings to the floor of the Senate a sensible, thoughtful provision that had wide bipartisan support in this Chamber. What he says is pretty simple. He says if it is the case that we didn't have energy on the floor last month, last week, this week, next month, or even this summer, if that is the case, if that is what the majority wishes to do, to not put the Energy bill back on the Senate floor and allow us to work on that to get a good energy bill, then at least let's take portions of the bill that we know had strong bipartisan support and move that because that will strengthen this country.

Once again, let me say to those who counsel let's wait, let's just wait, the question is, Wait for what? Wait for fall? Wait for October? Wait for September? Nobody else is waiting. The price of gasoline is not waiting. The threat to our supply of oil is not waiting.

Read yesterday's newspapers about terrorists who want to interrupt the supply of oil. They are not waiting. Why should we wait to construct a sensible energy policy for this country's future? Why should we wait, above all, to move forward a provision that has strong, broad bipartisan support in this Chamber?

This is not the time to wait. This is time for us to move forward and understand that our economy, our Nation is at peril with respect to an energy supply if we do not advance those portions of the Energy bill that strengthen this country.

I, for example, believe we ought to advance the conservation title and we ought to advance the efficiency title, both of which are very important. My colleague offers, I think, perhaps the easiest and perhaps the most important provision dealing with renewable fuels. The easiest why? Because almost three-fourths of the Senate agree with it. Yet the amendment gets offered and we will have people walking around here choking on it. Nobody ought to choke on this amendment. The Senate ought to agree that this amendment makes sense. This amendment has previously been agreed to. This amendment advances this country's energy interests. We ought to agree to this amendment. Not yesterday, not tomorrow—now. This is not heavy lifting.

The only thing that is difficult in this Senate these days is that we are not doing anything. We face some real serious challenges in this country. We have an economy in trouble. We have energy problems. We are involved in a war in Iraq and a war in Afghanistan. We are beset by the terrorist threat. The fact is, this place is at parade rest. So my colleague Senator DASCHLE comes to the Senate floor and offers something that says, let's move on this subject; let's step forward; let's do the right thing; let's vote; let's advance this country's energy supply by passing the renewable fuels section of the Energy bill.

I understand. I managed the bill on this side on the Internet tax issue. I

understand this is inconvenient, but inconvenience is a small price to pay, incidentally, for advancing that important portion of this energy bill. I commend Senator DASCHLE for offering this, and I will strongly support it and hope we can move it quickly.

Let me just say as one person who is managing this on the floor of the Senate—I can't speak for the majority, but let me speak for the minority managing this—this should not take much time at all. My guess is Senator DASCHLE would agree to a very short time limit on debate. We have already debated this particular issue and had votes on it, so this should not interrupt us more than 30 minutes or an hour, after which we will have expressed ourselves as a Senate to move a very important piece of this energy bill—the renewable fuels portion of the Energy bill—forward with this legislation.

My hope is that is what we will decide to do. There is a possibility, however, that what happens the minute someone offers an amendment like this is this place goes into some sort of apoplectic seizure; it shuts down; we go into a quorum call. Why? Because people want to gnash and wipe their brow and wring their hands and fret on what to do because they can't deal with this. The way to do it is to put it up for a vote, have about 70 Senators vote for it, and add it to this underlying legislation, so that in the end we will have this important piece of the Energy bill for the American people. That will be good for this country and good for the American people, and when we have done it, I will say good for the American Senate as well.

I yield the floor.

Mr. REID. Mr. President, I have the highest regard for the distinguished junior Senator from Mississippi, Senator LOTT, but on this issue I disagree with him. I believe we have to move forward on energy legislation any way we can. If it is piecemeal, let's do that. The people of the State of Nevada are suffering from high gasoline prices. We have the second or third highest gas prices in all America.

For example, the bill we are going to take up next week, the FSC bill, in that bill I think very importantly the managers of that bill added to that some very important tax provisions that deal with energy. There are some short-term solutions I will speak to briefly, but there are some long-term solutions we must address.

Senators BAUCUS and GRASSLEY in the FSC bill address that. What have they done? They have provided tax credits for alternative energy. The tax credit for wind has expired. They are going to add, if we pass that legislation, a tax credit for solar, a tax credit for geothermal. This is the solution to the energy problems we have in this country. It will happen. It is only a question of time, when it is to happen. We need not depend forever on the vagaries of what OPEC does. We have to depend on what we can do.

People come to this Senate floor and say we need to produce our way out of the problem we have. We cannot do that. The United States has, even counting ANWR, less than 3 percent of the entire oil reserves in the world. Ninety-seven percent-plus of the oil is someplace other than the United States. So it is common sense that we cannot produce our way out of the problems we have today. We can do some things with the oil that we do have. We can make it better. We can have some of our smaller producing wells produce a little more. We can do some with exploration. But the answer is not that. We cannot produce our way out of the problems we have with oil.

So what can we do? The one thing we can do is do something with alternative energy. The Nevada test site in the deserts of Nevada has been the site for almost 1,000 nuclear explosions, some above the ground, some below the ground. At the Nevada test site, if you put solar panels on the Nevada test site you could produce enough electricity to serve the entire United States. The Nevada test site with solar panels could produce enough electricity to satisfy all the needs of this country.

We know that wind energy is doing very well. In the Midwest there are some farmers making more money on their windmills producing electricity than they are from the crops they produce. We know that Nevada has been said to be the Saudi Arabia of geothermal. We have, not unlimited, but huge amounts of geothermal power in the State of Nevada. You can drive places in Nevada and see steam coming out of the ground naturally. It is because of geothermal. Some wells have been tapped. The problem with tapping the resources we have with geothermal is the people have no tax credits to do it like they had for wind. If we did that, there would be immediately, in Nevada, a tremendous surge in the production of electricity which would feed our state, California, and other parts of the West with badly needed electricity. There would not be any pollution. The same, of course, applies to solar. So we need to do that.

There are some other solutions to problems we have. Of course, among the long-term solutions I did mention is more fuel-efficient vehicles. We certainly need to do a better job in that regard.

In recent years, there have been two major releases of oil from the Strategic Petroleum Reserve—during the Clinton years and during the first Bush years. It was done because it brought down the price of oil.

For example, in January 16, 1991, there was a decision made to release oil from our petroleum reserve. The next day crude oil prices fell from \$32 to \$21 a barrel. Of course, it dropped. We have done it on two separate occasions—during the Clinton years and the first Bush years. It made a difference.

A second release occurred. After that second release, within a week of the

time the Strategic Petroleum Reserve was being used, the price of oil dropped from \$37 to \$31 per barrel.

Right now the price of oil is near \$40 a barrel. Why doesn't the President release this oil from the petroleum reserve? I don't know. I know one thing. It would certainly be a help if that happened. It would increase the supply in this country. As supply is increased, we would have a lessening of prices.

The other thing which I think is extremely important is that we recognize there are other ways of bringing down the cost of oil. One thing the President could do is use his bully pulpit and his influence, which we understand is significant with the Saudis. Bob Woodward just published a book that said they knew about the war before anybody in the Congress knew about it.

Also, of course, we have been told the President has been assured that in September they will start releasing more oil. That will also bring down the cost of oil. I suggest rather than waiting until this fall the President do something now to pressure the Saudis into releasing more oil. They have cut by 10 percent their production of oil which began on April 1.

These countries are supposed to be our friends. We have young Americans giving their lives in Iraq right now to make that part of the world safer and more stable. It doesn't seem right the Saudis and other OPEC nations are not recognizing what we are doing for them.

We also know there are other things that can happen. The bill that was defeated on the Senate floor last year had a lot of problems with it. Senator MCCAIN referred to it as a "hooters and polluters" bill because of all of the ornaments that have been attached to the so-called "Christmas tree."

There are things which we need to do. People have said, Well, these things the President can do now do not matter. Getting the Saudis to increase the supply of oil would matter and, of course, having more oil come out of our strategic reserve would matter. The other thing the President could do is say let us stop buying oil to be put in the SPR right now. Some analysts suggest prices will only go down by 10 to 20 cents a gallon. That is significant.

In Nevada where the prices are approaching \$2.50 a gallon, it seems to me that would be a help. Anything would help. As far as I am concerned, that is a good enough reason to do it.

Consumers need immediate relief. We are talking about as much as a million barrels of oil a week. That is about how much we put in the SPR which we are buying from the OPEC nations when they cranked up the price of oil. It doesn't make sense to do that. This isn't the huge supply of oil that comes into this country on a weekly base, but it still is a lot. It will make a difference.

The latest price spike in Nevada was caused, they say, by the shutting down of the refinery in northern California

which produces only 165,000 barrels of oil a day, or 1.5 million barrels a week. If that is the case, that is the same amount of oil we are buying from OPEC to put in the SPR. That logically would indicate the price should come down.

I think if we are going to do anything for energy in this country, we have to take it piecemeal: Do ethanol, and do what we are going to do next week with the legislation that has been crafted by Senators GRASSLEY and BAUCUS to give tax credits to the people who will produce good, clean energy.

The President in his State of the Union message said he wanted to move to a hydrogen economy. If we are going to depend on a hydrogen economy, we have to do something about producing hydrogen and use something other than fossil fuel to produce it, which only compounds the pollution. The only way you can have a hydrogen economy is produce the hydrogen by using alternative energy—sun, wind, or geothermal.

I hope we can, as Senator DORGAN has indicated, move forward very quickly and dispose of this legislation. If people vote the way they did the last time, this should go away very quickly. For people who say, I voted for it once, I am not going to this time because it is different form and it is stand alone, it seems to me it should be easier to do it that way than when it was in the bill which had so many different problems.

I commend and applaud the Senator from South Dakota for moving this particular piece of legislation which will improve the energy needs of this country.

I hope we look long term and do things other than what we have been doing; that is, try to produce our way out of the situation that is so desperate for the people in Nevada who have the third or fourth highest gas prices in America.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment offered by Senator DASCHLE.

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

Mr. DURBIN. Mr. President, I rise in strong support of this amendment. I have listened to the arguments propounded by the Senator from Mississippi in reference to this amendment.

First, we shouldn't shy away from this amendment for fear of being overworked. It was announced at our luncheon today we have had exactly 11 votes in the last 4 weeks in the Senate. There is certainly room for more activity here, and certainly activity should be focusing on important national issues such as energy.

Energy security is important for our Nation's future and it is a critical part of our foreign policy. Make no mistake: Our focus on the Middle East is about

a lot of different issues, but it certainly is about the issue of energy and its future and America's dependence on external sources for its energy. That dependence has led to some terrible circumstances.

We are faced in the Midwest and across the Nation with high gasoline prices. In the city of Chicago and across the State of Illinois and all around our Nation, we are seeing gasoline prices reach record highs. If you ask why is this situation, I am afraid to say the culprit is very obvious: OPEC, the oil cartel in the Middle East, has decided to restrict the flow and supply of oil to the United States. By cutting off supply, demand forces the price up. They know that. We are, frankly, at their mercy.

Interestingly, during the last Presidential campaign when Governor Bush of Texas was running against Vice President Gore, he said at one point if he faced that situation as President of the United States he would take direct action against OPEC to bring down their prices and force them to supply oil to the United States. And yet weeks have gone by and none of that has occurred. In fact, businesses and families and workers all across the Nation are being held captive by the OPEC oil cartel.

Isn't it ironic that at the same moment we have sent over 100,000 Americans to risk their lives for security and stability in the Middle East, at a time when we are placing our military in the Middle East to stabilize it for many of these oil-producing countries, they have turned on us and said despite our jobless recovery and despite our recession they are going to restrict the flow of oil to the United States, knowing full well the hardship which it creates.

If Bob Woodward is accurate in his book, it is scandalous to believe the Saudis are doing this with the understanding that at some time before the election they will start sending more oil to the United States so gasoline prices will come down and benefit the current administration. That is what has been stated.

Prince Bandar, the ubiquitous diplomat in Washington, was the one who was brought in by this administration to be forewarned about the invasion of Iraq even before Members of Congress. He is such an important diplomat and international businessman that the administration felt his counsel was more important than the counsel of Members of Congress of both political parties.

If Mr. Woodward is correct in his assertions in his book, that there has been some sort of an agreement that the price of gasoline is going to go up, creating some discomfort, but come down just in time for an election surprise, an October surprise, that is awful; it is really unfair to the American people.

Why do we bring this amendment to the floor today? Well, Senator DASCHLE and Senator DORGAN, as well as Senator REID of Nevada, have made the

case that this is a part of the Energy bill which we can pass today. We can pass it with a limited amount of debate and with an overwhelming, bipartisan rollcall, reflecting the support which alcohol fuels have in the Congress.

We know this fuel source is good for America. First, it is homegrown. We do not have to depend on foreign companies and foreign nations to befriend the United States.

We can grow the corn and other feedstocks that are necessary to make ethanol.

Second, it is definitely going to be an improvement on the environment. We know that by using alcohol fuels, we reduce pollution, which is a very positive thing.

Third, from a selfish point of view of the Corn Belt, we know that as more demand for corn is created by more production of ethanol, the price of corn goes up, farm incomes go up, and Federal payments go down. So it is a positive effect from three different perspectives.

Some argue we are making a mistake by trying to go at this one issue at a time; rather, we should bring the whole Energy bill before us. I saw Senator DOMENICI from New Mexico on the floor a few moments ago. No one has worked harder on this bill than Senator DOMENICI. I know his bitter disappointment when the bill failed by two votes, with bipartisan opposition, last December. I was one of the Senators who voted against it.

There were many provisions of that bill which I support, including the ethanol provision. But, frankly, at the end of the process, the Energy bill had become a dog's breakfast. It turned out to be a smorgasbord of special interest groups. They went out and included provisions in that energy bill which were nothing short of scandalous.

Senator MARIA CANTWELL from the State of Washington came to the floor and echoed an earlier comment made by Senator JOHN MCCAIN—Senator CANTWELL, a Democrat; Senator MCCAIN, a Republican—in which they said this bill had been dominated by hooters, polluters, and corporate looters. Now, it is a great phrase. When you parse it, you understand what they are talking about.

Imagine, the Energy bill we were being asked to vote for included a provision helping someone in the State of Louisiana build a strip mall for a Hooters restaurant. Now, I have never been lucky enough to go in a Hooters restaurant. I am sure there is a great deal of energy in a Hooters restaurant. I cannot believe it is the key to America's energy future. But it was part of that bill.

When it came to the polluters, take a look at the assessment of environmental groups of the Energy bill, which we rejected. Almost to a person, these environmental groups said we were relaxing standards when it came to air pollution; we were turning our back on sound energy policy coupled with sound environmental policy.

When it came to the corporate looters, whether you are dealing with electricity or oil, I think it is obvious. As we debate today this energy issue, across the street from us, in the Supreme Court, they are weighing the arguments in a case that has been brought against the Bush-Cheney administration, a case brought by groups that believe there should be full disclosure of the special interests that came to the table, the outside special interest groups that helped to write the Energy bill.

The Bush-Cheney administration—particularly Vice President CHENEY—has been so adamant to continue to conceal and keep secret the sources of information which led to that energy bill that the case has gone all the way to the U.S. Supreme Court. That is, frankly, because many of those who came to the table must be a great embarrassment to this administration. It has been said, it has been admitted by some, that Enron—and those were the glory days when Enron was still close friends with the White House—Enron was in on the writing of this energy bill. It is no surprise. Just read the bill. It was a bill that, frankly, had too many of those special interest groups writing too many provisions.

So here we come today with a proposal by Senator DASCHLE which is long overdue. It tends to take away all of the chaff and leave the wheat.

Let's go to the important part of the Energy bill where there is bipartisan consensus. Thank goodness we no longer have to labor with those provisions which provided a sweetheart deal for the producers of MTBE. MTBE is a fuel additive that has been put in gasoline for over 20 years in order to make engines run smoother. But over 20 years ago, they discovered that MTBE might work in your engine, but outside it was dangerous to the environment. It is not biodegradable. So if MTBE should leak from an underground fuel tank and get into the water supply of an individual with a well or a town that relies on an aquifer, it could make the water undrinkable and, in fact, potentially dangerous to public health.

European studies link MTBE contamination to the cancer-causing agents which, frankly, we are finding too often in our environment.

So the producers of MTBE knew about this problem in 1984, continued to sell the product, and now communities across America are being inundated with MTBE pollution.

In my State of Illinois, over 25 villages and towns have MTBE contamination. Over 200,000 people in my State live in an area where they are trying to cope with MTBE contamination of their water supply—a danger to families, a danger to businesses.

So what did this energy bill say? Along came a provision in the Energy bill which said the producers of MTBE, unlike any other company in the United States of America, should not be held accountable in court for their

wrongdoing. If they knowingly sold a toxic and dangerous product, which caused damage to an individual, to their health, then, frankly, the Energy bill said: We are going to give them a pass. We are going to say they cannot be held accountable in court. Let the individuals bear the burden of the cost of the medical bills and cleaning up their water supply. Let the villages and towns pay the millions of dollars necessary to overcome MTBE contamination.

That is the reason I voted against that energy bill. I went back to Illinois to a meeting of my Illinois Farm Bureau, a group that was very strong for this ethanol provision, and it was a cool reception. They wanted to know why, after some 20 years on Capitol Hill, I turned my back on ethanol.

Well, I told them. I am still for ethanol. I still believe in it. I support this amendment. But I do not believe in the special interest favors that were included in that energy bill. They understood. Many of those same farmers came to me afterward and said: We understand completely. You ought to clean up that bill. You ought to pass the good provisions that are good for America and get rid of the rest of that mess.

Well, we are trying to do that today. Senator DASCHLE's leadership has brought an important part of this bill forward. Ethanol is not just an American homegrown energy source; in my part of the world, ethanol is a job source, and we desperately need jobs in America. We have lost over 2 million jobs under the Bush-Cheney administration. We have lost hundreds of thousands of manufacturing jobs just in the State of Illinois. Ethanol plants being built around the Midwest, around the Nation, will create good-paying jobs in rural areas, something we desperately need. I think it is important we do it.

For those who say, "Well, why don't we wait until later," we cannot afford to wait. The highway bill, which should have been passed last year, that would have created millions of jobs across America, has been stalled in this Republican Congress now for 2 straight years. The battle between the White House and the Republican leadership I cannot even explain at this point, but for reasons that will only be known to them, they have held up the passage of the highway bill at exactly the wrong moment, the moment when we need jobs so much in America.

Passage of this amendment on the ethanol provision will get us moving toward more investment, more capital creation, and more production of ethanol and construction of ethanol plants across America. That is a positive, not just for the Midwest but for our Nation.

I commend Senator DASCHLE. I think, frankly, we should face this issue. We should debate it in a timely fashion. We should vote on it. If the 69 or 70-plus Senators who have stood with ethanol on a bipartisan basis in the past

will continue to do so in the future, we can make this part of this bill and send it to the President for his signature, and say to those who have been waiting for some hope: When it comes to dealing with energy, we have an important part of this bill that we have succeeded in passing.

Many other challenges remain on energy. We can face them, but let's do the right thing. Let's adopt the Daschle ethanol amendment today.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I regret that I was not here at the time the Democratic leader offered his amendment. But, of course, it would not have mattered really much whether I was here.

I wonder, since we have seen a singular lack of progress in the last few months, particularly in the last few weeks—literally every piece of legislation, with the rarest exception, has been loaded up with extraneous amendments and has had to be brought down. Of course, I have only been here for 18 years. That is not a long time compared to some. But I have to say, I am unaccustomed to this kind of procedure where in good faith we brought this bill to the floor, in good faith we voted closure on the motion to proceed, and then the Democratic leader stands up and proposes a totally, completely, absolutely extraneous amendment, an entire piece of legislation, the Energy bill, which has been hard fought in this body many times, as an amendment on the Internet tax moratorium bill, without warning, without saying what he was going to do, without having the courtesy to inform me as the chairman of the committee and the manager of the bill. If he had, I would have thought, well, maybe we ought to not bring it up. The temperature is 85 degrees in Phoenix today. It is not raining there like it is outside. Why don't we just go home? Why don't we go home, relax with our constituents and our families and friends, rather than go through this charade of telling Americans that we are legislating.

There was an old line in the cold war era. The Russians said: We pretend to work and they pretend to pay us. Well, we pretend to work and we are still getting paid. We are not working. We are not doing anything.

I say to my friend the minority leader and to my friend from Nevada—and they are my friends—what is this all about? You know very well that if an Internet moratorium is passed, an energy bill will not be part of it. Now we are going to go through the parliamentary charade of having somebody offer a second-degree amendment and somebody else will do a substitute, and then somebody else will offer a second-degree amendment. What am I supposed to tell my constituents, the taxpayers, we are doing here in Washington?

If I had a townhall meeting and said, yes, we had an Internet tax moratorium bill, a bill that is vitally important to both sides as far as whether taxation is going to be imposed on transactions over the Internet, which some 70 or 80 percent of the American people engage in now—billions of dollars—we are going to decide in a parliamentary fashion whether those transactions should be taxed or not taxed, and if so, under what circumstances—this is the third time we have revisited this issue. Ten months ago we passed it.

The Senator from Tennessee will tell me how many hundreds of hours he has devoted to this issue. The Senator from Virginia will tell me how many hundreds of hours he has devoted to it. What do we do? We take up the bill. We have debated it for barely 2 days. And what do we have? The Energy bill as an amendment to the Internet tax moratorium bill.

What am I supposed to tell my constituents? I will tell you what they are going to say: We don't get it. That is what they are going to say: We don't get it. Yes, it is important to me, Senator, whether the State and local governments can tax the things I buy on the Internet. Some people say they should; some people say they should not. But can't you guys and women get together and make a decision on it so I will be relieved of this lack of knowledge as to what the future holds?

What about all those people who are starting businesses that do business over the Internet? What about them? I am sorry, sir, we can't address this issue because we have to take up the Energy bill.

I certainly wouldn't say it is all about ethanol. I certainly wouldn't say it is about a product that we have created a market for which has absolutely, under no circumstances, any value whatsoever except to corn producers and Archer Daniels Midland and other large agribusinesses.

Here we go now. Here we go. The Democrats have a retreat on Friday, so we are not going to be here on Friday. No, we are not going to work 5 days this week. Actually, 3, excuse me. And here we go, now we are going to spend late this afternoon jockeying back and forth.

I am sure there may be a headline in South Dakota that says: Senator DASCHLE fights for ethanol. I bet there will be a whole lot of press releases, too, and maybe even the distinguished Senator from North Dakota will be fighting for ethanol, too. Meanwhile, we are not addressing the issues that the American people care about.

Right now they care about whether we are going to tax the Internet. I urge my colleagues to tell us, all I want to know is, are we going to spend between now and when we go out of session at the beginning of October in this kind of back and forth?

My side is also guilty, I freely admit. Are we going to spend that time be-

tween now and the beginning of October, when we will break to take the electioneering from the floor of the Senate out to our respective States, and do this or are we going to seriously legislate as the American people sent us here to do?

Obviously, I am upset because this is a bill I have been working on for a long time, an issue I have been involved in for many years. Obviously, I am upset by it. I apologize if I have offended any of my colleagues. But at the same time, this has been going on now for months. This is not the first time we have done this. This is about the 50th time, again, on both sides of the aisle. So why don't we make a decision. We are going to attach the minimum wage or we are going to attach lawyers' fees or medical malpractice or one of these; we are going to attach them all back and forth. And we will be able to force votes on it, but unfortunately, we don't legislate.

Why don't we make a decision? Why don't the leaders and all 100 of us get together and decide what we are going to do and what we are not going to do. At least the taxpayers may find some comfort in the knowledge that at least we would tell them what we are doing.

I would imagine that as we speak we will have some amendment and then a second-degree amendment, and we will fill up the tree, which probably very few living Americans understand, including Members of this body, but we will consult the Parliamentarian as to how the mechanics work.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. McCAIN. 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. DORGAN. 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. DORGAN. Mr. President, I know my colleague from Virginia wishes to speak on the bill, and perhaps the Senator from New Mexico does.

Let me say to my friend from Arizona, I understand his angst about this. But this is not a new procedure. The Senator from Arizona has employed the same procedure, as have I, as now does Senator DASCHLE today—that is, offering an amendment that does not relate to the underlying legislation.

There is a reason that happens. The reason that happens is the passion one has for legislating on a specific issue that doesn't get resolved because someone else won't allow you to bring it and debate it on the floor. So you offer an amendment under the rules of the Senate to another piece of legislation. That is what happened here. I say to my colleague, he has employed the same tactic, as have I.

Mr. McCAIN. Never.

Mr. DORGAN. I will be glad to recite them. I will not do it at this moment. There were line-item veto amendments, motor voter, and others. Senator DASCHLE has not offered an amendment for the purpose of a headline in South Dakota. I happen to support renewable fuels and ethanol, and have for a long while. I make no apology for that, nor would Senator DASCHLE, because I think it advances this country's energy interests.

The reason it has to be offered now, according to Senator DASCHLE—and we all understand this—is we had an energy bill that failed here by two votes. I would have preferred we pass an entire energy bill in this Senate. I voted for it and I signed the conference report. I worked with the chairman of the Energy Committee. I would have preferred that to pass because it had titles in four areas I supported. I didn't agree with a colleague who said a few minutes ago he thought there were things that were unworthy and rendered it something we should not have passed. There were things in the Energy bill that were unworthy and I didn't support, but on balance I believed it would advance this country's interests. It failed by two votes in the Senate.

That bill contained production incentives, conservation efficiency, and renewable fuels. The issue of renewable fuels is not new. We have worked on this for a long time. If we cannot get the Energy bill, then we ought to get the renewable fuels piece at least. That has such wide, strong support here in the Senate. We have voted on it. I believe it was 69 votes in favor of that provision. We had bipartisan, strong support for that provision.

So if we cannot get the Energy bill, let's at least take that which will, in my judgment, be beneficial to this country's long-term economic and energy interests. That is what Senator DASCHLE offers this amendment for on this bill, because the other opportunities don't exist. If somebody said, well, let's bring an energy bill to the floor this week, rather than this bill, or bring it to the floor next week—and I am guessing; I don't speak for Senator DASCHLE—he would have said let's do that, because he supports certain provisions of that bill, voted for it, was the author of the renewable fuels provision and ethanol provision. So my guess is he certainly would want that to happen. But because we are now told the Energy bill will take a back seat to this, that, and the other thing, and that it will now perhaps be fall before we talk about it on the floor of the Senate, Senator DASCHLE had every right—perhaps an obligation—to come here and say: I have a passion about this, let's advance this. This is an opportunity.

Again, let me say I will bet, if I do a bit of research, perhaps almost all of us on the floor, with the possible exception of the Senator from Virginia, because he has been here fewer years—

but I would find everybody now on the floor has offered an extraneous amendment to pending legislation. That is not unusual. It is called for in the Senate rules. We face it every time we bring up a bill. What would be counterproductive is if you offer an amendment that becomes like throwing a wrench into the crankcase; you strip all the gears and shut everything down. That is trouble.

That is not the case here. We have already voted on this. We know there is wide bipartisan support. This isn't throwing a wrench in the crankcase; this is advancing a part of the Energy bill that ought to advance.

I will repeat, you have to be completely oblivious to reality not to understand we have a serious energy problem. Part of it is going to be solved by enhanced production, part by conservation, and part by efficiency. But another part of it is going to be solved some way, someday, somehow by a renewable fuels title that represents an advancement in our ability to produce ethanol and other renewable fuels. We are going to do that. We can do it sooner or later. We can do it now or we can wait. But I submit to you this: Given what we face in this world, the threat of terrorism, cutting off an energy supply to our country, 60 percent of our oil coming from outside of our shores, much from troubled parts of the world, we had better get the entire Energy bill up and get it done. I pledge—and I think the Senator from New Mexico will recognize I was a constructive part of his deliberations and voted for it and signed the conference report—I will again be a constructive part of those deliberations.

But if we are not going to get an energy bill up here, my colleague has every right to come to the floor and try to advance this renewable fuels provision. I support that. It is an appropriate thing to do. I don't believe it should impede us in any way. We can do it in a half hour. We know it, we know what it is, and we know what it will do for this country. It cannot be suggested this somehow is going to slow down this bill; it will not and it need not. The only thing that will do that is if those who decide they don't want this piece of the Energy bill to advance decide to find a way to interrupt this amendment.

Having said all that, I will say again it is not about headlines for anybody. It is about the right of Senator DASCHLE to offer an amendment that is important, which has already been discussed in the Senate. I hope the Senate will have a vote on it and pass it and move on and deal with the underlying bill and pass it when we have solved the definition problem. I support a moratorium, and I believe since we have had a moratorium for 5 years previous, we can find a way to solve the definition problem and continue a moratorium with respect to Internet taxation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I wish the Senator from Arizona were here, because I would like to tell him I agree with many of the things he said. I certainly did not come to the floor—in fact, I left after the last vote, assuming I would not be back down here. I thought we were going on with something and that his bill, which had been debated, although it had a number of small amendments—I thought it would go through here and become law. But I have to admit between that little visit to my office and what I got on the phone about 25 minutes ago were very different. I don't want to be accusatory; I just want to say the minority leader, over a long period of time, has been in the same predicament we have all been in with reference to an Energy bill. He has been in the same predicament regarding ethanol as we have. We produced the first bill this year that had ethanol in it. As a matter of fact, everybody remembers that comprehensive bill was defeated by two votes in a cloture. It got 58 votes—that first one.

What we have is somebody has taken a piece of the Energy bill and attached it not directly to the McCain amendment but to the tree on the side, as an amendment which will fail when McCain passes. Nonetheless, I guess making the point that you had a vote on ethanol does somebody something.

AMENDMENT NO. 3051 TO AMENDMENT NO. 3050

Mr. DOMENICI. Mr. President, I want to suggest I am very pleased this happened, because I now send to the desk S. 2095 as an amendment to the Daschle amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 3051 to amendment No. 3050.

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

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the reading of the amendment.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Can the Chair give the Senator from Nevada an idea of how long it would take to read the amendment?

The PRESIDING OFFICER. The Parliamentarian advises the Chair that the inquiry is not in order while the amendment is being read.

Mr. DOMENICI. I did not hear the Chair.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that an inquiry is not in order during the reading of an amendment.

Mr. DOMENICI. I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. REID. I object.

The PRESIDING OFFICER. There is objection. The clerk will continue with the reading of the amendment.

The legislative clerk continued with the reading of the amendment.

Mr. REID. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The inquiry is not in order.

Mr. REID. It is not in order?

The PRESIDING OFFICER. The regular order is the reading of the amendment. The clerk will continue.

The legislative clerk continued with the reading of the amendment.

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

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator may not reserve the right to object.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue with the reading of the amendment.

The legislative clerk continued with the reading of the amendment.

Mr. DOMENICI. Mr. President, I ask unanimous consent that there be a temporary holdup in the reading of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object. I don't know what "temporary" means.

Mr. DOMENICI. Will the Senator object if it was understood that the reading could continue as soon as we finish our discussion? Temporarily, just 5 minutes per side and then the reading will continue.

Mr. REID. Reserving the right to object, Mr. President, it is my understanding the Senator from New Mexico is asking that there be 10 minutes of debate equally divided; following that, the reading of the amendment will continue?

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. And nothing will change.

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

Mr. DOMENICI. Mr. President, might I engage in a conversation with the distinguished Senator from Nevada and talk for a minute and tell him what is happening?

What I sent to the desk is a bill we will now call S. 2095, the comprehensive bill that we took to the Senate floor that Senator DORGAN alluded to. It was H.R. 6. We heard arguments that it was too expensive. This bill is no longer expensive. As a matter of fact, it is negative cost. It puts money back in the Treasury.

We heard that Republicans could not vote for it, and some Democrats, because of MTBE. That is out of this bill. It is no longer there.

I went back to the drawing board, took out direct spending, the raising of revenue was taken out of this bill, and

it was put in another bill. So there is no raising of revenue that goes in this bill. It is in the tax bill that will be up next week.

What I came to the floor of the Senate to do, and I say this to the distinguished acting leader of the minority, was to see, rather than piecemeal this bill, if we couldn't get an agreement that S. 2095 could become the subject matter and that we may have three or four or five amendments to a side. That is what I propound to the Senator from Nevada.

I know how strongly Senator DASCHLE feels about this energy bill as it pertains to all the items he wants, including ethanol, and all the other items I described. He would have no objection to any of them. MTBE is out of the bill. It is no longer subject to criticism because it costs too much. As a matter of fact, it is about as cheap a bill as you can get and still get an energy bill.

It does a lot of exciting things. With reference to the electric grid, it does great things to eliminate gridlock and to do other very important activities. I do not want to waste the time of Senator REID going through this bill because I think he knows what we are doing and he knows what he is doing.

I want to save this energy bill. I want to make sure everybody knows it is still alive and that it is good what happened here because some time in the next couple of days, we are going to prove that this energy bill still lives. I do not intend to kill the amendment of Senator MCCAIN. That is not my purpose. I want to make sure everybody knows and everybody in this country knows we have a good energy bill that is alive, and we have the tax portion alive in another area. Frankly, I did not think we could get this far. But I thank the distinguished minority leader for opening up this door.

He opened it a little bit, and I made a nice wide door and put in the whole bill. That is what this is about. A little tiny piece of the bill yielded an opportunity to put the whole bill in here. Now all I ask is that we sit down and make an agreement that this bill be looked at—I could say to the distinguished Senator who spoke about a bill that had been passed some time ago, I can almost guarantee him that if he liked that bill, he will much more like this bill than the one he voted for before. It is much better. It is much more streamline. It accommodates a lot more interests, and I believe we could get an overwhelming majority of votes for it.

I want to close by saying if there is anybody in this country who does not know there is an energy crisis, then they must have been sleepwalking for the last 6 months because we are in a crisis of high order.

I am offering a way to make sure we keep alive an energy bill that will work.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it goes without saying, but I will say it again, I have worked with Senator DOMENICI during my entire 18 years in the Senate. During more than half of that time, he and I have worked as the chairman or ranking member, as the majority of the Senate goes back and forth, on one of the most important subcommittees there is in the appropriation process, Energy and Water, so we have worked very closely together.

We are partners in that legislation, and he is my friend. However, on this energy bill let me say this: First, today of all days is a day when the Supreme Court of the United States was hearing a most important case, a case the Vice President of the United States has stalled for 3½ years. He had meetings during the transition period after President Bush and he were elected, meetings with people from the energy field, oil companies, automobile manufacturers, but we are not certain, people from the nuclear industry.

All the American people have asked for in 3½ years is tell us who they met with, what they talked about, and when the meetings took place. He has refused. Now this matter has gone to the Supreme Court, and that argument was held today. These were secret meetings, I guess is what they are, and if there was ever a time in the history of the country where we need to debate the energy crisis, as some refer to it openly, it is today. The first step to that would be to find out who the Vice President met with, why he met with them, what he talked about, and how long the meetings took place. He has refused to do that.

I also say that this country has arrived at a point in time where we are not going to be able to do major legislation. Let me give some examples with rare exception. Take, for example, the endangered species bill. The endangered species bill has caused problems in the State of North Dakota, and I know this because I have heard my two colleagues from North Dakota talk about the problems of the endangered species law in North Dakota. But it is not limited to North Dakota; the endangered species law is a problem for most States in the country. The State of Nevada ranks 34th in the number of listings for endangered species.

A number of years ago Senator BAUCUS, Senator CHAFEE, Senator Kempthorne and I tried to do a major revision of that bill. We could not do it. In that same Environment and Public Works Committee, there was a decision made that we needed to do something about Superfund. We could not. We have tried. Senator SMITH, Senator LAUTENBERG, and others on that committee tried. They were at loggerheads. They could not come up with a major revision of that bill.

So the decision has been made by most legislators that the way to improve the Superfund law that now ex-

ists is to improve it by bits and pieces. The way to improve the endangered species law in this country is to do it by bits and pieces. The Energy bill is the same thing.

I say to my friend, we are not going to pass a bill that the Senator from Arizona referred to as the hooters and polluters bill. Why was it referred to as the hooters and polluters bill? Well, many of us think it did nothing to clear up the environment. Where did the hooters come in? One of the ornaments attached to the Christmas tree bill was to give a financial stipend to a Hooters operation some place in the southern part of this country. That is where it got its name.

We are not going to pass major legislation on energy in the near future. What we can do, though, is pass the part on which there is general bipartisan agreement. Ethanol is an example. More than two-thirds of the Senate voted for that legislation. It seems to me entirely logical that we should dispose of that matter. It would do some good to help the energy crisis we all acknowledge is in this country.

As I spoke about earlier today, I throw bouquets to Senators BAUCUS and GRASSLEY for having done what they did in the recent FSC bill by including in that something that is extremely important—section 45, production tax credits for renewable resources—that expands and extends a credit for wind, geothermal, solar, and biomass. That is important. We should pass that measure next week. I think we are going to do that. We should do the ethanol bill now.

My friend from Arizona, the distinguished senior Senator from Arizona, asked, What is going on in the Senate?

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

Mr. REID. I ask that the Senator from Nevada be given an extra 4 minutes and the Senator from New Mexico be given an equal amount of time.

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

The Senator from New Mexico.

Mr. DOMENICI. Is it possible we could take that off the reading of the amendment?

Mr. REID. It is possible. I will think about it after.

Mr. DOMENICI. We would think that it would, but that is a guess, although it would be a pretty good guess.

Mr. REID. I ask unanimous consent that I be given 4 additional minutes, an extra 4 minutes be given to the Senator from New Mexico, and then we go back to reading the amendment when I finish.

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

The Senator from Nevada.

Mr. REID. Mr. President, what I was saying is the Senator from Arizona asked, What is going on in the Senate? I mean, can anyone imagine—and I am paraphrasing—they offered an amendment to energy on a bill that deals with the Internet tax?

My friend from Arizona, who is one of the most astute politicians this country has ever seen, knows what is going on. We are in the Senate. This has been going on for more than 200 years. We have the right to do that. In years past, no one ever considered it anything out of the ordinary.

The problem we have in the Senate today is we do not do anything. In the last 4 weeks, we have voted 11 times. Why? Because amendments are offered to important legislation like FSC and there is a desire to have a vote, for example, on overtime. How much time does Senator HARKIN want to debate that? He will take 10 minutes and vote on it. We have not been given that privilege.

So what is going on in the Senate today is what has gone on for 200 years. The difference is, nothing is ever brought to conclusion because people do not want to vote. The majority has made a decision they do not want to vote, so we do not vote.

So I say to my friend from Arizona, we are doing what has been historically done in this body. Some may ask, Well, Senator REID, why would you ask this amendment be read? Because I feel that offering this amendment of some 800 to 900 pages is only a message that says we are going to continue doing business in the Senate the way we have all year long and do nothing. Everybody knows that we are not going to pass this. It is the same as the endangered species. It is the same as Superfund. We are not going to pass a hooters and polluters bill.

We can take bits and pieces out of that legislation and do some good for this country. I repeat: To do the section 45 production tax credit would be a tremendous boon to this country. We would be able to start producing energy alternatively. It would help the capital markets. There would be construction jobs. I think it is the right way to go.

I am disappointed that my friend from New Mexico, who has worked hard—as my friend from North Dakota said, no one has worked harder on this energy bill than my friend from New Mexico, the distinguished senior Senator, but I say to him, someone I should not be giving advice to because he has far more experience than I have, this bill is not going to pass. I repeat for the third time, look at what we have tried to do with endangered species, look what we have tried to do with Superfund. Those are only two of the numerous other pieces of legislation we need to work on, but let's do them piece by piece. That will be my suggestion.

I will give some thought to taking away my objection to reading the amendment, but I am going to give some thought to that because I think offering this amendment is only a way of preventing our moving forward on this important legislation. I have spoken to the manager of this bill. He thinks that working with Senator

MCCAIN, the chairman of the Commerce Committee, that we can come up with a compromise in a reasonable period of time. It is totally appropriate that we dispose of Senator DASCHLE's amendment. People should vote it up or down. More than two-thirds of the Senate approved it at one time. Why should that change?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. First, I wish to talk about what is going on in the Senate. I could hardly believe my friend—and he is my friend; what he said about our working together is true, but I could hardly believe my ears when he suggested that the Republicans are keeping us from voting in the Senate. I mean, I have a list of what has been going on for the last 3 months. You know, it is nothing. It is not because of the Republicans, but the Democrats on every issue have said they want to filibuster it. We have had more clotures in the last 3 months than any 3 months in the history of the Republic, unless there was one after another on one bill of which I am unaware. So let's talk about that in reality.

Let me say to my good friend Senator REID, if he thinks there is only one good provision in this bill that everybody might vote for, let me tick off what is in this bill and ask you if you think it would be 51 or 61 votes for it. Let me start: Encouraging the production of domestic oil without violating the environment; encouraging the development of more natural gas from three sources, all American; encourage the building of necessary infrastructure such as the Alaska natural gas pipeline; encourage more renewable energy—everybody speaks about it, this bill promotes it, and we can't pass it—promote energy efficiency; promote clean coal technology; increase R&D on a variety of technologies and improve our electricity grid.

These are the things in this bill. I don't care how big it is, how many pages are in it. If the distinguished minority leader can bring up one piece of it because it is popular, then I believe I ought to be entitled to bring up the rest of the bill which is also popular. Remember, there is no MTBE in it. If we would have brought that first bill here without MTBE in it, it would have already passed; we would be finished. Yet this bill is more stripped down than that. Because in addition to MTBE not being in it, I have already told you that it doesn't cost anything. I have told you the tax provisions are somewhere else, and I have just given you a litany of what is in it.

I submit, before we are finished, if it takes all night or however long you want us to be here reading it, that we will have a vote and it will be a cloture on this bill and I submit there will be two of them. There will be one on Senator DASCHLE's and one on Senator DOMENICI's. I believe Senator DASCHLE's will fail and I believe mine will pass, and what we will have is we

will have the hope and have alive the idea that a good Energy bill, which we have gone through and swept with all kinds of brushes to make it a bill that everybody likes, will be pending before us.

I am hopeful that in the process we will not have taken so much time that Senator MCCAIN can't get his bill done. I am very hopeful of that. I hope Senator MCCAIN's staff understands that all I have been speaking of, unless we have to stay here all night and tomorrow to get this read, I am looking for the time, looking ahead here and figuring that you can get your amendment done and we can get an important decision by this institution, in light of the terrific price of gasoline, whether they want an energy bill or not. That is going to be a good one to watch and it will be a good one to have a vote on, I will tell you.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 15 seconds remaining.

Mr. DOMENICI. And how much does Senator REID have?

The PRESIDING OFFICER. The Senator has 8 seconds.

Mr. DOMENICI. Do you want to yield our time back?

Mr. REID. I would like an additional 1 minute on our side with the same rule in effect.

Mr. DOMENICI. I would take 1 in addition in case you say something that needs to be rebutted.

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

Mr. ALLEN. I ask the Senator from New Mexico to yield for the purpose of a question.

Mr. DOMENICI. Certainly.

Mr. ALLEN. Mr. President, I ask the Senator from New Mexico, while all this discussion is going on about the underlying bill, and while it is interesting to talk about endangered species and Supreme Court cases and so forth, and energy is important, clean coal and new sources of natural gas are important, and oil, and a variety of other things, the fuel cell and so forth—at any rate, the reality is when you speak of endangered species, there are endangered jobs in rural America.

Even though this debate is on the ethanol matter, the Corn Growers Association is very much strongly in favor of making sure there is no taxation on the Internet. They realize how important that is; that this measure be passed for jobs and economic growth in rural America. There are 35 States in the Corn Growers Association.

I would ask the Senator from New Mexico, what is the purpose of reading this title of this bill as opposed to acting on the Energy bill, which I consider a detour and a tangent off of the Internet access tax issue, or even addressing issues from those who want to tax the Internet and may want to put on some more amendments? Why do we have to spend time listening to the melodious

voice of our clerk reading off the title of your amendment?

Mr. DOMENICI. Senator, I yielded to you without knowing you were going to use all the time I had remaining.

Mr. ALLEN. I am sorry.

Mr. DOMENICI. If there is anybody I would like to do that for, I would do it for you, but how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 32 seconds remaining.

Mr. DOMENICI. Senator, I am going to try to answer your question when I get back on my feet, but I yield the floor at this point.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the Senator from New Mexico has stated the bill he offered is not the so-called hooters and polluters bill, so named by the distinguished Senator from Arizona, but in fact it is a slimmed down version of that bill.

I ask through the Chair of my friend from New Mexico, is that, in fact, the case? Could you answer that yes or no? The bill that is now before the Senate is a slimmed down version of the so-called hooters and polluters bill?

Mr. DOMENICI. Senator, I can only do that in dollars. The original bill cost \$31-plus billion; this one costs negative \$1.2 billion.

Mr. REID. I ask, does this bill have in it the section 45 production tax credit?

Mr. DOMENICI. No, it does not.

Mr. REID. I ask my friend from New Mexico, would you support—supporting your bill here, that is the one I have offered as an amendment, would you support the FSC bill with the section 45 production tax credit in it?

Mr. DOMENICI. Sure.

Mr. REID. Mr. President, I am going to, at this time, that being the case, recognizing that what the Senator has offered is a slimmed down version and is not the original bill, and that he would support the provision in the FSC bill—I think a combination of those two might make some interesting votes here in the next day or two—I withdraw my objection to waiving reading the amendment.

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

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

Mr. DOMENICI. Could the Senator tell me what you said about votes in the next couple of days? I didn't get it.

The PRESIDING OFFICER. (Mr. ALEXANDER.) The Senator from Nevada.

Mr. REID. I know the Senator from Virginia wants to speak on the underlying bill. I will be as brief as I can.

What I told the Senator from New Mexico, through the Chair, is that it was my understanding that the bill that was offered in the form of an amendment was nearer the original bill that was offered and cloture was not invoked on it previously. I have been told by my staff and others that it is a slimmed down version of the original

bill. That was confirmed by the Senator from New Mexico.

I further went on to say, to ask the Senator from New Mexico if it had the section 45 production tax credit in it. He said no. I then went further and said, would he, the Senator from New Mexico, support the FSC bill, which does have the production tax credits in it, and he said he would.

I then said, that being the case, that we have a smaller version of the original Energy bill than I originally thought, and, further, that he would support the FSC bill, including the production tax credit provision that was placed in there by Senators GRASSLEY and BAUCUS. I then said I think that is going to make for some interesting votes in the next few days.

Mr. DOMENICI. So you said about 2 days? I still didn't get that.

Mr. REID. I would assume the alternatives, I say through the Chair to my friend from New Mexico. I assume the majority has a number of alternatives. They can debate endlessly the amendment you have offered, the amendment the Senator from Arizona has offered, and we already have cloture having been filed on the minority leader's amendment—so it is possible, I don't know if the majority has made that decision, they could file cloture on your amendment.

Mr. DOMENICI. That is correct.

Mr. REID. They could file cloture on the amendment of the Senator from Arizona. That is why I said in a couple of days. It takes 2 days for these cloture motions to ripen. Maybe Thursday we could have a vote on all these matters, and I said it would make for some interesting votes.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum. I don't quite understand, I say to both Senators. I want to help, but I don't understand.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. McCAIN. Mr. President, could I ask what the parliamentary situation is?

The PRESIDING OFFICER. There is a pending Domenici second-degree amendment to the pending Daschle first-degree amendment to the underlying text of the bill.

Mr. McCAIN. So we are debating the Domenici second-degree amendment to the Daschle amendment to the substitute or to the original S. 150.

The PRESIDING OFFICER. That is correct.

Mr. McCAIN. I yield the floor. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I have been listening to the debate and the

reading of titles of amendments. We have seen detours, political posturing, partisanship, criticizing of the Vice President, and all sorts of cover for past obstructionism.

Obviously, things such as the geothermal are important. Clean-coal technology is important. Biomass, solar photovoltaic, energy policy, exploration of the North Slope of Alaska, natural gas pipelines for greater quantities of natural gas—all of that is very important. Then you listen to people talk about endangered species. A Senator was talking about endangered species. I am thinking: You know what is endangered in this country—particularly out in rural areas—is jobs for people in rural America.

The main point of this debate and where we are supposed to be today is those who want to have the Internet free from taxation and others who have other ideas. The Senator from Texas, Senator HUTCHINSON, had an amendment. We voted on it, and we are supposed to be considering other amendments on Internet tax. Now we are off on a tangent of ethanol. First it was ethanol, and now it is the larger Energy bill. I was thinking the key people who like the ethanol provision are people who grow corn in America.

There is an association, the American Corn Growers Association. To get everyone to focus a second on the main issue, which is whether the Internet ought to be taxed at the State and local level, I will share with my colleagues what the American Corn Growers Association actually thinks of S. 150, the bill to make sure there is not taxation on the Internet.

They said they support S. 150. They want to make the existing Federal moratorium against State and local taxes on Internet access, as well as multiple and discriminatory taxes targeting interstate commerce, permanent and national in scope. They feel the bill would ensure technological neutrality so all Internet users, including their members—being the corn growers—are protected by the Federal moratorium no matter what technology they use to access the Internet. The Corn Growers Association feels the new technologies are particularly key to ensuring Internet access to rural America.

They are exactly right, whether that is through DSL lines, through wireless, satellites, or electric power lines, there are a variety of ways rural America needs to get access to broadband.

The American Corn Growers Association, which represents people and interests of corn producers in 35 States, works very hard to enhance farm income. They care about protecting rural communities. They say they recognize the need to have a strong and stable farm economy, not just for the farmers, but for consumers, as well. They feel the Internet Tax Freedom Act and S. 150 is intended to exempt access to the Internet from taxation, including, they recognize, transmission. The Corn

Growers feel to exempt from taxation the transmission is an integral part of accessing the Internet. They feel failure to amend the existing law would make consumers susceptible to substantial taxation of their Internet access. They also say even the definition of Internet access is outdated and does not cover all forms of technology used to access the Internet that exists today.

The wording of the original statute is exclusive of consideration of the multiple technological advancements and changes that have developed in business since 1998. This is inadequate, says the Corn Growers Association, and will almost certainly result in new taxes imposed on Internet users. They feel keeping the current language in place will perpetuate a competitive disadvantage among providers by exempting some of the types of high-speed Internet access while other types would be taxable.

We have the American Corn Growers Association, which undoubtedly would be for ethanol provisions proposed on the floor, but clearly the American Corn Growers Association, as well as dozens of organizations, whether technologically involved or not, care a great deal about whether broadband is going to be taxed.

All these parliamentary procedures and all these delays and tangents and detours take us away from the point at hand and the decision that needs to be made by the Senate. It ought to be done as quickly as possible. The question before us is whether American consumers are going to be hit on average with 17-percent telecommunication taxes on their monthly Internet service bill. The question is whether Internet service bills will look like a telephone bill, with multiple taxes from the localities, from the States, and even the Federal Government.

My friends, it is absolutely essential, I say to my colleagues, that we act on the Internet access tax issue. As more and more taxes get imposed, it is nearly impossible to ever get those taxes off. Look at your telephone bill. There is a slew of taxes; some that are incomprehensible. There is one tax placed on there in 1898 as a luxury tax. It was a luxury tax in 1898 to finance the Spanish-American War. Guess what? We are still paying that tax. That war has been over for over 100 years.

That is why it is important we act and not delay, not dawdle, not get off on tangents. If we do get off the point, we need to get back on the subject, the point of voting and taking a stand on whether Members stand on the side of freedom and opportunity for people by not having Internet access hit with 17-percent taxes or more, or whether we will stand on the side of freedom, where the broadband can get rolled out—not just to city areas and suburban areas, but out to the country, to rural areas so people can have access if they have their own business, access to sell goods or services all over the

world, or all over the country, as the case may be.

If we continue to delay on this issue, we will see what has happened in the last 2 years. What has happened in the last 2 years, a little over 2 years, is unelected bureaucrats come up with revenue rulings or taxation rulings that have found a loophole in the original moratorium and have started imposing taxes, about \$40 million worth of taxes across the country. That is not a great deal in money, but nevertheless taxing DSL is a great concern to many. When they tax Internet access, that means fewer people can afford it. The reason most people do not have Internet access is they cannot afford it. We are concerned about an economic digital divide. If you want to close the divide and make sure people all over this country have greater ability to have access to the Internet, and the benefits therefrom—whether education, access to information, commerce, telemedicine, a variety of other applications, particularly with broadband—then we must not tax Internet access. Adding taxes will not help.

I hope we will make a decision this week. Let the American people know where we stand. More importantly, let those companies that will have to make investments in the range of tens of millions of dollars to serve various areas know what the policy of this country will be. In the past, the question has been one of freedom—making sure the Internet was free from taxation. We see great growth, great opportunity. That should be the approach for the future, from my point of view.

A decision needs to be made so the folks planning expansion of the Internet—those companies, those entrepreneurs—know what the playing field will be in the future. It is my view, looking at the votes, whether on the motion to proceed or the most recent amendment from the senior Senator from Texas, the vast majority of the Senators realize the Internet ought to remain free from burdensome, onerous taxation. A majority of the Senators recognize we need to update the definition of Internet access to make sure the DSL, wireless and other methods of accessing the Internet, are not subject to these burdensome taxes.

From these votes, at least in the early indications, it appears that a majority of Senators recognizes that we ought to be closing the economic digital divide. A strong majority of Senators recognizes there are innovations, there are new ideas, and we want to make sure this country will be in the lead for adaptations, the benefits, prosperity, and opportunity that will flow from new advancements in technology. We certainly do not want to be increasing the costs to anybody in this country for logging on to the Internet everyday.

In my view, if the Senate does not act, if the Senate does not invoke cloture and pass an updated Federal moratorium on Internet access taxation,

what we will see are State and local tax commissars imposing telecommunication-based taxes that average about 17 percent on the Internet. This moratorium that we are trying to get action on here on the Senate floor is designed to protect consumers and avert the adverse impact of taxation on real people in our real world and in our economy.

So while there are all these machinations and maneuverings and parliamentary procedures and political posturing and tangents and detours, I would ask my colleagues, in the midst of this, if we are going to have votes on all these other ideas, some of which have a great deal of merit—and maybe, for those of us who do not want to tax the Internet, we should feel somehow applauded or grateful that people would want to attach salutary, positive ideas; they figure this is going to pass, and this is the way to get those other ideas done—but as you get on to these other non-germane issues, let's act on them quickly, and let's also keep our eye on the ball.

While folks may care about endangered species, let's remember, real people in the real world who we want to make sure have the opportunities that come from having access to broadband and Internet, whether they are a small business owner, a student, or somebody who is looking for a better job, let's make sure we pay attention to the issue at hand, the underlying measure; and that is, to make sure the Internet stays free from onerous and burdensome taxation for all people all over the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I am kind of surprised that the Corn Growers Association of America is supporting the Allen-Wyden legislation. I am sure that if they really understood the ramifications of this legislation, they would not be supportive of it because they would understand that if that legislation passes, their real estate taxes or other taxes they are paying would increase.

I am going to make a point of getting in touch with them. I received the President's Award last year from the Corn Growers, from Fred Yoder, who was their president, and worked very hard, several years ago, to get the petroleum people and the Corn Growers together to come up with the ethanol compromise that is now in the Energy bill.

I am glad the Senator from Virginia has pointed out they are supporting this legislation. I am going to get in touch with them right away and share with them some information they might not have had at the time they came out to support this legislation.

This afternoon the Senator from Arizona quoted from a policy paper of the National Governors Association and mentioned the criteria that the National Governors Association said

should be in any bill that deals with this question of Internet taxation. I would like to go through that policy paper and share that with my colleagues in the Senate.

First: NGA supports, as I do and as the Presiding Officer does, reasonable extension of the Internet Tax Freedom Act.

In this policy paper that was quoted from:

The NGA calls upon Congress to adopt S. 2084, the "Internet Tax Ban Extension and Improvement Act." This compromise bill, sponsored by Senators Alexander and Carper—

and, by the way, Senator VOINOVICH—offers a reasonable extension of the moratorium while addressing industry concerns for technological neutrality without unduly burdening state and local governments.

I am not going to go into all these, but I ask unanimous consent that this policy paper be printed in the RECORD.

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

NGA SUPPORTS REASONABLE EXTENSION OF THE INTERNET TAX FREEDOM ACT

The National Governors Association (NGA) supports extending the federal ban on state and local taxation of Internet access in a manner that is technology neutral and fiscally fair to state and local governments. Unfortunately, two pieces of legislation currently moving through Congress violate these basic principles. The House of Representatives has already passed H.R. 49 and S. 150 is currently under consideration in the Senate. By permanently expanding the definition of tax-free Internet access, both bills rob state and local governments of existing revenues while creating a tax free zone for future communications services.

The NGA calls upon Congress to adopt S. 2084, the "Internet Tax Ban Extension and Improvement Act." This compromise bill, sponsored by Senators Alexander and Carper, offers a reasonable extension of the moratorium while addressing industry concerns for technological neutrality without unduly burdening state and local governments.

BACKGROUND

Although the U.S. Constitution grants Congress broad authority to regulate interstate commerce, the federal government, historically, has been reluctant to interfere with states ability to raise and regulate its own revenues. State tax sovereignty is a basic tenet of the federalist system and is fundamental to the inherent political independence and viability of states. Only in the most narrowly defined exceptions has Congress crossed that line.

The 1998 "Internet Tax Freedom Act" (ITFA), which imposed a moratorium on state or local taxation of Internet access, is one exception to this long held practice. The ITFA expired briefly in 2000 but Congress renewed it through November 1, 2003. Designed to "jump start" the then-fledgling Internet industry, the moratorium included three important restrictions to protect states:

- 1) it applied only to new taxes—existing taxes were grandfathered;
- 2) the definition of Internet access, while broad, excluded telecommunication services; and
- 3) the bill expired after two years to allow Congress, states and industry the opportunity to make adjustments for rapidly developing technologies and markets.

THE NGA POSITION

Today, over 130 million Americans access the Internet using everything from dial-up

modems, high-speed broadband, and Digital Subscriber Line (DSL) offerings to wireless technologies and even satellite and power line connections. The Internet's broad reach and technological promise is also transforming entire industries such as telecommunications, which is rapidly migrating all of its services to Internet based technologies and rolling out new services such as Voice Over Internet Protocol (VOIP).

As Congress considers legislation to extend the moratorium, NGA encourages members to adhere to the following guidelines to maintain the balance struck by the original moratorium, a balance that encouraged the growth of the Internet but still respected state sovereignty:

1. DO NO HARM; ANY EXTENSION OF THE MORATORIUM SHOULD PRESERVE EXISTING STATE AND LOCAL REVENUES.

The original moratorium protected existing state revenues by grandfathering tax laws in place before 1998 and prohibiting only new taxes on Internet access. In contrast, H.R. 49 and S. 150 would cost states much needed revenue by repealing the grandfather clause and expanding the law to prohibit taxes on telecommunications "used to provide Internet access." Stating that the proposed bills would trigger a possible point-of-order under the Unfunded Mandates Reform Act, the Congressional Budget Office (CBO) estimates removing the grandfather provision would cost states between \$80 and \$120 million annually. The effect of the second provision could be even greater. "[D]epending on how the language altering the definition of what telecommunications services are taxable is interpreted," the CBO said, "that language also could result in substantial revenue losses for states." With state and local governments collecting over \$18 billion in telecommunications taxes annually, any significant change in the taxability of telecommunications could cost states billions of dollars. At a time when state and local governments are facing large increases in mandatory spending and stagnant revenue growth, Congress should not exacerbate state fiscal problems by interfering with the collection of existing taxes.

2. BE CLEAR; DEFINITIONS MATTER.

The original moratorium split the definition of Internet access into two parts: a broad and inclusive description of Internet access and an absolute exclusion of telecommunications services from the moratorium. The definition read:

"Internet access means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. Such term does not include telecommunications services."

The exclusion of telecommunications services protected states by clarifying that Internet access was a separate, distinct and limited service. It also clearly preserved existing state and local taxes on telecommunications services that amounted to over \$18 billion in 1999. The definition, however, allowed some jurisdictions to tax the telecommunications component of certain broadband technologies like DSL while others remained tax-free. This perceived inequity led to a push to alter the definition of Internet access in H.R. 49 and S. 150 to make tax free telecommunications services "used to provide Internet access," as a means of making the ITFA technology neutral. This change, however, is too broad. Not only would it prohibit taxes states and localities are collecting on DSL, it would also exempt all telecommunications services used anywhere along the Internet—from the end-user

all the way to and including the "backbone." Compared to the original moratorium, which expressly exempted telecommunications from its scope, H.R. 49 and S. 150 could ultimately put at risk most, if not all, state and local telecommunication tax revenue. (See attached chart.)

H.R. 49 and S. 150 would also intensify a long-standing problem with the original definition: the unlimited ability to bundle together content and "other services" into a single offering of tax-free Internet access. Services such as VOIP highlight the risk states face from this broad definition. Unlike traditional telecommunications services, VOIP uses the Internet to transmit voice communications between computers, phones and other communications devices. Industry observers expect 40 percent of all telephone calls in the United States to be Internet based within five years. If VOIP is allowed to be bundled with Internet access into a single tax-free offering, and telecommunications used to deliver that offering are also tax free, states could quickly see their telecommunications tax base erode to nothing. Language in S. 150 as amended and S. 2084 that requires service providers to unbundled taxable services from non-taxable Internet access is helpful, but only if the universe of what constitutes Internet access is actually limited.

3. STAY FLEXIBLE—A TEMPORARY SOLUTION IS BETTER THAN PERMANENT CONFUSION.

Rapid pace innovation in the Internet and telecommunications industries makes it difficult to define accurately these complex and ever-changing services. The original moratorium was made temporary in part for this reason—to provide Congress, industry and state and local governments with the ability to revisit the issue and make adjustments where necessary to accommodate new technologies and market realities. The fact that the courts, the Federal Communications Commission and Congress are all in the process of examining and redefining the core elements of what constitutes telecommunications and Internet access underscores the need for caution. With so much uncertainty, a temporary extension of the moratorium is the best way to avoid unintended consequences from a permanent moratorium.

CONCLUSION

NGA supports S. 2084 because it best reflects a balance between state sovereignty and federal support for the Internet. First, it protects states by drawing a line in the sand to prohibit new taxes on Internet without interfering with existing state laws. Second, by making the connection from a consumer to their Internet access provider tax free, the Alexander-Carper bill actually levels the playing field for competing technologies without overreaching. Third, it gives Congress, industry and states a chance to revisit the Act by making the moratorium expire after two years. For these reasons NGA supports S. 2084 as a true compromise that is fair to industry, respectful of states, and good for consumers.

STATE AND LOCAL TELECOMMUNICATIONS TAXES POTENTIALLY AT RISK UNDER H.R. 49/S. 150 (\$ millions)

	Revenues at risk under H.R. 49 ¹	Revenues at risk under S. 150 as amended ²
Alabama	\$213	\$115
Alaska	18	13
Arizona	308	146
Arkansas	146	101
California	1,495	836
Colorado	293	169
Connecticut	276	170
Delaware	27	17
District of Columbia	120	116

STATE AND LOCAL TELECOMMUNICATIONS TAXES
POTENTIALLY AT RISK UNDER H.R. 49/S. 150—Continued
(\$ millions)

	Revenues at risk under H.R. 49 ¹	Revenues at risk under S. 150 as amended ²
Florida	1,490	1,059
Georgia	344	182
Hawaii	51	48
Idaho	37	3
Illinois	1,000	807
Indiana	265	148
Iowa	137	49
Kansas	172	74
Kentucky	284	192
Louisiana	207	69
Maine	67	28
Maryland	369	222
Massachusetts	411	256
Michigan	678	477
Minnesota	226	135
Mississippi	190	90
Missouri	334	216
Montana	46	7
Nebraska	101	59
Nevada	52	22
New Hampshire	65	56
New Jersey	699	473
New Mexico	125	101
New York	1,904	1,418
North Carolina	308	225
North Dakota	32	22
Ohio	680	345
Oklahoma	258	166
Oregon	113	63
Pennsylvania	672	547
Rhode Island	100	77
South Carolina	196	90
South Dakota	48	25
Tennessee	348	196
Texas	1,724	1,213
Utah	160	89
Vermont	30	17
Virginia	329	148
Washington	492	331
West Virginia	73	36
Wisconsin	363	255
Wyoming	22	13
Total:	18,098	11,732

¹H.R. 49. Figures assume the loss of all state and local telecommunications transaction taxes and business taxes as companies migrate their telecommunications services to the Internet.
²S. 150. Includes all telecommunications taxes except for 911 fees and business taxes such as property taxes, capital stock taxes on net worth, or sales and use taxes on business inputs.

Source: Special Report/Viewpoint "Telecommunications Taxes: 50-State Estimates of Excess State and Local Tax Burden," Robert Cline, State Tax Notes, June 3, 2002.

Mr. VOINOVICH. First, they talk about: "DO NO HARM. Any extension of the moratorium should preserve existing state and local revenues."

The next point they make is: "BE CLEAR. Definitions matter."

By the way, in the area of "DO NO HARM," they mention the fact:

With state and local governments collecting over \$18 billion in telecommunications taxes annually, any significant change in the taxability of telecommunications could cost states billions [billions] of dollars. At a time when state and local governments are facing large increases in mandatory spending and stagnant revenue growth, Congress should not exacerbate state fiscal problems by interfering with the collection of existing taxes.

In terms of the definitions, they believe that:

The original moratorium split the definition of Internet access into two parts: a broad and inclusive description of Internet access and an absolute exclusion of telecommunications services from the moratorium. The definition read:

"Internet access means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. Such term does not include telecommunications services."

The exclusion of telecommunications services protected states by clarifying that

Internet access was a separate, distinct and limited service.

They go on to say, under definitions: [The House bill] and S. 150 would also intensify a long-standing problem with the original definition: the unlimited ability to bundle together content and "other services" into a single offering of tax-free Internet access. Services such as VOIP—

That is being able to use your computer to make telephone calls—

highlight the risk states face from this broad definition. Unlike traditional telecommunications services, VOIP uses the Internet to transmit voice communications between computers, phones and other communications devices. Industry observers expect 40 percent of all telephone calls in the United States to be Internet based within five years. If VOIP is allowed to be bundled with Internet access into a single tax-free offering, and telecommunications used to deliver that offering are also tax free, states could quickly see their telecommunications tax base erode to nothing [nothing]. Language in S. 150 as amended and S. 2084 that requires service providers to unbundle taxable services from non-taxable Internet access is helpful, but only if the universe of what constitutes Internet access is actually limited.

It also goes on and talks about "STAY FLEXIBLE. A temporary solution is better than permanent confusion." Did you hear that? "A temporary solution is better than permanent confusion."

Rapid pace innovation in the Internet and telecommunications industries makes it difficult to define accurately these complex and ever-changing services. The original moratorium was made temporary in part for this reason—to provide Congress, industry and state and local governments with the ability to revisit the issue and make adjustments where necessary to accommodate new technologies and market realities. The fact that the courts, the Federal Communications Commission and Congress are all in the process of examining and redefining the core elements of what constitutes telecommunications and Internet access underscores the need for caution.

We are in an era right now of unbelievable change.

With so much uncertainty, a temporary extension of the moratorium is the best way to avoid unintended consequences from a permanent moratorium.

Their final conclusion—and I am sure the Presiding Officer is very happy about this—is:

NGA supports S. 2084 because it best reflects a balance between state sovereignty and federal support for the Internet. First, it protects states by drawing a line in the sand to prohibit new taxes on Internet without interfering with existing state taxes. Second, by making the connection from a consumer to their Internet access provider tax free, the Alexander-Carper bill actually levels the playing field for competing technologies without overreaching.

That is a point that the Presiding Officer has made several times on the floor of the Senate.

Continuing:

Third, it gives Congress, industry and states a chance to revisit the Act by making the moratorium expire after two years. For these reasons NGA supports S. 2084 as a true compromise that is fair to industry, respectful of states, and good for consumers.

Now, I contacted the National Governors Association earlier today.

I asked them if they could opine on the McCain amendment that was so eloquently spoken to by Senator MCCAIN. They worked very quickly and came back with a letter to Senator FRIST, majority leader, and Senator DASCHLE, Democratic leader. It is signed by Governor Brad Henry, Oklahoma, Chair, Committee on Economic Development and Commerce, and Governor Michael Rounds, South Dakota, Vice Chairman, Committee on Economic Development and Commerce.

I would like to read from that letter.

Dear Senator Frist and Senator Daschle:

The National Governors Association . . . supports an Internet access tax moratorium that benefits consumers, is fair to industry, and does no harm to states. As the Senate once again considers the moratorium, we urge you to oppose efforts that would deprive states of existing tax revenues and to support the compromise proposal to be offered by Senator Alexander and Senator Carper and embodied in S. 2084, the "Internet Tax Ban Extension and Improvement Act."

NGA supports the Alexander/Carper compromise because it best reflects the appropriate balance between state sovereignty and federal support for the Internet. First, it protects states by prohibiting new taxes on Internet access without interfering with existing state revenues. Second, by making the connection from a consumer to their Internet access provider tax free, the compromise language encourages broadband deployment by leveling the playing field for all technologies.

That is what we are trying to do. The amendment we tried to get in last year and which will be offered by the Senator from Tennessee tries to level the playing field for all of the providers of this access.

Third, because it is temporary, it gives Congress, industry, consumers, and states a chance to revisit the issue and make adjustments where necessary to accommodate new technologies and market realities.

Here is the paragraph that I think gets to the heart of the matter:

The recent proposal by Senator McCain, while an improvement on the bill sponsored by Senator Allen and Senator Wyden . . . does not go far enough to protect states. By adopting the broad definition of tax-free Internet access used in S. 150—

That is the same definition that is in the Wyden-Allen bill; the same definition is in the amendment proposed by Senator MCCAIN—

and terminating the grandfather protections before the end of the moratorium, the McCain proposal would still deprive state and local governments of existing tax revenues and violate the principle of "do no harm."

The nation's governors call on the U.S. Senate to oppose the McCain amendment and support Senator Alexander and Senator Carper in their efforts to strike a reasonable compromise to extend the Internet access tax moratorium.

The Senator from Tennessee, Senator ALEXANDER, Senator CARPER, and Senator VOINOVICH, who is the third sponsor of S. 2084, should be very happy

with the support we are getting from the National Governors Association. I hope our colleagues take that into consideration.

In addition to the letter from the National Governors Association, I would like to share a letter I recently received from the Ohio Department of Taxation. In fact, I have never seen a letter from the Department of Taxation of the State of Ohio turned around so quickly in my life. We faxed them the McCain proposal. We asked them to give us their opinion of the McCain amendment. I suggest to my colleagues that before they vote on this legislation, they take it upon themselves—as a matter of fact, I think it is an obligation for them—to get in contact with their State departments of taxation to get a read from them about what impact this amendment would have on their respective States. Some of my colleagues, frankly, are supporting this and may not want to hear the impact it is having on their State. But I think it is incumbent upon them at least to find out what their States think about this proposed legislation and the impact it would have on their respective States.

I am going to read a portion of this letter. It reads:

Dear Senator Voinovich:

We reviewed the text of the McCain language that you FAXed to us this morning. Our preliminary impression is that this bill is very similar to the version of S. 150 containing the “managers amendment” and has roughly the same negative revenue impact on Ohio. Specifically, we think that the bill would cause a state and local revenue loss of about \$72 million per year. The amount would become larger as more telecommunications services are provided through Internet technology and/or bundled with Internet access, and as broadband Internet access is used by more households. Specifically, the \$72 million estimate does not account for state and local revenues lost as more phone services are replaced by VOIP, which we believe the McCain bill will still prohibit the states from taxing (as long as VOIP is bundled with Internet access).

That is the way they do it. They bundle it together and under their definition this would be exempt from taxation.

As you know, the states objected to S. 150 on several grounds. One of the most important was the language “the term ‘Internet access’ does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”

This “Allen-Wyden” definition of Internet access is so broad that it essentially can be used to exempt what we have seen referred to as the “Internet backbone” telecommunications services, the “middle mile” telecommunications services, and the “last mile” telecommunications services. This is in contrast to S2084, which you cosponsored, and which would have provided a much more limited exemption for last mile telecommunications services that are used to connect an end-user (e.g. household) to an Internet service provider such as AOL or Earthlink or Comcast.

That is the thing we don’t want. We want people to have to plug into that mile, but the thing we are concerned

about is they want to go beyond that. They want to take in the whole watermelon.

In Ohio, the impact of the S. 150 moratorium on state and local taxation of all these telecommunications services may not be as damaging as in some other states because Ohio already has a broad exemption for the purchase of property used in providing telecommunications services. Even so, we still estimate that the annual full-year loss to Ohio from the provision would be about \$72 million.

Another notable provision of the McCain bill is the exception of VOIP services from the tax moratorium. To the extent that such service mimics traditional telephone service, we believe that this means that State and local governments would be allowed to tax VOIP services insofar as they mimic traditional telephone services. The so-called VOIP exception to the moratorium actually does nothing for the states’ ability to tax that or similar services that may migrate to the Internet. Current Ohio law allows state and local governments to tax VOIP as a telecommunications service, as long as there is no federal preemption.

The McCain “exception” to the federal preemption does not apply to services that are defined as Internet access. This means that the exemption will not apply to voice services that are bundled with Internet access, and since that is how VOIP services are currently sold and probably will continue to be sold, the exception in the McCain bill will in fact provide no protection against states losing revenues as phone services migrate to VOIP.

The Senator from Tennessee, the Presiding Officer, has made it very clear if there was an amendment to that bill that made it very clear that could continue to be taxed, that might remedy this whole issue.

The letter goes on to say:

We do not know exactly how much revenues will be lost in the future due to the migration of currently taxable phone service to exempt VOIP service, but it could end up being most of Ohio’s telecommunications tax revenues.

I’ll read that again:

We do not know exactly how much revenue will be lost in the future due to the migration of current taxable phone service to exempt VOIP service, but it could end up being most of Ohio’s telecommunications tax revenues.

You know if that happens, the State is either going to reduce services or they are going to find something else to tax. That is the way this thing operates.

The letter concludes:

To put the estimated \$72 million loss in context, in fiscal year 2003, Ohio collected about \$250 million in sales tax and use tax from telecommunications service providers. The most recent biennial budget bill switched local telephone providers from the old gross receipts tax to the sales tax and use tax, so that now the forecasted full year sales and use tax revenue from all telecommunications providers is about \$370 million. This is at a 5 percent state tax rate—we are ignoring the current 6 percent tax rate because it is set to expire. . . . Thus, the estimated revenue loss from the McCain bill (excluding the VOIP loss) is slightly less than 20 percent of total estimated Ohio telecommunications sales tax revenues.

The fact is the McCain amendment is going to have a devastating impact on

the revenues of our States and goes far beyond the moratorium I helped negotiate when I was chairman of the National Governors Association, and is something we should all be concerned about.

I also want to make another couple of points, if I may. I have heard so much today already and in the past about the fact that if we don’t get this done, everything is going to stop and it is going to be a terrible thing for farmers and all Americans, and so on. The fact is, Internet technology has grown unbelievably over the past year. According to a study released by the Pew Internet and American Life Project last week, 55 percent of American Internet users have access to broadband, either at home or in the workplace. As a matter of fact, it is going to keep growing because I think the Senator from Tennessee pointed out this afternoon there are some communities that have their own electric companies that are giving it away.

This thing is moving. We don’t see anything slowing down. We are moving fast. The report also noted home broadband usage is up 60 percent since March 2003, with half of the growth since November 2003.

You will recall back when we were debating this last year, the allegation was, gee, if we don’t get this done, everything is going to be taxed, things are going to end up in the mud, slowed down, and we are in trouble. Since the moratorium ended, half of this growth occurred. So this thing is moving. This moratorium—the fact we didn’t extend it has not really impacted this one iota. DSL technology now has a 42-percent share of the home market, which is up 28 percent since March 2003.

Most of the growth I outlined occurred after the Internet tax moratorium expired last November, which refutes the argument S. 150 was necessary to help the expansion of broadband services. In addition, April 21—a couple days ago—a major telecommunications company released their 2004 first quarter earnings. I want to read the first two sentences from the company’s press release because it illustrates how fast this technology is growing. This is from SBC Communications:

SBC Communications, Inc., today reported first quarter 2004 earnings of \$1.9 billion, as it delivered strong progress in key growth products. In the quarter SBC added 446,000 DSL lines, the best ever by a U.S. telecom provider.

Some of these people who are supporting the Wyden-Allen amendment and now McCain amendment are companies like this. They are doing well. They are moving. They are bragging, “We are moving ahead.” We all know the Federal Government today subsidizes this telecommunications industry. If I remember correctly from a speech the Presiding Officer gave this afternoon, it is a \$4 billion subsidy from the Federal Government, and the States—all of them—have been doing

everything they can to encourage this industry.

I don't know of any industry that has been treated better than this industry. For the life of me, I cannot understand why it is they insist on having us whack out all of the taxes they are paying. I cannot understand it.

I think if this Senate does the right thing, what we are going to tell this industry, which does a pretty good job of lobbying around here and in the States—I knew it when I was Governor—we will tell them: You know what. You are not going to get a complete release of all the taxes you pay. It is time for you to sit down, like I did with the petroleum industry and the Corn Growers—they came to me and wanted me with them on ethanol, and the oil industry—and the Senator from Oklahoma knows them well—said you have to be with us. I said, you know something, I had Ashland Marathon Oil in Ohio, and I had my Corn Growers and I love you both. You ought to get in the room and sit down and talk to each other and see if you cannot work something out. Lo and behold, after 6 months, they had a big news conference. About 20 Senators were there, and on that stage were people who, if you talked to them 6 months before and said you are going to be on the stage together in a compromise, would have said you are crazy. They were on that stage and they put a compromise together.

The problem we have today in the Senate is the fact that the telecommunications industry thinks this thing is going to go through and they don't have to sit down and talk to State and local government officials, or with the Commerce Committee, and work something out. I know it can be done. I am prayerful our colleagues today understand that and that they will come together and say we have not been able to do this, and we will have a continuation of a moratorium. But let's sit down and work it out. Probably the best way to do that under the circumstances, with the time limitation we have, would probably be to pass a 14-or 15-month extension of the current moratorium, while we can take it back to the Commerce Committee, where we can get the telecommunications industry in, get the Governors and other local government officials in, and the FCC, and start to make some sense out of this.

I thank the Senator from Tennessee, Senator ALEXANDER, for the great leadership he has provided on this issue. We got together last year, and the train was moving and we got in the way of it and caught a lot of criticism because they were accusing us of being for taxing e-mail and the Internet and all the rest of it. That wasn't it at all. All we wanted to do was continue a moratorium but do no harm to our States. We probably understand that more than some Members because we are former Governors. In my case, I am a former mayor and county commissioner, and

we also appreciate it because we all worked together for legislation in 1995—the unfunded mandates relief legislation I worked my heart out to get passed. As a matter of fact, the pen President Clinton used to sign that legislation is on the wall in my Senate office in the Hart Building. The first time I set foot on the floor of the Senate was the day the Senate passed the unfunded mandates relief legislation.

I don't like unfunded mandates. I don't think it is fair. We have done it to the States for so many years. We finally got that legislation passed. The American people should know this is a big unfunded mandate, the way it is put together. We can change it and make it fair so they are not going to see the taxes on telecommunications disappear and then see taxes increased in some other area.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, the Senator from Ohio and I know something about unfunded mandates, as does the Chair. It keeps creeping up, and we are making every effort in the committee that I chair and the subcommittee the Senator from Ohio chairs to try to resolve that problem. I think maybe we will because we have the right people in line to do it. I may not agree with the Senator from Ohio on this particular issue, but I certainly do on unfunded mandates.

I just found out that the distinguished Senator from New Mexico, Mr. DOMENICI, has filed an amendment that is a slimmed-down version of the Energy bill. I just have to stake out a position early because it is my understanding that the safe harbor language that was in H.R. 6 that is so fair and so necessary is not a part of the slimmed-down version. If it is not in the bill, I am not going to be able to support the bill. I will do everything I can for the Senator from New Mexico, but this is very serious.

The bill should permit that manufacturers, producers, marketers, traders and distributors of gasoline containing federally approved oxygenate MTBE cannot be sued under a claim that it is a defective product.

The Federal Clean Air Act Amendments of 1990 created the reformulated gas. The reformulated gas program said they had to use oxygenates. The most prevalent oxygenate to be used in these reformulated gases is MTBE. In fact, EPA specifically approved MTBE for this purpose.

Here is the situation we have: We have the Government coming along and saying, You are going to have to use MTBE. For all practical purposes, they have said this, they have mandated it. Then they turn around and say, We are going to let the trial lawyers in to sue you because maybe this substance which we approved, which we endorsed, is causing harm to someone. It is very important to understand that the safe harbor provision is necessary

to prevent the trial lawyers from using the court system to punish companies for simply complying with the Federal law by using a federally approved additive.

The safe harbor is narrowly targeted and does not affect any claim against any person or any company actually responsible for spilling gasoline containing MTBE. That is very important because I keep hearing on this Senate floor: You let all these people off the hook who are spilling and polluting. That is not true at all. It is very narrowly defined.

Since September 30, 2003, in anticipation of the Energy bill, trial lawyers, including many known for the work they have done and the wealth they have accumulated in asbestos litigation, have as of March 25 brought over 60 groundwater contamination lawsuits in 17 States seeking damages from over 169 different named companies that allegedly manufactured, sold, or transported gasoline containing the federally approved fuel additive called MTBE.

One of those companies is Frontier Oil. They have been sued. They have never produced MTBE. They have never used it. They blended MTBE. But they are one of the companies being sued. The lawsuits do not allege defendants actually leaked or spilled gasoline containing MTBE that allegedly contaminated their groundwater. The lawsuits do not even name the actual polluters. Instead, the cases target any company that at any time may have distributed or sold gasoline containing MTBE or even some, as I just cited, that did not.

Defendants are vigorously defending these cases and will incur millions of dollars in legal fees and expenses simply for having made or sold gasoline containing a fuel additive specifically approved for use by Congress and the EPA.

I believe it is necessary to stake out this position. I cannot think of a fairness issue with which we have dealt that is more significantly addressed than this one. Government comes along and says you have to use this stuff; then they come along later and say there is something wrong with it and we are not going to offer you any defense at all—any defense. We are talking about huge multimillion-dollar lawsuits.

In the event this language does not end up in the legislation of the slimmed-down bill, I will have to oppose it. I cannot conscientiously support an energy bill that leaves everybody out to dry, particularly in the MTBE case.

That is my position. I think there are many others who share that position of fairness in dealing with this bill.

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

The ACTING PRESIDENT pro tempore (Mr. CHAMBLISS). Without objection, it is so ordered.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk on the pending Domenici amendment.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the 2nd degree pending amendment to Calendar No. 353, S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act:

Bill Frist, John McCain, George Allen, Pete Domenici, Trent Lott, Chuck Hagel, Larry E. Craig, John Ensign, Craig Thomas, Robert F. Bennett, James M. Inhofe, Conrad Burns, Don Nickles, Orrin Hatch, Gordon Smith, Saxby Chambliss, Mitch McConnell.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk on the pending McCain substitute amendment.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate to the pending McCain Substitute Amendment No. 3048 to Calendar No. 353, S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act:

Bill Frist, John McCain, Jon Kyl, Norm Coleman, Jim Bunning, Gordon Smith, Mitch McConnell, Pete Domenici, Conrad Burns, Rick Santorum, Olympia Snowe, Judd Gregg, Wayne Allard, Thad Cochran, Mike Crapo, Larry E. Craig, Ted Stevens, George Allen.

Mr. FRIST. Mr. President, I ask unanimous consent that the live quorum with respect to the three cloture votes be waived.

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

Mr. FRIST. Mr. President, I am disappointed to have to come to the Senate floor and file these cloture motions at this time. Earlier today, I had hoped we would finally make progress on the pending Internet tax access bill. Last week, I said we would be addressing the Internet tax access bill Monday, Tuesday, Wednesday, and Thursday, which I and most people felt would be sufficient time to address this bill and allow for amendments to be debated and discussed.

We did debate and vote on a relevant amendment offered by Senator HUTCHISON today. However, at the very first opportunity to offer an amendment from the other side of the aisle, they offered a completely nongermane amendment, which clearly is going to slow down this legislation.

On Thursday, these cloture motions will be voted on. There will be two cloture votes with respect to the energy amendments, but ultimately we will have a third cloture vote and that vote will be on the underlying substitute relating to the Internet access bill. That is the vote that will determine if we will be going forward on this bill at that time.

Again, I scheduled this measure with the hope of taking a few days and allowing Senators to have that opportunity to bring their amendments to the Senate floor to debate and vote on those amendments. I hoped those amendments would be centering on the Internet tax bill, the bill under consideration. The latest turn of events today means that many Senators who have legitimate and relevant amendments are being denied the opportunity to debate and vote on their amendments. This is unfortunate.

That said, I remain committed to finishing the bill in a timely fashion, and I hope that we can get back together tomorrow morning and make appropriate plans in order to accomplish that over the course of the next several days.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, if the distinguished leader will yield for a brief comment, as I said to Senator DOMENICI this afternoon, this scenario that has been set up is going to create some very interesting votes because if we move down the road where we come to a McCain cloture vote, if cloture is invoked, then Daschle and Domenici fall. At least that is my understanding. If that is the case, then that part of the Energy bill would be gone. But anyway, that sets up some interesting dynamics here.

We do at least have out here, in addition to the FSC legislation, pieces of the original Energy bill. Who knows, we might wind up doing something on energy.

Mr. FRIST. Mr. President, I do hope we will be able to complete the Internet access bill and that we can work through the turn of events of today. Again, I hope over the course of the evening people will come back and lay out a plan to accomplish what is important to the technology community and the communications community broadly, and that is to be able to allow people to vote on the very important underlying bill.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning

business, with Senators permitted to speak for up to 10 minutes each.

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

RECOGNITION OF J.A. TIBERTI

Mr. REID. Mr. President, I rise today to congratulate J.A. Tiberti on his selection by the Boulder Dam Area Council of the Boy Scouts of America for the 2004 Good Scout Award. His philanthropic ventures and contributions to our State's economy have long made him a valuable part of the southern Nevada community.

The Good Scout Award recognizes an individual who exemplifies Scouting's ideals through professional leadership, community involvement, and personal commitment to excellence. This award reflects the personal character, dedication, and generosity of the recipient, and I can think of nobody more deserving than Mr. Tiberti.

As founder and chairman of Tiberti Companies, Mr. Tiberti has served as a prominent leader in southern Nevada's business community for the last 60 years. The company's construction of schools, hotels, banks, grocery stores and department stores has helped meet the needs of southern Nevada's growing population.

He also contributed to the region's dramatic growth by serving on the Las Vegas Planning Commission for 25 years and as a director of Nevada Power Company for 36 years.

Mr. Tiberti has also been a noted philanthropist, giving generously to many worthwhile causes. In 1979, he contributed \$1 million to create the College of Engineering at the University of Nevada Las Vegas. This generous gift expanded the opportunities for higher education available to Nevadans and helped UNLV become one of our Nation's leading universities.

Mr. Tiberti and his family also have longstanding ties with the Boy Scout program and were instrumental in the development of Spencer W. Kimball Scout Reservation, Camp Potosi.

Please join me in congratulating J.A. Tiberti on this well-earned honor.

HONORING OUR ARMED FORCES

WILLIAM LABADIE

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to one of Arkansas' heroes who has paid the ultimate sacrifice in defense of his Nation. Sgt. 1st Class William W. Labadie, 45, a native of Bauxite, AR, was mortally wounded on April 7, 2004, during an attack by insurgents on his camp just south of Baghdad.

William Labadie, known to his friends as Wild Bill, joined the Marine Corps right after high school. After serving in the Corps for 8 years he returned home and later became a member of the Arkansas National Guard. Sgt. Labadie was known as a real soldier's soldier. He took his responsibilities seriously and was excited by the

opportunity to use his training in the service of his country. After having been in Iraq for less than a month and in a combat zone for less than 24 hours, Sgt. Labadie was fatally wounded when his camp came under a mortar and small arms attack.

Our condolences and prayers go out to William's wife, Sunnie, of Del City, OK; to his son, Bryan; and to his parents, Cheryl and Carl Winters of Bauxite, AR.

William's mother, Cheryl, was quoted in our State's newspaper, the Benton Courier, as saying that "[t]his honestly was his goal in life. He knew that this was his last shot at 45 years old. He told his commanding officer: 'Give me a shot.' It was like he was going to Disneyland." That kind of enthusiasm is what makes this nation great. We honor William's spirit and his strong resolve to take on the responsibility of advancing freedom to the world.

BRANDON CLINTON SMITH

Mrs. LINCOLN. Mr. President, I also rise today to pay tribute to a son of Arkansas who gave up the security of his family and home to protect our freedoms in the war on terrorism. Marine Private First Class Brandon Clinton Smith, 20, of Fayetteville was killed on March 17, 2004, in Al Qaim, Iraq, as he and three of his fellow Marines were racing to help comrades who had come under attack by insurgents.

Brandon attended Fayetteville High School and dreamed of becoming a Marine. He fulfilled his dream by enlisting this past September. He was so proud of his decision that he framed his Marine Corps acceptance letter and hung it in his bedroom. Upon completing boot camp, Brandon became a member of the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force.

Brandon was buried with full military honors in Fayetteville on Friday, March 26. Our thoughts and prayers go out to his father, Gordon Smith; to his mother, Deborah Bolin of West Fork; and to his sister, Desirae.

An attendee at Brandon's funeral was quoted by the Associated Press as saying that "[Brandon] made a great Marine. We could see he had changed when he came back from training. He had found himself." As this mission in Iraq continues, I am humbled that this young Marine found himself in so great a purpose as defending his nation.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement 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.

On November 18, 2004, in Fargo, ND, Derek Puttbrese, 20, beat a friend in his apartment. Both the victim and

Puttbrese admit that the assault originated after the victim admitted he was gay. The victim told authorities that Puttbrese had stayed at his apartment as a guest and attacked him after the two drank some wine.

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.

REMEMBERING THE ARMENIAN GENOCIDE

Mrs. FEINSTEIN. Mr. President, I rise today to honor the victims of the Armenian Genocide, one of the great tragedies of the 20th century. Last Saturday, April 24, 2004, marked the 89th anniversary of the beginning of that tragic period and I urge all Americans to take time to remember, reflect, and pledge never to forget what happened.

On April 24, 1915, under the guise of collecting supplies for its participation in World War I, the Ottoman Empire launched a brutal and unconscionable policy of mass murder. The New York Times reported that the Ottoman Empire had adopted a policy to annihilate the Armenians living within the empire. Throughout the following years, Armenians faced violent attacks, starvation, deportation, and murder. Sadly, the world took little notice.

Before the violence began in 1914, 2.5 million Armenians lived in the Ottoman Empire. As a result of the genocide, 1.5 million Armenians had died and another 500,000 had been driven from their homes and villages. We must remember and pay homage to those that died. We must remind the world of these deaths and renew our commitment to ensure that such tragedies never happen again.

I am proud to represent an Armenian community of half a million in my great State of California. They are a strong and resilient community, taking strength in the tragedies of the past and the promise of a better tomorrow. This community is leading the effort to preserve the memory of the Armenian Genocide not only for future generations of Armenian Americans, but, indeed, for all Americans and all citizens of the world.

I urge my colleagues to join me in remembering the first genocide of the 20th century. Through our commemoration of this tragedy, we make clear that we will not tolerate mass murder and ethnic cleansing ever again and we will never forget.

Mr. FEINGOLD. Mr. President, people around the world are joining together to solemnly remember and honor the men, women and children who perished in the Armenian genocide. Eighty-nine years ago, 1½ million Armenians were systematically massacred at the hands of the Ottoman

Empire. Over 500,000 more were forced to flee their homeland of 3,000 years. Before genocide was defined and codified in international law, Armenians experienced its horror.

Yet it appears that the international community did not learn the lessons of Armenia's genocide. Throughout the 20th century, the international community failed to act as governments in Germany, Yugoslavia and Rwanda attempted to methodically eliminate people because of their religion or ethnicity. Minority groups were abandoned by the international community in each instance to be overwhelmed by violence and despair. In Armenia, as in Rwanda and the Holocaust, the perpetrating governments scapegoated their minority groups for the difficulties they faced as societies. They justified their campaigns of hatred with political and economic reasons in an attempt to rationalize their depravity.

This is why we must remember the Armenian genocide. To forget it is to enable more genocides and ethnic cleansing to occur. We must honor its victims by reaffirming our resolve to not let it happen again.

In the shadow of the Holocaust, in 1948, the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide. What Winston Churchill once called a "crime without a name", was now called "genocide" by the Convention and defined as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." The Convention required its parties to create domestic legislation to hold perpetrators of genocide accountable for their actions and to place these perpetrators before domestic courts or international tribunals.

The international community has a long way to go in punishing and especially, preventing genocide. But we have made the first steps. As we move forward, we must learn the lessons of Armenia's genocide. Can we recognize the rhetorical veils of murderous leaders, thrown up to disguise the agenda at hand? Have we, the international community, learned that we must not stand by, paralyzed, as horrors occur, but work collectively to prevent and stop genocides from occurring? We owe the victims of the Armenian genocide this commitment.

IN RECOGNITION OF 56 YEARS OF ISRAELI INDEPENDENCE

Mr. CHAFEE. Mr. President, I rise today to congratulate Israel on 56 years of independence. Last year, I visited Israel in my capacity as Chairman of the Subcommittee on Near Eastern and South Eastern Affairs of the Senate Committee on Foreign Relations. This was my first visit to Israel, and I was tremendously impressed with how much has been accomplished by this tiny country over the last several decades. I also was reminded of how much Israel has suffered at the hands of suicide bombers, who have killed hundreds

of Israelis and greatly set back the cause of peace.

In the past, I have expressed disappointment that the United States has not worked harder to advance the Israeli-Palestinian peace process, as well concerns about specific actions by the Israeli government. However, these concerns should not be misinterpreted as a lack of support for Israel or a lack of recognition of the very real threats that she faces. I am strongly committed to the long-term security of Israel, and I will continue to work towards the vision of a safe and secure Israel at peace with her Arab neighbors.

Israelis can be proud of the vibrant democracy that they have created, and I know that many Rhode Islanders share my deep appreciation for the close friendship between our two nations. I once again offer my congratulations and best wishes to the Israeli people.

BURMESE WAR CRIMES AGAINST WOMEN

Mr. BROWNBACK. Mr. President, I wish to draw the attention of my colleagues in the Senate to a new report by a credible organization based on the Thailand-Burma border. In "Shattering Silences," the Karen Women's Organization has carefully investigated and recorded the Burmese military regime's use of rape as a weapon of war against ethnic minority women, revealing a shockingly brutal and callous practice.

The report documents that both young and old women are being raped, and usually very brutally. Forty percent of the rapes committed by the regime's soldiers were gang rapes, and over one-quarter of the women were killed after being raped.

This horrifying evidence, which echoes previous documentation conducted by our own State Department, suggests that Burma's regime is deliberately using rape as a weapon to terrorize and subjugate the Burmese people. Fifty percent of the rapes were committed by officers in the military regime.

Many of us hoped that after the exposure of the use of rape as a weapon in Bosnia, the practice would come to an end. Sadly, our hopes have not been fulfilled, and Burma is the new Bosnia. To be a woman in Burma's ethnic states is to live in constant fear of sexual violence and murder.

Ever since the United States imposed economic sanctions on Burma last year, the ruling regime has made repeated promises of a so-called transition to democracy. The rapes documented in this report show what many of us have known for a very long time; that promises by this regime are meaningless. Our State Department must take a lead in condemning these horrific acts and move to rally support for international sanctions on Burma. We cannot wait any longer, while more

women face the war crimes committed by Burma's dictators.

NATIONAL PEACE OFFICERS MEMORIAL DAY

Mr. LEAHY. Mr. President, I proudly note passage of S. Res. 310, a resolution to designate May 15, 2004, as National Peace Officers Memorial Day. I again cosponsored this resolution with Senator CAMPBELL, as we do every year. We are right to remember and commemorate the sacrifice and commitment of our law enforcement officers serving our communities, States and country. We annually honor the officers and their families who made the ultimate sacrifice for public safety.

I commend Senator CAMPBELL for his leadership in this issue. This marks the 8th year running that he and I have teamed up to submit the resolution to commemorate National Peace Officers Memorial Day. As a former deputy sheriff, Senator CAMPBELL has experienced first-hand the risks faced by law enforcement officers every day while they protect our communities.

I also want to thank each of our Nation's brave law enforcement officers for their unwavering commitment to the safety and protection of their fellow citizens. They are real-life heroes.

Currently, more than 850,000 men and women who guard our communities do so at great risk. Each year, 1 in 15 offices is assaulted, 1 in 46 officers is injured, and 1 in 5,255 officers is killed in the line of duty in the United States every other day. After the hijacked planes hit the World Trade Center in New York City on September 11, 2001, 72 peace officers died while trying to ensure that their fellow citizens in those buildings got to safety. That act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country.

In 2003, 146 law enforcement officers died while serving in the line of duty, well below the decade-long average of 165 deaths annually, and a major drop from 2001 when a total of 237 officers were killed. A number of factors contributed to this reduction including better equipment and the increased use of bullet-resistant vests, improved training, and advanced emergency medical care. And, in total, more than 17,100 men and women have made the ultimate sacrifice—of that number 43 are police officers who have already been killed in 2004 while serving in the line of duty.

During the 108th Congress, we have improved the Justice Department's Public Safety Officers Benefits program by making law the Hometown Heroes Survivors Benefits Act (Public Law 108-182), which allows survivors of public safety officers who suffer fatal heart attacks or strokes while participating in non-routine stressful or strenuous physical activities to qualify for federal survivor benefits.

The Senate also passed the Campbell-Leahy Bulletproof Vest Partnership

Grant Act, S. 764, which will extend through FY 2007 the authorization of appropriations for the Bulletproof Vest Partnership Grant Program that helps State, tribal and local jurisdictions purchase armor vests for use by law enforcement officers. The House has yet to act on this important measure. We want to be sure that every police officer who needs a bulletproof vest gets one.

Last month, the Senate added to the gun liability bill by a vote of 91-8 the Campbell-Leahy Law Enforcement Officers Safety Act, S. 253. This measure would establish national measures of uniformity and consistency to permit trained and certified on-duty, off-duty or retired law enforcement officers to carry concealed firearms in most situations so that they may respond immediately to crimes across State and other jurisdictional lines, as well as to protect themselves and their families from vindictive criminals.

This National Peace Officers Memorial Day, Vermonters will remember our brave State Police Trooper, Sergeant Michael Johnson, who was killed last Father's Day while trying to stop a suspect leading two other State troopers on a high-speed chase. Sergeant Johnson was not even on duty, but he went to help his fellow troopers that Sunday afternoon after hearing their trouble on his radio. He had just deployed a set of tire spikes across the interstate when the suspect swerved to avoid the spikes and struck him. Sergeant Johnson left behind his wife and three children. Words are insufficient for the brave sacrifice of the man who was so admired by his family, community and the Vermont State Police force. In memory of this bravery and service to his family, community, State and country, Sergeant Johnson will be one of the names added this year to the National Law Enforcement Officers Memorial.

National Peace Officers Memorial Day will provide the people of the United States with the opportunity to honor the extraordinary service and sacrifice given year after year by our police forces. More than 15,000 peace officers are expected to gather in Washington to join with the families of their fallen comrades. I thank the Senate for acting on this important resolution.

CHINESE COMPETITION

Mr. GRAHAM of South Carolina. Mr. President, in 2001, World Trade Organization members accepted China into the organization only after negotiating the most complex accession agreement in WTO history. Under their accession agreement, China committed to adopting a market- and rules-based economy and special safeguards for the domestic industries of other WTO members that could be severely injured by surges of imports from China's non-market economy. China has yet to live up to their commitments. China's problems stem from a significant lack of intellectual

property right enforcement, to the continued dumping and transshipping of textiles, to the subsidizing of their steel industry. China also manipulates their currency, the yuan, in order to gain an unfair competitive advantage.

These unfair trade practices seriously jeopardize many United States industries, including the textile and steel industries. The textile industry has been hit particularly hard by unfair trade with China. Since 1997, more than 250 textile plants in the U.S. have closed. With quotas on textile and apparel set to be totally phased-out on January 1, 2005, it is not unrealistic to expect even more job losses and factory closings in the textile industry. Quotas are set under the Multifiber Arrangement, MFA, an international agreement that allows countries to impose quotas on the level of goods imported from individual supplier countries. The MFA was designed to prevent a worldwide crisis in textile and apparel trade. Specifically, it was needed to keep very low wage producing nations from overwhelming global markets.

If these quotas are lifted, China is poised to control 70 percent of the textile and apparel market share. Allowing China to dominate world markets in this sector will result in the devastation of many third world economies, resulting in widespread economic and social instability.

If the goals of the World Trade Organization are to increase global prosperity and economic advancement through orderly trade, and especially to advance the development of the third world through orderly trade flows, we have to ask ourselves the following question: Does our current trade policy with China help further those goals, or will it continue to cost millions of United States' manufacturing jobs and undermine global advancement in general and in the third world specifically?

With the expiration of the quotas, the United States will see even more of the products they buy manufactured in a country that allows their workers to be treated poorly. Workers in Chinese factories suffer serious, routine and ongoing abuse at the hands of their employers. Health and safety conditions almost always fail to meet Chinese law or international standards, and workers regularly work illegally long hours for overtime pay that is not calculated according to law. Chinese workers also face harsh disciplinary measures and the use of heavy fines for minor infractions of factory rules.

We need to let China know that if they keep dumping and transshipping textiles, permanent quotas will be put in place. If China continues to steal intellectual property rights, they will find themselves before every WTO tribunal that exists. One of the best investments the U.S. ever made was spending billions of dollars during the Cold War to prohibit the spreading of communism. We need to show similar strength when it comes to standing up

against China's communist dictatorship that trades unfairly, oppresses its people, and bleeds our economy dry.

What I would like to see my country do, Republican and Democrat, is to ask the Chinese to stop cheating; to try to persuade the Chinese government through international organizations such as the WTO, to stop stealing market share and become a better member of the Family of Nations. There's a lot of resistance to any idea about change. Our opponents argue that current trade policy is appropriate because of the fact that it may reduce prices to consumers. This is only true if you review what hidden costs we are paying. Such costs include: over 3 million lost manufacturing jobs in the past 5 years, frozen wages, health and pension benefits for workers that have managed to remain employed, shrinking tax base for Federal, State and local government. Maybe the greatest cost, however, is to our national security. There is no doubt that the United States was the single greatest military power in the 20th century because of its industrial strength. If we make China the new industrial superpower, will that not translate into China becoming the single greatest military power of the 21st century?

The large economic growth China has experienced over the last several years is not going to the average Chinese citizen. In fact, it is estimated that just 0.16 percent of the Chinese population controls 65 percent of the nation's U.S. \$1.5 trillion liquid assets in the Mainland bank deposits. The income distribution in China is likely to be the most unequal in the world. Rather than using this economic growth to help China's 800 million rural residents who earn the equivalent of just 80 cents per day, it is going to their military disproportionately.

Today, China is the world's largest purchaser for foreign military weapons and technology. China's defense industry has become far more productive in the last five years and improvements can be expected as the Chinese economy continues to grow. China is now more than doubling its budgeted defense spending this year as part of an aggressive military modernization strategy. And some European countries are even pushing the European Union to lift the arms trade embargo on China. What I considered at one time to be a regional problem is a national security problem.

Rigged and unfair international trading rules are a key cause of the U.S. manufacturing crisis. China's unfair trade practices are costing United States jobs and jeopardizing our manufacturing base. They have shown that they are not yet committed to participating in a rules-based global trading system and are not yet willing to make the necessary steps to transition into a market-based economy.

China continues to manipulate the currency markets to keep the dollar artificially high and its own currency,

the yuan, artificially low. By playing the currency market in this manner, China effectively subsidizes their exports to the U.S. and places a tariff on U.S. shipments to China. This mercantilist practice has caused serious damage to the U.S. manufacturing sector. The U.S. Congress must take action.

Senator CHARLES SCHUMER and I have introduced legislation that would require China to adopt a market-based system of currency. The goal of this legislation is to remove China's unfair currency advantage and the detrimental impact that it is having in the U.S. and abroad.

Something must be done to alleviate the detrimental economic impact China is having on our manufacturing industry. I urge the Leadership to allow a clean vote on this important legislation. I believe it will receive overwhelming bipartisan support and give the administration one more tool to get the Chinese to uphold their WTO obligations.

MOTORSPORTS FACILITIES FAIRNESS ACT

Mr. ALLEN. Mr. President, I rise today to express my strong and enthusiastic support for S. 1524, the "Motor-sports Facilities Fairness Act." This legislation would properly clarify and codify the classification of a "motor-sports entertainment complex" as 7-year property for depreciation purposes. The legislation would define a "motorsports entertainment complex" as a permanent facility that hosts one or more racing events each year that are sanctioned by a nationally recognized sanctioning body. I was an original cosponsor of S. 1524, when my colleague, Senator SANTORUM, introduced it last July 31.

Virginia is home to twenty-seven motorsports facilities, ranging from the one-eighth of a mile Natural Bridge Dragstrip to such NASCAR Nextel Cup facilities as Richmond International Raceway and Martinsville Speedway. These tracks are found in every part of the Commonwealth, from Coeburn in Southwest Virginia, to Manassas in Northern Virginia to Norfolk in Hampton Roads. Every track makes a contribution to the economy, whether they run a weekly racing series, or draw over 100,000 fans for a Nextel Cup event.

The importance of these tracks for jobs and economic growth in Virginia was illustrated in an April 21, article in the Washington Times, by Jeffrey Sharpshott, entitled, "Virginia City Seeks 'Something Else.'" This article described the significant positive impact of motorsports and the Martinsville Speedway on the area's economy: "Martinsville, next-door neighbor to North Carolina, also tried to latch onto the rising popularity of auto racing and NASCAR. The town parlayed its speedway into a tourist draw. It opened a small community-

college program to teach future auto-team mechanics and managers. Kyle Petty, a team owner and driver, donated automotive parts. Tobacco commission funds allowed Patrick Henry Community College, the county's lone institution of higher learning, to retool a derelict building into headquarters for a motor-sports training program and to rev up the curriculum. "We're actually getting people jobs," motor-sports instructor Mike Sharpe says, standing among brightly painted car bodies, reinforced racing frames, powerful engines and high-tech calibration equipment."

The Motorsports Facilities Fairness Act would provide certainty to track and speedway operators regarding the depreciation of their properties. This common sense proposal is necessary to allow these facilities to continue to enhance local and regional economies and to contribute to job growth.

The Motorsports Facilities Fairness Act responds to the recent decision of the IRS to question the long-standing depreciation treatment of motorsports complexes used by facility owners. For decades, motorsports facilities were classified as "theme and amusement facilities" for depreciation purposes. This long-standing treatment was widely applied and accepted, until now. Over the years, relying on this good faith understanding of the tax law, facility owners and operators invested hundreds of millions of dollars in building and upgrading these properties.

S. 1524 would merely allow the track owners to classify these facilities for tax purposes in the same way that they have done, without question, for years, or in some cases, decades.

I urge the Senate to "green flag" the process on this winning measure. Approve S. 1524, the Motorsports Facilities Fairness Act. Let's wave the "checkered flag" for jobs, economic growth and logic.

RACETRACK DEPRECIATION

Mr. NELSON of Florida. Mr. President, I rise today to address an issue important to my State, and to a growing number of Americans: Motorsports. Born in Daytona Beach, racing today is the fastest growing sport in the country and has given birth to an economy unto itself.

With 38 track and speedway facilities in locations throughout Florida, including two of the Nation's larger tracks—Homestead-Miami and Daytona International Speedways—motor-sports contribute nearly \$2 billion annually to Florida alone.

Simply put, these tracks, whether large or small, create jobs and expand tourism.

The Internal Revenue Service has allowed these facilities to depreciate their property over a 7-year period. Now they are challenging this long-standing industry practice and treating racetracks differently than other entertainment complexes.

That is simply unfair and will have a dire economic effect, discouraging the capital investments that these facilities rely on to improve their product and attract the legions of fans that have been so valuable to small towns across the country.

I urge my colleagues to join me in supporting prompt enactment of S. 1524, the "Motorsports Fairness Act" to clarify that these facilities are indeed 7-year property for purposes of depreciation.

20TH ANNIVERSARY OF THE INTERNATIONAL REPUBLICAN INSTITUTE

Mr. MCCAIN. Mr. President, tonight we will mark a historic occasion—the 20th anniversary of the International Republican Institute. I am honored to chair the Institute's board of directors, and to have been involved for 14 years with an organization that has done so much for so many. Its staff of experts, under its leadership in Washington, has for two decades fanned out across the globe, bringing the benefits of their experience and education to those who hunger for democracy. For 20 years IRI has worked to advance democracy, promote freedom and self-government, and support the rule of law and human rights. In doing this, IRI embodies the fundamental values on which the American political system is based, and which we must encourage around the world.

Why do we spend energy, money, time and expertise to promote freedom and democracy abroad? We do it because we know that, as Ronald Reagan said in 1982 when he cited the Universal Declaration of Human Rights, "freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings." In America, we enjoy the fundamental right to be free. But we also know that we will never enjoy our rights in the fullness of security until all of humanity is also free.

The promotion of democracy and fundamental human rights is thus an inextricable element of American foreign policy. We use our power not simply to enhance our security, but to promote our values—for the good of others. For 20 years IRI has monitored elections, trained political candidates, promoted government reform, helped organize civil society, and increased political participation. Its mission is vital, and IRI has performed it with success in over 75 countries.

Anyone who reads the newspapers can see how critical this mission is today. Iraq is the biggest democracy project in a generation, and IRI is active on the ground, making a difference on a daily basis. Beyond Iraq, there is a growing recognition that the lack of freedom in the Greater Middle East offends not only America's national values, but also threatens our security. In other regions too—Central Asia, Southeast Asia, and others—freedom is lack-

ing. When we confront these situations, the diagnosis is easy. The hard part is taking action. IRI takes action. Promoting democracy is a huge task—one IRI does superbly—and calls will only increase for it to do more.

I am confident it is up to the job. For 20 years the individuals who make up the International Republican Institute have made a positive difference in the world. While these are not the type of people to rest on their laurels, we should all recognize that these laurels are well deserved.

50TH ANNIVERSARY OF THE SALK POLIO VACCINE FIELD TRIALS

Mr. ALLEN. Mr. President, I have always been one to support innovation. It is with the innovative researchers of this Nation and the world that have provided us with some of the greatest contributions in history. Inventions such as the computer, the Internet, the automobile, the airplane, and vaccines have transformed the world as we once knew it, to the world that we live in now.

I would like to take a moment and recognize yesterday's event commemorating April 26, 2004, as the 50th Anniversary of the Salk polio vaccine field trials, a truly significant day for our Nation.

On April 26, the March of Dimes and the Centers for Disease Control and Prevention, commemorated the 50th anniversary of the development of the Salk polio vaccine along with several other organizations. This day in April holds great significance for the nation as it was that day in 1954 that the first dose of the Salk vaccine was distributed to children at Franklin Sherman Elementary school in McLean, VA as part of the National Field Trial Program. In the months that followed, more than 1,800,000 school children, collectively referred to as "Polio Pioneers", participated in these trials.

The outcomes of these field trials were truly significant. Reports indicated that the Salk vaccine was 80-90 percent effective in preventing polio and in the four years following the trials, medical personnel administered 450 million doses of the vaccine, making it a standard fixture among childhood immunizations. By the end of 2003, poliomyelitis had been eliminated world-wide in all but 6 countries. The result of this vaccination—nearly 5 million children have been given the ability to walk who would otherwise have been paralyzed and 1.25 million childhood deaths have been averted.

The Salk polio vaccine is a great contribution to our nation and to the entire world. While poliovirus was eradicated from the United States by the early 1980's, it continues to exist in the wild in a limited number of regions around the world. Nevertheless, the World Health Organization has set 2005 as the target date for complete, global eradication of the virus. It is through the unwavering support and undying

efforts of the innovators of this world and organizations such as the March of Dimes that make this occasion possible. The people of Virginia thank you, the people of the United States thank you, and most importantly the world thanks you.

TRIBUTE TO BEN H. BELL III

Mr. INHOFE. Mr. President, Members of Congress, it is not often we have an opportunity to recognize a senior executive in the United States Government as a leader, loyal soldier and a patriot. Ben H. Bell III epitomizes these traits after dedicating his adult life to serving this great country in several impressive capacities. Ben protected and defended our Nation during his 21 years as an officer and leader in the Marine Corps. He safeguarded our borders for 9 years, holding his last position as Assistant Commissioner for Intelligence with the Department of Immigration and Naturalization Services. For the next 2 years, Ben helped design the Foreign Terrorism Tracking Task Force just after 9/11 under Presidential directive and direction from the Attorney General.

Soon after, Secretary Mineta and Deputy Secretary ADM James Loy recruited Mr. Bell to establish and lead this Nation's first Office of National Risk Assessment, ONRA. This congressionally mandated office and its mission define our Nation's newly emerging need to manage and mitigate extreme risk for the protection of our homeland from terrorism.

It is through great dedication, unconditional loyalty, leadership, and passion that Ben H. Bell III has protected and defended our way of life every day without ever giving it a second thought.

On behalf of my colleagues in Congress and myself, we thank you, congratulate you, and salute you on such an accomplished and dynamic career.

TRIBUTE TO COLONEL WILLIAM GROVES

Mr. WARNER. Mr. President, I rise today to pay tribute to an exceptional officer in the United States Air Force, an individual that a great many of us have come to know personally over the past few years—Colonel William “Bill” Groves. Colonel Groves, who currently serves in the office of Air Force Legislative Liaison, will retire after 21 years of active duty Air Force service. During his time in Washington, and especially with regard to his work here on Capitol Hill, Colonel Groves epitomized Air Force core values of integrity, selfless service and excellence in the many missions the Air Force performs in support of our national security. Many Members and staff have enjoyed the opportunity to meet with him on a variety of Air Force issues and came to deeply appreciate his character and many talents. Today it is my privilege to recognize some of Colonel Groves'

many accomplishments, and to commend his superb service he provided the Air Force, the Congress and our Nation.

Colonel Groves entered the Air Force by Direct Appointment in 1983 with a Juris Doctor degree from the University of Akron School of Law. During his 21-year career, he served three tours as a Staff Judge Advocate, with assignments at the 6th Air Refueling Wing, the Air Force Office of Scientific Research, and the Aerospace Guidance and Metrology Center. In 1990, he completed a Masters of Law program in Government Procurement at George Washington University, in Washington, DC. He has completed two overseas tours in Germany and was deployed in 1994 as the Legal Advisor for the Combined Air Operations Center, Vicenza, Italy, during Operations DENY FLIGHT and PROVIDE PROMISE. Just prior to his current assignment, he served as Assistant General Counsel for Procurement, Missile Defense Agency here in Washington, D.C.

In 2001, Colonel Groves was selected as Chief, Programs and Policy Branch for the Air Force Directorate of Legislative Liaison. During this period, Colonel Groves led 14 liaison personnel responsible for all Air Force interactions with the Armed Services Committees on personnel issues, readiness, depot maintenance, environmental compliance, airspace and range operations, force structure, base closure, health care, inspector general matters, military construction, and acquisition policies. Additionally, he directed the process used for USAF activities worldwide to submit legislative proposals to Congress. In his years of working with the Congress, Colonel Groves provided a clear and credible voice for the Air Force while representing its many programs on the Hill, consistently providing accurate, concise and timely information. His integrity, professionalism, and expertise enabled him to develop and maintain an exceptional rapport between the Air Force and the Congress. The key to his success, I believe, was his deep understanding of congressional processes and priorities and his unflinching advocacy of the programs essential to the Air Force and to our Nation. I am greatly appreciative of Colonel Groves' 21-year service to his Nation and offer my sincere wishes for a happy and prosperous retirement. On behalf of the Congress and the country, I thank Colonel Groves and his wife Joanne for the commitment and sacrifices that they have made throughout his honorable military career. I know I speak for all of my colleagues in expressing my heartfelt appreciation to Colonel Groves for a job well done.

ADDITIONAL STATEMENTS

NATIONAL PRIMARY IMMUNE DEFICIENCY DISEASES AWARENESS WEEK

• Ms. MIKULSKI. Mr. President, I rise today in support of National Primary Immune Deficiency Diseases Awareness Week. The national awareness week took place the week of April 19th. Primary immune deficiency diseases PIDD, are genetic disorders in which part of the body's immune system is missing or does not function properly. The World Health Organization recognizes more than 150 primary immune diseases which affect as many as 50,000 people in the United States. Fortunately, 7 percent of PIDD patients are able to maintain their health through regular infusions of a plasma product known as intravenous immunoglobulin. IGIV helps bolster the immune system and provides critical protection against infection and disease.

The Immune Deficiency Foundation, which is the Nation's leading organization dedicated to improving the quality of life for PIDD patients is located in Towson, MD. The foundation was founded in 1980 by parents of primary immune deficient children and their physicians. At that time, there were few treatments for many primary immune deficiency diseases, and the treatments that were available were painful and not very effective. There were no educational materials for patients, no public advocacy initiatives, and little research was being done. Over the past 24 years, the foundation has made tremendous strides.

Recently, the foundation entered into a historic research partnership with the National Institute of Allergy and Infectious Diseases at the National Institutes of Health. The establishment of the “US Immunodeficiency Network” represents the most significant advancement in primary immune deficiency research in our Nation's history. Despite the recent progress in PIDD research, the average length of time between the onset of symptoms in a patient and a definitive diagnosis of PIDD is nine and a half years. In the interim, those afflicted may suffer repeated and serious infections and possibly irreversible damage to internal organs. That it why it is critical that we raise awareness about these illnesses within the general public and the health care community.

I commend the Immune Deficiency Foundation for its leadership in this area and I am proud that I was able to join them in recognizing the week of April 19 as National Primary Immune Deficiency Diseases Awareness Week. I encourage my colleagues to help improve the quality of life for PIDD patients and their families.●

20TH ANNIVERSARY OF THE
INTERNATIONAL REPUBLICAN
INSTITUTE

• Mr. HAGEL. Mr. President, I rise today to congratulate the International Republican Institute on the 20th anniversary of its founding. As an IRI Board member since 1999, I have witnessed IRI's tremendous success in helping build democracy across the globe.

The International Republican Institute was founded in response to a 1982 speech by President Ronald Reagan, in which he called for a broad commitment to helping developing countries build democratic institutions. IRI began its work in Latin America. When the cold war ended, IRI expanded its programs to the states of the former Soviet Union.

Through its work today in more than 50 countries, IRI reinforces the American belief that all people can achieve freedom through the development of democratic political parties, good governance, and transparent election processes. IRI's success in teaching those in emerging democracies to build and manage democratic institutions does not stop at these countries' borders. Volunteers from Romania, Serbia, and other countries where IRI has worked are now helping to build a civil society in Iraq.

IRI also provides citizens from across the U.S. the opportunity to volunteer their skills to assist countries undergoing democratic transition. IRI volunteers teach others how to run political campaigns, increase the participation of women and youth, monitor elections, deliver government services, and communicate effectively with the public.

I congratulate and thank the International Republican Institute for its commitment to helping strengthen democracy around the world.●

CHRISTOPHER B. ELSER

• Mr. GRAHAM of South Carolina. Mr. President, Christopher B. Elser of Camden, SC, died on the afternoon of April 18, 2004. Christopher, a student at John Hopkins University in Baltimore, MD, died from stab wounds he received from an early-morning intruder who entered the room where he was sleeping. Christopher had spent the night in a fraternity brother's room after a party so his friend would have a quiet place to study.

Christopher was a junior in the Zanvyl Krieger School of Arts and Sciences at the University. He was also a member of Sigma Alpha Epsilon fraternity and played soccer his freshman year. He was known as a consummate gentleman, both on campus and off. As one of his fraternity brothers said, "We all strived to be gentlemen, but we never had anyone embody it as much as Chris." His memorial service on April 19, 2004, drew more than 1,000 friends and family members to honor

his life. Their numerous stories and memories further cemented Christopher's status as a gentlemen and also demonstrated the tremendous positive impact he had on everyone he met.

At an early age, Christopher developed an affinity with the thoroughbred horse business, nourished by his father's occupation as a thoroughbred trainer and consignor. As a precocious 10-year-old, he began his tenure on the Stable Crew at the August Yearling Sale in Saratoga, NY, serving with young men twice his age. Until his death, he worked in Saratoga for two weeks every August and was known for his infectious smile and inexhaustible spirit in both his work at the sale and in numerous after-hours adventures.

Christopher's memorial service in Camden, SC, was held outdoors at the Carolina Cup Steeplechase Museum on April 23, 2004. In an atmosphere reminiscent of his easygoing fun-loving demeanor, Christopher's friends and family gathered to celebrate his 20 years of life. As tales about his life unfolded, it became clear to all present what had made Christopher so special: his love for life. This trait brought more than 100 people together to honor an extraordinary young man's life and to mourn his untimely death. After the service, friends and family ate, drank, and told more stories of Christopher and, as he would have wished, there was more laughter than tears on this beautiful, South Carolina morning.

Christopher is survived by his father, Kip, his mother, Rhetta, and his sister, Taylor.●

ENROLLED BILL SIGNED

At 2:24 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker, on April 22, 2004, has signed the following enrolled bill:

S. 2022. An act to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building".

The enrolled bill was signed subsequently today, April 26, 2004, by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE
CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2348. A bill to extend the Internet Tax Freedom Act.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 27, 2004, she had presented to the President of the United States the following enrolled bill:

S. 2022. An act to designate the Federal building located at 250 West Cherry Street in Carbondale, Illinois the "Senator Paul Simon Federal Building".

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. LIEBERMAN (for himself, Mrs. CLINTON, Mr. DODD, and Mr. SCHUMER):

S. 2350. A bill to establish the Long Island Sound Stewardship System; to the Committee on Environment and Public Works.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 2351. A bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ENSIGN (for himself, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. INOUE, and Ms. COLLINS):

S. 2352. A bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND
SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR (for himself, Mr. KERRY, Mr. HAGEL, and Mr. ALLEN):

S. Res. 343. A resolution calling on the Government of the Socialist Republic of Vietnam to respect all universally recognized human rights, including the right to freedom of religion and to participate in religious activities and institutions without interference or involvement of the Government; and to respect the human rights of ethnic minority groups in the Central Highlands and elsewhere in Vietnam; to the Committee on Foreign Relations.

By Mr. ALEXANDER (for himself, Mr. FEINGOLD, Mr. LUGAR, and Mr. BIDEN):

S. Con. Res. 100. A concurrent resolution celebrating 10 years of majority rule in the Republic of South Africa and recognizing the momentous social and economic achievements of South Africa since the institution of democracy in that country; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 874

At the request of Mr. TALENT, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 896

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 896, a bill to establish a public education and awareness program relating to emergency contraception.

S. 976

At the request of Mr. WARNER, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 977

At the request of Mr. FITZGERALD, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1345

At the request of Mrs. MURRAY, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 1345, a bill to extend the authorization for the ferry boat discretionary program, and for other purposes.

S. 1368

At the request of Mr. LEVIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1368, a bill to authorize the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1736

At the request of Mr. ENZI, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1736, a bill to promote simplification and fairness in the administration and collection of sales and use taxes.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Vermont

(Mr. JEFFORDS) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 2138

At the request of Mr. GRAHAM of South Carolina, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 2138, a bill to protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes.

S. 2141

At the request of Mr. LUGAR, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2141, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on soybean base acres.

S. 2174

At the request of Mr. BUNNING, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 2174, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 2212

At the request of Ms. COLLINS, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2212, a bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to non-market economy countries.

S. 2292

At the request of Mr. VOINOVICH, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S. 2321

At the request of Mr. BYRD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2321, a bill to amend title 32, United States Code, to rename the National Guard Challenge Program and to increase the maximum Federal share of the costs of State programs under that program, and for other purposes.

S. 2328

At the request of Mr. DORGAN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act

with respect to the importation of prescription drugs, and for other purposes.

S. 2336

At the request of Mr. REID, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2348

At the request of Mr. ENZI, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2348, a bill to extend the Internet Tax Freedom Act.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 99

At the request of Mr. BROWNBACK, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 99, a concurrent resolution condemning the Government of the Republic of the Sudan for its participation and complicity in the attacks against innocent civilians in the impoverished Darfur region of western Sudan.

S. RES. 81

At the request of Mr. BROWNBACK, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Res. 81, a resolution expressing the sense of the Senate concerning the continuous repression of freedoms within Iran and of individual human rights abuses, particularly with regard to women.

S. RES. 168

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 168, a resolution designating May 2004 as "National Motorcycle Safety and Awareness Month".

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of

autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

S. RES. 332

At the request of Mr. FEINGOLD, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 332, a resolution observing the tenth anniversary of the Rwandan Genocide of 1994.

S. RES. 342

At the request of Mr. HATCH, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Indiana (Mr. LUGAR), the Senator from Texas (Mr. CORNYN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 342, a resolution designating April 30, 2004, as "Dia de los Niños: Celebrating Young Americans", and for other purposes.

AMENDMENT NO. 2889

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 2889 intended to be proposed to S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself, Mrs. CLINTON, Mr. DODD, and Mr. SCHUMER):

S. 2350. A bill to establish the Long Island Sound Stewardship System; to the Committee on Environment and Public Works.

Mr. LIEBERMAN. Mr. President, Long Island Sound holds a special place in our Nation's history, its present, and its future. It has played a key role in the development of the Nation, from the early days of the colonists, through to this day. Its bounty nourished the colonists, its coves sheltered their ships, and provided harbors for trade.

Today, Long Island Sound remains a vital resource to the area: its biological resources provide jobs, and its beauty draws tourists who come to visit the Sound to fish, to sail, and simply to enjoy its shores. It is estimated that these activities contribute approximately \$5 billion annually to the economy of the region. This is not so surprising when you realize that over 28 million people live within 50 miles of the Sound.

It is a blessing that so many people can enjoy and benefit from Long Island Sound, in so many ways. But it is also a challenge that threatens the future of the Sound. Less than 20 percent of the shoreline of Long Island Sound is

accessible to the public, and every year, more shoreline is developed and removed from public access. Marshes and estuaries around the Sound are being drained and developed at an alarming rate. These tidal marshes are critical for the ecological health of the Sound, which is the foundation of the Sound's vital economic contribution to the region. In short, to preserve the blessings of Long Island Sound for future generations, this generation must act. This is why Senator CLINTON and I have introduced the Long Island Sound Stewardship Act.

The Long Island Sound Stewardship Act builds on the years of good work done by the Long Island Sound Study Group. This group, made up of dedicated people from Federal, State, and local government agencies, non-government organizations, and private interests, has worked together to develop a vision of good stewardship for Long Island Sound. Many of them are here today, and I thank them for their hard work.

Our bill will help us achieve their vision, by providing funds and a congressional mandate to work towards this vision. Under this bill, those who agree to preserve public access or ecological characteristics of their land can be recognized by having the land designated as a Long Island Stewardship Site. The bill also provides funding to facilitate the preservation of these characteristics. Most important, the bill achieves these ends through a voluntary program, a cooperative venture between all the stakeholders: public and private, Federal, State, and local.

The Long Island Sound Study has already set a fine example of cooperation and vision. I introduce this bill to further that vision. I look forward to working with the Connecticut and New York delegations, and all the stakeholders, as we develop and refine this bill. I am confident that working together, we will preserve the blessings of Long Island Sound.

I ask unanimous consent that the text of the Long Island Sound Stewardship Act be printed in the RECORD.

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

S. 2350

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 "Long Island Sound Stewardship Act of 2004".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Long Island Sound is a national treasure of great cultural, environmental, and ecological importance;

(2) 8,000,000 people live within the Long Island Sound watershed and 28,000,000 people (approximately 10 percent of the population of the United States) live within 50 miles of Long Island Sound;

(3) activities that depend on the environmental health of Long Island Sound contribute more than \$5,000,000,000 each year to the regional economy;

(4) the portion of the shoreline of Long Island Sound that is accessible to the general public (estimated at less than 20 percent of the total shoreline) is not adequate to serve the needs of the people living in the area;

(5) existing shoreline facilities are in many cases overburdened and underfunded;

(6) large parcels of open space already in public ownership are strained by the effort to balance the demand for recreation with the needs of sensitive natural resources;

(7) approximately 1/3 of the tidal marshes of Long Island Sound have been filled, and much of the remaining marshes have been ditched, dyked, or impounded, reducing the ecological value of the marshes; and

(8) many of the remaining exemplary natural landscape is vulnerable to further development.

(b) PURPOSE.—The purpose of this Act is to establish the Long Island Sound Stewardship System to preserve areas of critical importance because of the open space, public access, and ecological value of the areas.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMITTEE.—The term "Committee" means the Long Island Sound Stewardship Coordinating Committee established by section 5(a).

(2) REGION.—The term "Region" means the Long Island Sound Stewardship System Region established by section 4(a).

(3) STATES.—The term "States" means the States of Connecticut and New York.

SEC. 4. LONG ISLAND SOUND STEWARDSHIP SYSTEM REGION.

(a) ESTABLISHMENT.—There is established in the States the Long Island Sound Stewardship System Region.

(b) BOUNDARIES.—The Region shall encompass the immediate coastal upland and underwater areas along Long Island Sound, including those portions of the Sound with coastally influenced vegetation, as described on the map entitled the "Long Island Sound Stewardship Region" and dated April 21, 2004.

SEC. 5. LONG ISLAND SOUND STEWARDSHIP COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee to be known as the "Long Island Sound Stewardship Coordinating Committee".

(b) CHAIRPERSON.—The Chairperson of the Committee shall be the Director of the Long Island Sound Office of the Environmental Protection Agency, or designee.

(c) MEMBERSHIP.—

(1) COMPOSITION.—

(A) IN GENERAL.—The chairperson shall appoint the members of the Committee in accordance with this subsection and section 320(c) of the Federal Water Pollution Control Act (33 U.S.C. 1330(c)).

(B) REPRESENTATION.—The Committee shall—

(i) include equal representation of the interests of the States; and

(ii) represent—

(I) Federal, State, and local government interests;

(II) the interests of nongovernmental organizations;

(III) academic interests; and

(IV) private interests.

(2) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 180 days after the date of enactment of this Act.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Committee.

(2) VACANCIES.—A vacancy on the Committee—

(A) shall not affect the powers of the Committee; and

(B) shall be filled in the same manner as the original appointment was made.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(f) MEETINGS.—The Committee shall meet at the call of the Chairperson, but not less than 4 times each year.

(g) QUORUM.—A majority of the members of the Committee shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 6. DUTIES OF THE COMMITTEE.

The Committee shall—

(1) consistent with the guidelines described in section 9(c)—

(A) establish specific criteria for the evaluation of applications for stewardship site designations; and

(B) evaluate and award or deny stewardship designation to applicants for that designation;

(2) consistent with the guidelines described in section 9(d)—

(A) evaluate applications from government or nonprofit organizations qualified to hold conservation easements for funds to purchase land or development rights for stewardship sites; and

(B) award funds to qualified applicants;

(3) not later than 1 year after the date of enactment of this Act, develop and publish a management plan that—

(A) assesses the current resources and threats to Long Island Sound;

(B) assesses the role of the Long Island Sound Stewardship System in protecting Long Island Sound;

(C) establishes—

(i) guidelines, schedules, and due dates for applying for designation as a stewardship site; and

(ii) specific criteria to be used in evaluating stewardship site applications;

(D) includes information about any grants that are available for the purchase of land or property rights to protect stewardship sites;

(E) shall be made available to the public on the Internet and in hardcopy form; and

(F) shall be updated at least every other year, with information on applications for stewardship site designation and funding published more frequently; and

(4) concurrent with the first management plan, publish a list of sites that the Committee considers most appropriate for designation as stewardship sites.

SEC. 7. POWERS OF THE COMMITTEE.

(a) HEARINGS.—The Committee may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Committee considers advisable to carry out this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Committee may secure directly from a Federal agency such information as the Committee considers necessary to carry out this Act.

(2) PROVISION OF INFORMATION.—On request of the Chairperson of the Committee, the head of the agency shall provide the information to the Committee.

(c) POSTAL SERVICES.—The Committee may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(d) GIFTS.—The Committee may accept, use, and dispose of gifts or donations of services or property.

SEC. 8. COMMITTEE PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Committee who is not an officer or employee of the Federal Government shall be

compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Committee.

(2) FEDERAL EMPLOYEES.—A member of the Committee who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(b) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Committee may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as are necessary to enable the Committee to perform the duties of the Committee.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Committee.

(3) COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chairperson of the Committee may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

(2) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Committee may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

SEC. 9. STEWARDSHIP SITES.

(a) DEFINITION OF QUALIFYING LAND.—In this section, the term “qualifying land” means land—

(1) that is in the Region; and

(2) that is—

(A) Federal, State, local, or tribal land;

(B) land owned by a nonprofit organization; or

(C) privately owned land.

(b) APPLICATION FOR DESIGNATION.—Owners or other parties in control of qualifying land may apply to the Committee to have the qualifying land designated as a Long Island Sound stewardship site.

(c) GENERAL GUIDELINES FOR STEWARDSHIP SITE DESIGNATION.—

(1) IN GENERAL.—The Committee shall choose land to be designated as a stewardship site based on—

(A) the contribution of the land to open space on and public access to Long Island Sound; and

(B) the ecological value of the land.

(2) CRITERIA.—In considering land described in applications submitted under subsection (b), the Committee shall consider—

(A) land cover;

(B) size;

(C) adjacency and connectivity to existing parks and open spaces;

(D) water quality;

(E) current or prospective recreational use;

(F) visitor demand;

(G) scenic quality;

(H) cultural resources;

(I) erosion and flood hazard prevention;

(J) environmental justice;

(K) fish and wildlife productivity;

(L) biodiversity;

(M) scientific value;

(N) water quality protection;

(O) habitat restoration characteristics;

(P) connectivity to other habitats that are vital to sustaining healthy living resources in the Long Island Sound watershed;

(Q) risk of development; and

(R) other criteria developed by the Committee under section 6(1)(A).

(d) GENERAL GUIDELINES FOR AWARDED FUNDS.—

(1) IN GENERAL.—The Committee shall award funds to qualified applicants to help to secure and improve the open space, public access, or ecological values of stewardship sites, through—

(A) purchase of the property of the site;

(B) purchase of relevant property rights of the site; or

(C) entering into any other binding legal arrangement that ensures that the values of the site are preserved.

(2) EQUITABLE DISTRIBUTION OF FUNDS.—The Committee shall exert due diligence to distribute funds equitably between the States.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act \$40,000,000 for each fiscal year, to be allocated from the national estuary program under section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330).

(b) ALLOCATION OF FUNDS.—For each fiscal year—

(1) not more than 15 percent of funds made available under subsection (a) shall be used to improve the facilities of stewardship sites; and

(2) at least 85 percent of funds made available under subsection (a) shall be used to secure the values of stewardship sites.

(c) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using any assistance or grant under this Act shall not exceed 75 percent of the total cost of the activity.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 2351. A bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce the Emergency Medical Services Support Act of 2004 with my colleague, Senator RUSS FEINGOLD. This legislation will strengthen Federal efforts to support community-based emergency medical services across America.

A comprehensive, coordinated emergency medical services system is essential to assure quality care and prompt response in incidents ranging from automobile crashes to catastrophic weather to terrorist attacks. The emergency medical services system is a crucial part of our health care safety net.

Unfortunately, for the past twenty years, Federal support for EMS has been both inefficient and uncoordinated. No fewer than seven Federal agencies are involved in various aspects of emergency medical services. Most, however, focus on only one segment of the EMS system and don't effectively coordinate with other agencies.

In 2001, at the request of Senator FEINGOLD and myself, the General Accounting Office researched the status of this vital system. The GAO report, titled, "Emergency Medical Services: Reported needs are Wide-Ranging with a Growing Focus on Lack of Data," exposed the need to increase coordination among Federal agencies as they address the needs of regional, State, or local emergency medical services systems.

This legislation would formally establish a Federal Interagency Committee on Emergency Medical Services (FICEMS), which is currently an ad hoc committee with little formal direction. It would require the National Highway Traffic Safety Administration, in coordination with the Department of Homeland Security, to provide organizational and staff support.

This legislation would enhance coordination among the Federal agencies involved with the State, local, tribal and regional emergency medical services and 9-1-1 systems. It also would help Federal agencies coordinate their EMS-related activities and maximize the best use of established funding.

The President has recognized the need for this coordination. He included a similar proposal in his reauthorization proposal for the "Safe, Accountable, Flexible, and Efficient Transportation Equity act of 2003" (SAFETEA) that was transmitted by Secretary Mineta to Congress on May 12, 2003. The Senate-passed highway bill also included a similar proposal.

The legislation we introduce today builds upon the Administration's proposal by creating a more effective structure and enhancing the role of local EMS providers into Federal EMS programs. While I support the provisions in the Senate-passed bill, they fail to create a mechanism for individuals at the state and local levels to provide input into how Federal EMS programs should be coordinated.

Local, State and Federal level emergency medical services systems are extremely diverse and involve numerous different agencies and organizations. To assure a viable, responsive emergency medical services system, Federal agencies need the input and advice of their non-Federal partners and from persons regulating or providing emer-

gency medical services systems at the state and local level.

According to Tom Judge, the Executive Director of Lifeflight of Maine, an air ambulance provider, and Jay Bradshaw, the State of Maine's EMS Director, improved coordination can help strengthen support for a wide range of emergency medical services, from rural EMS providers, to communications between EMS systems, to improving coordination between local EMS providers and their Federal partners.

Another recent GAO report made it clear that the Center for Medicare and Medicaid Services needs to better coordinate its reimbursement with the Department of Transportation's matching grants for equipment and vehicles. Many of Maine's rural communities, such as Rumford, are at risk of seeing their first ambulance service closures due to low-reimbursement rates. If DOT targeted assistance to the low reimbursement areas that are at risk of shutting down, we might be able to maintain service in these areas.

Decisions at the Federal Communications Commission regarding spectrum management could make most of the existing EMS and Fire radios obsolete over the next few years. In St. George, Maine, the volunteer Fire Rescue has 30 mobile and portable radios, 40 pagers, and a base station that could become obsolete. In making future decisions regarding spectrum management, the FCC must work with Department of Homeland Security and the Department of Justice to help communities purchase interoperable radios if their old ones become obsolete.

I am pleased to have the support of Maine EMS, LifeFlight of Maine, the American Ambulance Association, the National Association of EMS Directors, and others for this legislation.

We must ensure that Federal agencies coordinate their efforts to support the dedicated men and women who provide EMS services across our Nation. I urge my colleagues to join me in supporting their efforts by cosponsoring this legislation.

Mr. FEINGOLD. Mr. President, I am pleased to join my colleague from Maine, Senator COLLINS, today to introduce legislation that will help improve and streamline Federal support for community-based emergency medical services. Our proposal will also provide an avenue for local officials and EMS providers to help Federal agencies improve existing programs and future initiatives.

Congress has long recognized the important role played by EMS providers. However, Federal support for EMS has been unfocused and uncoordinated, with responsibility scattered among a number of different agencies. In 2001, the General Accounting Office cited the need to increase coordination between the federal agencies involved with EMS issues but not much progress has been made since that report was issued. The Federal Government doesn't even have a good handle on how

much it is spending on EMS or what the needs are for EMS. The bill we introduce today is a good first step towards addressing the deficiencies in our current EMS policies.

This legislation establishes a federal interagency committee whose purpose will be to coordinate federal EMS activities, identify EMS needs, assure proper integration of EMS in homeland security planning, and make recommendations on improving and streamlining EMS support. Although Federal law, PL 107-188, called for the establishment of a working group on EMS, this legislation goes further in detailing the role and function of the interagency committee. The Senate Governmental Affairs Committee will certainly iron out any overlap that may exist.

This legislation also establishes an advisory council for the interagency committee that includes representatives from throughout the EMS community. The advisory committee, made up of non-Federal representatives from all EMS sectors and from both urban and rural areas, will provide guidance and input to the interagency committee on a variety of issues including the development of standards and national plans, expanding or creating grant programs, and improving and streamlining Federal EMS efforts. The advisory council is a critical component of this legislation because it is the channel through which local EMS practitioners can directly impact and help reform national EMS policy.

I want to thank the American Ambulance Association, the Association of Air Medical Services, the Emergency Nurses Association, the National Association of EMS Physicians, the National Association of State EMS Directors, and the National Registry of EMTs for their support of this bill. I also want to thank all of those Wisconsinites who provided so much helpful input in coming up with this legislation. In particular, I would like to thank Dr. Marvin Birnbaum of the University of Wisconsin, Fire Chief Dave Bloom of the Town of Madison, and Dan Williams, chair of Wisconsin's EMS advisory board for their advice and guidance.

EMS providers are a critical component of our Nation's first responder network. We must act now to streamline and coordinate federal EMS support and work to better understand the needs of the EMS community. I therefore ask my colleagues to join me in supporting this legislation.

By Mr. ENSIGN (for himself, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. INOUE, and Ms. COLLINS):

S. 2352. A bill to prevent the slaughter of horses in and from the United States for human consumption by prohibiting the slaughter of horses for human consumption and by prohibiting the trade and transport of horseflesh and live horses intended for human consumption, and for other purposes;

to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENSIGN. Mr. President, I rise along with my colleagues, Senators LANDRIEU, LIEBERMAN, INOUE and COLLINS, in order to introduce S. 2352, the American Horse Slaughter Prevention Act.

As a veterinarian, I am well aware of the love that Americans have for their horses. Much of our Nation's early history and culture is associated with these animals. We think of George Washington's horses and the legend of Paul Revere's ride and the Pony Express. And more recently, we were reminded of how the Depression Era race between Seabiscuit and War Admiral raised the spirit of our Nation.

While horses in the United States are not raised for food, last year alone, almost 50,000 horses were slaughtered in the United States for human consumption abroad. Pet horses, ex-racing horses, workhorses and even some federally protected wild horses are currently being slaughtered for human consumption in Europe and Asia. A series of recent polls show that Americans overwhelmingly support a ban on the slaughter of horses for human consumption.

Often, owners who sell their horses at auction are unaware that their horses may well be on their way to one of the two remaining slaughterhouses in America where horses are killed for human consumption. These slaughterhouses are foreign owned and the product is shipped abroad as are the profits.

States have tried to be proactive in preventing this form of slaughter in the United States. Several States have already enacted state laws prohibiting the slaughter of horses for human consumption. Several other States are currently considering similar legislation. However, due to the absence of a Federal law on this subject, the two existing foreign-owned slaughterhouses, which happen to be located in Texas—a State that has passed a law banning horse slaughter for human consumption—have still been able to operate.

I know that some people have expressed concern about what will happen to horses if slaughter is banned. Many of these horses will be sold to a new owner, others may be kept longer, and still others will be humanely euthanized by a licensed veterinarian. Others will be cared for by the horse rescue community. The American Horse Slaughter Prevention Act does allow fines collected under the Act to be distributed to qualified horse rescue groups caring for horses confiscated under the Act.

Some people have questioned whether this law will result in the abuse and neglect of unwanted horses. Thankfully, statistics do not support this

claim at all. Recently released figures show that the number of abuse cases dropped significantly in Illinois after the State's only horse slaughtering facility was destroyed in a fire in 2002. Also, since California passed a law banning the slaughter of horses for human consumption, there has been no discernible increase in cruelty and neglect cases in the State.

Furthermore, it is currently illegal to "turn out," neglect, or starve a horse, so this bill will not result in an increase in the number of orphaned horses in the United States. If a person attempts to turn his or her horses out, under current law, animal control agents will be able to enforce Federal humane laws. As I stated before, this bill seeks only to prohibit the slaughter of horses for human consumption. If a person wishes to put an animal down, it costs an average of \$50 to \$150 to have the horse humanely euthanized and disposed of—a fraction of what it costs to keep a horse as a companion or a work animal. That cost is not too big a burden to bear when no other options are available.

The time for a strong Federal law banning this practice is now. This bill does not target other forms of slaughter, rendering, or euthanasia but rather focuses solely on the slaughter of American horses for human consumption. The House version of this bill, H.R. 857, currently has two hundred cosponsors. Please join Senator LANDRIEU and me in cosponsoring the American Horse Slaughter Prevention Act.

Ms. LANDRIEU. Mr. President, today I join my colleagues in introducing the American Horse Slaughter Prevention Act. This bill will prohibit the slaughter of horses for human consumption, a practice which many Americans oppose and of which many more are completely unaware. As a life-long admirer of these beautiful and noble animals, I was shocked to learn that tens of thousands of horses are slaughtered and exported each year for human consumption in other countries. Aside from the fact that there is virtually no demand for the human consumption of horse flesh in this country, the absence of humane treatment of these horses is very disappointing. We must ensure that this beloved animal is treated in an appropriate manner and that this deplorable act, which many Americans find unconscionable, is prohibited under Federal law. Therefore, I am proud to join my colleagues as a cosponsor of this legislation. I would like to take this opportunity to highlight a few issues about this important measure.

The need for the humane euthanasia of horses is a sad reality for all horse owners. Each horse's life has inherent value and it is usually with great sad-

ness and care that horse owners face the realities of infirmity, age, or other reasons which call for the putting down of their animal. However, the current practice of horse slaughter is void of the human compassion involved with appropriate euthanasia. The export of horses for slaughter and the slaughter of horses in the United States by unskilled and careless workers increase the suffering of these animals. These slaughter houses appear uninterested in the welfare of these animals, and take little note of the objections of the millions of Americans who find the consumption of horse flesh to be inappropriate.

Throughout the development of this country, the human consumption of horse flesh has never been a widely accepted activity. This societal taboo is undoubtedly due to the unique relationship enjoyed between mankind and horses for thousands of years. Horses have tread many steps with American men and women. They were there in our work, on our farms, for transportation and communication, in the taming of a vast American frontier, and on every battlefield prior to World War II. They have proven themselves loyal and gentle animals, without which the development of our country may not have been possible and certainly much more difficult. Horses demand the basic humane treatment that we should extend to all of God's creatures, and above that—our society has developed a heightened sense of respect and love for these indispensable animals. In modern times, horses have brought joy and entertainment to many. Through racing, recreation and even therapy to the handicapped, horses have touched the lives of many Americans. Clearly, they hold a special place in our lives and it is for these reasons that so many are strongly opposed to the slaughter of horses in this country for human consumption.

I am very encouraged by the leadership and hard work of Senator ENSIGN, who is himself a veterinarian. His expertise in this issue has brought many groups together in support of this legislation, and has facilitated understanding of the bill's provisions. Having garnered broad support in the House of Representatives, I am firmly committed to seeing that this bill is brought to the attention of all of our colleagues here in the Senate. I look forward to working with Senator ENSIGN and other colleagues, to ensure that we address these important issues and pass a common sense bill that reflects the desires of many of our constituents, who support the humane treatment of horses and the prohibition of their slaughter for human consumption.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 343—CALLING ON THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM TO RESPECT ALL UNIVERSALLY RECOGNIZED HUMAN RIGHTS, INCLUDING THE RIGHT TO FREEDOM OF RELIGION AND TO PARTICIPATE IN RELIGIOUS ACTIVITIES AND INSTITUTIONS WITHOUT INTERFERENCE OR INVOLVEMENT OF THE GOVERNMENT; AND TO RESPECT THE HUMAN RIGHTS OF ETHNIC MINORITY GROUPS IN THE CENTRAL HIGHLANDS AND ELSEWHERE IN VIETNAM

Mr. LUGAR (for himself, Mr. KERRY, Mr. HAGEL, and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 343

Calling on the Government of the Socialist Republic of Vietnam to:

(A) Respect all universally recognized human rights, including the right to freedom of religion and to participate in religious activities and institutions without interference or involvement of the Government;

(B) Respect the human rights of ethnic minority groups in the Central Highlands and elsewhere in Vietnam.

Whereas the Government of Vietnam has discouraged the peaceful expression of dissent by its citizens through intimidation, harassment, and sometimes through imprisonment, house arrest and other forms of detention;

Whereas Vietnamese Government officials may travel freely throughout the United States;

Whereas the Government of Vietnam has failed to adequately address issues of land tenure and discrimination in ethnic minority areas of the Central and Northwest Highlands;

Whereas reports have been received alleging attacks by Vietnamese police and other Government representatives against Montagnards who were engaged in peaceful Easter week demonstrations pressing for religious freedom and the return of ancestral lands;

Whereas Montagnards were reportedly beaten and reportedly killed by police and other Vietnamese government representatives during the recent demonstrations; Now, therefore, be it

Resolved, That the Senate

(A) Strongly urges the Government of Vietnam to respect all universally recognized human rights;

(B) Expresses its concern over reports that the Government of Vietnam used excessive force to put down recent, peaceful demonstrations in Vietnam's Central Highlands;

(C) Calls upon the Government of Vietnam to allow international organizations and foreign observers ongoing unrestricted access to the Central and Northwest Highlands;

(D) Calls upon the Government of Vietnam to allow United States officials to travel freely throughout Vietnam including the Central and Northwest Highlands areas;

(E) Strongly urges the Government of Vietnam to address the concerns of indigenous minorities in the Central and Northwest Highlands of Vietnam, and to permit direct assistance and development activities aimed at improving socioeconomic conditions for all Highlands residents, whether

provided bilaterally, through NGO's, or international organizations.

SENATE CONCURRENT RESOLUTION 100—CELEBRATING 10 YEARS OF MAJORITY RULE IN THE REPUBLIC OF SOUTH AFRICA AND RECOGNIZING THE MOMENTOUS SOCIAL AND ECONOMIC ACHIEVEMENTS OF SOUTH AFRICA SINCE THE INSTITUTION OF DEMOCRACY IN THAT COUNTRY

Mr. ALEXANDER (for himself, Mr. FEINGOLD, Mr. LUGAR, and Mr. BIDEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 100

Whereas the Republic of South Africa peacefully and successfully held democratic elections and transitioned to a democratic, nonracial form of government in 1994;

Whereas South Africa helped initiate and frame the New Partnership for Africa's Development and continues to head this partnership for development and responsible leadership in Africa;

Whereas South Africa actively supports the South African Development Community, which promotes regional economic cooperation and higher standards of living in Southern Africa;

Whereas South Africa has made significant advances in housing by constructing 1,600,000 houses for the poor of South Africa;

Whereas, since 1994, 9,000,000 people in South Africa have gained access to clean water;

Whereas, before 1994, 22,000,000 people in South Africa did not have access to adequate sanitation, but 63 percent of households in South Africa now have access to adequate sanitation;

Whereas, before 1994, 60 percent of people in South Africa did not have electricity, but more than 70 percent of households in South Africa now have electricity;

Whereas, from 1994 to 2004, secondary school enrollment in South Africa increased from 70 percent to 85 percent, and students in South Africa now learn in a racially integrated school system;

Whereas the Government of South Africa has established nutritional and educational programs to benefit the youngest and poorest people in South Africa;

Whereas South Africa is experiencing the longest period of consistent positive growth, as measured by its gross domestic product (GDP), since growth in GDP was properly recorded in the 1940s;

Whereas F.W. de Klerk and Nelson Mandela share a Nobel Peace Prize for their work in ending apartheid in South Africa and establishing a representative government;

Whereas Desmond Tutu led the Truth and Reconciliation Commission to repair injustices among South Africans and improve race relations in the country, and was awarded a Nobel Peace Prize for his efforts;

Whereas South Africa has contributed troops to peacekeeping efforts in Burundi, Liberia, the Democratic Republic of the Congo, Ethiopia, and Eritrea;

Whereas South Africa President Thabo Mbeki has forged a relationship with President George W. Bush, making three state visits to the United States and hosting President Bush during his visit to Pretoria, South Africa;

Whereas South Africa has served as an inspiration for other African nations striving for democracy and the peaceful cooperation of many ethnic groups;

Whereas, after being isolated for many years because of the odious system of apartheid, South Africa has since 1994 become a premier location for large international conferences, a leading tourist destination, and the locale for numerous films; and

Whereas, in 1993, the Government of South Africa voluntarily halted its biological, chemical, and nuclear weapons programs and, in 1994, hosted the first conference in Africa on the implementation of the Convention on the Prohibition on the Development, Production, Stockpiling, and Use of Chemical Weapons and On Their Destruction, with annexes, done at Paris January 13, 1993, and entered into force April 29, 1997: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) applauds the Republic of South Africa for the remarkable transition to a democratic government and the tremendous progress achieved during 10 years of majority rule;

(2) looks forward to a continued partnership with South Africa focused on a sustained commitment to the health of South Africans; and

(3) anticipates continued social development and economic growth in South Africa.

Mr. ALEXANDER. Mr. President, I rise today to recognize the 10th anniversary of majority rule in the Republic of South Africa and to commend the South African people for the momentous social and economic achievements they have made since establishing a more inclusive democracy. We all remember that just ten years ago South Africa held its first democratic, non-racial election on April 27, 1994. This momentous event, along with the subsequent inauguration of Nelson Mandela as President, later in May, signaled the death knell of apartheid and the re-birth of South Africa as a more representative, non-discriminatory democracy. The struggle to end apartheid in South Africa captured the imagination and garnered the support of millions of peoples worldwide, including the people of the United States.

In August 2003, my wife, Honey, and I spent a few days in South Africa as part of a Congressional Delegation led by our Majority Leader, Senator BILL FRIST. While there, we toured Robben Island, the prison island where Nelson Mandela was jailed for twenty-seven years. It was a humbling and inspiring experience to walk the grounds and know that despite his imprisonment in this desolate jail, Mandela could emerge without bitterness or hate and advocate unity and peaceful change as he worked with then President F.W. de Klerk to end apartheid and establish a representative democracy, for which efforts both men received the Nobel Prize in 1993.

Traveling through Cape Town, Johannesburg, and Soweto, and meeting with both white and black South Africans reminded me how far South Africa has come in its social transformation, which has improved the lives of millions. In 1994, 22 million South Africans did not have access to adequate sanitation and 60 percent of South Africans did not have electricity. Now, 63 percent of South African households have

access to sanitation, more than 70 percent of households have electricity, and 9 million people have gained access to clean water since 1994.

However, my visit to South Africa also underscored that South Africa still faces daunting challenges that threaten to undo the gains it has made since 1994. First, and foremost, the most pressing issue facing not only South Africa, but also all of sub-Saharan Africa, remains HIV/AIDS. The 2003 announcement by the Mbeki government that it would soon begin providing antiretroviral treatment on a national scale to South Africans living with AIDS was an important step. President Mbeki was slow to come to this decision, and I hope now he will move forward with greater commitment. The South African government must persevere in combating the challenge of HIV/AIDS by making a strong political commitment and by expanding its prevention and treatment programs, such as the impressive ones that I visited during my time there.

Also facing South Africa and its neighbors is the economic and humanitarian crisis caused by Robert Mugabe's despotic regime in nearby Zimbabwe. I have spoken on this floor before to condemn President Mugabe's brutal oppression of his own people, and it is imperative that South Africa take a lead role among the international community in agitating for real change in practices of the Zimbabwean government.

Nelson Mandela aptly said, "It is better to lead from behind and to put others in front, especially when you celebrate victory when nice things occur. You take the front line where there is danger. Then people will appreciate your leadership." Now is the proper time to celebrate the anniversary of South Africa's transition to an inclusive democracy, and we all look forward to South Africa taking a stronger leadership role on the front lines against the twin dangers of HIV/AIDS in Sub-Saharan Africa and the oppressive regime of Robert Mugabe.

To that end, today I submit a resolution to commemorate this important event. I'm proud to be joined in this effort by Senator FEINGOLD, the ranking member of the Subcommittee on Africa Affairs, which I chair, Senator LUGAR, the Chairman of the Foreign Relations Committee, and Senator BIDEN, the Ranking Member of the Foreign Relations Committee. Senator FEINGOLD has been an active leader on African issues throughout his tenure in the Senate, and I have been privileged to serve with him on our Subcommittee. Chairman LUGAR and Senator BIDEN were both leaders on the issue of sanctions against the apartheid regime of South Africa in the 1980's and early '90's. I hope they feel a sense of satisfaction, today, in celebrating ten years of successful majority rule since the peaceful end of that regime.

Today is Freedom Day in South Africa, a day to celebrate the end of apart-

heid, and the beginning of majority rule in that country. I hope my colleagues will join me in supporting this resolution to commemorate that event.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3048. Mr. MCCAIN proposed an amendment to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

SA 3049. Mrs. HUTCHISON proposed an amendment to amendment SA 3048 proposed by Mr. MCCAIN to the bill S. 150, supra.

SA 3050. Mr. DASCHLE (for himself, Mr. DURBIN, and Mr. JOHNSON) proposed an amendment to the bill S. 150, supra.

SA 3051. Mr. DOMENICI proposed an amendment to amendment SA 3050 proposed by Mr. DASCHLE (for himself, Mr. DURBIN, and Mr. JOHNSON) to the bill S. 150, supra.

TEXT OF AMENDMENTS

SA 3048. Mr. MCCAIN proposed an amendment to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Freedom Act; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

SEC. 2. FOUR-YEAR EXTENSION OF INTERNET TAX MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

“(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes during the period beginning November 1, 2003, and ending November 1, 2007:

“(1) Taxes on Internet access.
“(2) Multiple or discriminatory taxes on electronic commerce.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

“(10) TAX ON INTERNET ACCESS.—

“(A) IN GENERAL.—The term ‘tax on Internet access’ means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.
“(B) GENERAL EXCEPTION.—The term ‘tax on Internet access’ does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.”.

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking “except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998.”.

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Inter-

net Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting “The term ‘Internet access service’ does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting “The term ‘Internet access’ does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

“SEC. 1104. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

“(a) PRE-OCTOBER 1998 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

“(A) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

“(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—This subsection shall not apply after November 1, 2006.

“(b) PRE-NOVEMBER 2003 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

“(A) a provider of Internet access services had a reasonable opportunity to know by virtue of a public rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; and

“(B) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—This subsection shall not apply after November 1, 2005.”.

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

“SEC. 1106. ACCOUNTING RULE.

“(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

“(b) DEFINITIONS.—In this section:

“(1) CHARGES FOR INTERNET ACCESS.—The term ‘charges for Internet access’ means all charges for Internet access as defined in section 1105(5).

“(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term ‘charges for telecommunications services’ means all charges for telecommunications services, except to

the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.”.

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

“SEC. 1107. EFFECT ON OTHER LAWS.

“(a) Universal Service.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

“(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

“(2) in effect on February 8, 1996.

“(b) 911 AND E-911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

“(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.”.

SEC. 6. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 5, is amended by adding at the end the following:

“SEC. 1108. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

“Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or any other service utilizing Internet Protocol or any successor protocol. This section shall not apply to Internet access or to any services that are incidental to Internet access, such as e-mail, text instant messaging, and instant messaging with voice capability.”.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect on November 1, 2003.

SA 3049. Mrs. HUTCHISON proposed an amendment to amendment SA 3048 proposed by Mr. MCCAIN to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; as follows:

At the appropriate place, insert the following:

SEC. ____ . CHANGE IN DEFINITION OF INTERNET ACCESS SERVICE.

Paragraph (10) of section 1105 of the Internet Tax Freedom Act, as redesignated by this Act, is amended—

(1) by striking “The term” and inserting the following:

“(A) IN GENERAL.—The term”; and

(2) by adding at the end the following:

“(B) GENERAL EXCEPTION.—The term does not—

“(i) include a tax levied upon or measured by net income, capital stock, net worth, or property value; or

“(ii) apply to any payment made for use of the public right-of-way or made in lieu of a fee for use of the public right-of-way, however it may be denominated, including but not limited to an access line fee, franchise fee, license fee, or gross receipts or gross revenue fee.”.

SA 3050. Mr. DASCHLE (for himself, Mr. DURBIN, and Mr. JOHNSON) proposed

an amendment to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; as follows:

At the end, add the following:

TITLE ____—FUELS

Subtitle A—General Provisions Relating to Renewable Fuels

SEC. ____01. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

“(o) RENEWABLE FUEL PROGRAM.—

“(1) DEFINITIONS.—In this section:

“(A) CELLULOSIC BIOMASS ETHANOL.—The term ‘cellulosic biomass ethanol’ means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

“(i) dedicated energy crops and trees;

“(ii) wood and wood residues;

“(iii) plants;

“(iv) grasses;

“(v) agricultural residues;

“(vi) fibers;

“(vii) animal wastes and other waste materials; and

“(viii) municipal solid waste.

“(B) RENEWABLE FUEL.—

“(i) IN GENERAL.—The term ‘renewable fuel’ means motor vehicle fuel that—

“(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

“(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

“(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

“(ii) INCLUSION.—The term ‘renewable fuel’ includes—

“(I) cellulosic biomass ethanol; and

“(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

“(C) SMALL REFINERY.—The term ‘small refinery’ means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

“(2) RENEWABLE FUEL PROGRAM.—

“(A) REGULATIONS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Alaska and Hawaii), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

“(ii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

“(I) shall contain compliance provisions applicable to refiners, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

“(II) shall not—

“(aa) restrict cases in geographic areas in which renewable fuel may be used; or

“(bb) impose any per-gallon obligation for the use of renewable fuel.

“(iii) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations

under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 1.8 percent for calendar year 2005.

“(B) APPLICABLE VOLUME.—

“(i) CALENDAR YEARS 2005 THROUGH 2012.—

For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2005	3.1
2006	3.3
2007	3.5
2008	3.8
2009	4.1
2010	4.4
2011	4.7
2012	5.0.

“(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

“(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

“(II) the ratio that—

“(aa) 5,000,000,000 gallons of renewable fuel; bears to

“(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

“(3) APPLICABLE PERCENTAGES.—

“(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2004 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline sold or introduced into commerce in the United States during the following calendar year.

“(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

“(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

“(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

“(I) be applicable to refiners, blenders, and importers, as appropriate;

“(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

“(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

“(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

“(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

“(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

“(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

“(B) if the cellulosic biomass is derived from agricultural residue, shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

“(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

“(ii) for the generation of an appropriate amount of credits for biodiesel; and

“(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

“(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

“(i) subject to clause (ii), for the calendar year in which the credit was generated or the following calendar year; or

“(ii) if the Administrator promulgates regulations under paragraph (6), for the calendar year in which the credit was generated or any of the following 2 calendar years.

“(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

“(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

“(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

“(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

“(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

“(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

“(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

“(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

“(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

“(D) PERIODS.—The 2 periods referred to in this paragraph are—

“(i) April through September; and

“(ii) January through March and October through December.

“(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2005 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

“(7) WAIVERS.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

“(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

“(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

“(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

“(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

“(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

“(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2005, on a national, regional, or State basis.

“(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

“(i) supplies and prices;

“(ii) blendstock supplies; and

“(iii) supply and distribution system capabilities.

“(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

“(D) WAIVER.—

“(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar 2005.

“(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

“(9) ASSESSMENT AND WAIVER.—

“(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall evaluate the requirement of paragraph (2) and determine, before January 1, 2007, and before January 1 of any subsequent year in which the applicable volume of renewable

fuel is increased under paragraph (2)(B), whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B) should remain in effect, in whole or in part, during 2007 or any subsequent year.

“(B) CONSIDERATIONS.—In evaluating the requirement of paragraph (2) and in making any determination under this paragraph, the Administrator shall consider the best available information and data collected by accepted methods or best available means regarding—

“(i) the capacity of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to fulfill the requirement of paragraph (2);

“(ii) the potential of the requirement of paragraph (2) to raise significantly the price of gasoline, food (excluding the net price impact on the requirement in paragraph (2) on commodities used in the production of ethanol), or heating oil for consumers in any significant region of the country above the price that would otherwise apply to those commodities in the absence of the requirement;

“(iii) the potential of the requirement of paragraph (2) to interfere with the supply of fuel in any significant gasoline market or region of the country, including interference with the efficient operation of refiners, blenders, importers, wholesale suppliers, and retail vendors of gasoline and other motor fuels; and

“(iv) the potential of the requirement of paragraph (2) to cause or promote exceedances of Federal, State, or local air quality standards.

“(C) WAIVER.—If the Administrator determines, by clear and convincing information, after public notice and opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the supply of fuel and related infrastructure or on the economy, public health, or environment of any significant area or region of the country, the Administrator may waive, in whole or in part, the requirement of paragraph (2) in any 1 year for which the determination is made for that area or region of the country, except that any such waiver shall not have the effect of reducing the applicable volume of renewable fuel specified in paragraph (2)(B) with respect to any year for which the determination is made.

“(D) ECONOMIC IMPACT.—In determining economic impact under this paragraph, the Administrator shall not consider the reduced revenues available from the Highway Trust Fund as a result of the use of ethanol.

“(10) SMALL REFINERIES.—

“(A) TEMPORARY EXEMPTION.—

“(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

“(ii) EXTENSION OF EXEMPTION.—

“(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2007, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

“(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

“(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

“(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

“(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

“(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

“(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

“(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

“(11) ETHANOL MARKET CONCENTRATION ANALYSIS.—

“(A) ANALYSIS.—

“(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

“(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

“(B) REPORT.—Not later than December 1, 2004, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).”

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n), or (o)”; and

(B) in the second sentence, by striking “or (m)” and inserting “(m), or (o)”; and

(2) in the first sentence of paragraph (2), by striking “and (n)” each place it appears and inserting “(n), and (o)”.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

“(5) EXCLUSION FROM ETHANOL WAIVER.—

“(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied,

offered for supply, transported, or introduced into commerce in the area during the high ozone season.

“(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

“(C) EFFECTIVE DATE.—

“(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

“(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

“(II) 1 year after the date of receipt of the notification.

“(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

“(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

“(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

“(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”

SEC. 202. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

“SEC. 212. RENEWABLE FUEL.

“(a) DEFINITIONS.—In this section:

“(1) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ has the meaning given the term ‘solid waste’ in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

“(2) RFG STATE.—The term ‘RFG State’ means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Energy.

“(b) SURVEY OF RENEWABLE FUEL MARKET.—

“(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

“(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

“(i) conventional gasoline containing ethanol;

“(ii) reformulated gasoline containing ethanol;

“(iii) conventional gasoline containing renewable fuel; and

“(iv) reformulated gasoline containing renewable fuel; and

“(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

“(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

“(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

“(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and record-keeping requirements in effect on the date of enactment of this section.

“(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

“(c) COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

“(2) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (1) to an applicant if—

“(A) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in paragraph (1);

“(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

“(C) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

“(4) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

“(A) meet all applicable Federal and State permitting requirements;

“(B) are most likely to be successful; and

“(C) are located in local markets that have the greatest need for the facility because of—

“(i) the limited availability of land for waste disposal; or

“(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

“(5) MATURITY.—A loan guaranteed under paragraph (1) shall have a maturity of not more than 20 years.

“(6) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (1) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

“(7) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (1) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

“(8) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (1) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

“(9) FULL FAITH AND CREDIT.—

“(A) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this subsection.

“(B) CONCLUSIVE EVIDENCE.—Any guarantee made by the Secretary under this subsection shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest.

“(C) VALIDITY.—The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

“(10) REPORTS.—Until each guaranteed loan under this subsection has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this subsection.

“(11) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a new loan guarantee under paragraph (1) terminates on the date that is 10 years after the date of enactment of this section.

“(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the University of Mississippi and the University of Oklahoma, \$4,000,000 for each of fiscal years 2004 through 2006.

“(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

“(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

“(2) ELIGIBILITY.—

“(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

“(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2004 through 2008.

“(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

“(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

“(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

“(A) is located in the United States; and
“(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

“(A) \$100,000,000 for fiscal year 2004;
“(B) \$250,000,000 for fiscal year 2005; and
“(C) \$400,000,000 for fiscal year 2006.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

“212. Renewable fuels.”.

SEC. 03. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

“(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

“(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation’s renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

“(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

“(A) the quantity of renewable fuels produced;

“(B) the cost of production;

“(C) the cost of blending and marketing;

“(D) the quantity of renewable fuels blended;

“(E) the quantity of renewable fuels imported; and

“(F) market price data.”.

Subtitle B—Federal Reformulated Fuels

SEC. 11. SHORT TITLE.

This subtitle may be cited as the “Federal Reformulated Fuels Act of 2004”.

SEC. 12. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking “paragraphs (1) and (2) of this subsection” and inserting “paragraphs (1), (2), and (12)”; and

(B) by inserting “and section 9010” before “if”; and

(2) by adding at the end the following:

“(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

“(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

“(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).”.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

“SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

“Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

“(1) by a State (pursuant to section 9003(h)(7)) acting under—

“(A) a program approved under section 9004; or

“(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

“(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

“SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

“In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

“(1) to carry out section 9003(h)(12), \$200,000,000 for fiscal year 2003, to remain available until expended; and

“(2) to carry out section 9010—

“(A) \$50,000,000 for fiscal year 2003; and

“(B) \$30,000,000 for each of fiscal years 2004 through 2008.”.

(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking “substances” and inserting “substances”.

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking “subsection (c) and (d) of this section” and inserting “subsections (c) and (d)”.
(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking “referred to” and all that follows and inserting “referred to in subparagraph (A) or (B), or both, of section 9001(2).”.

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—
(A) in subsection (a), by striking “study taking” and inserting “study, taking”;
(B) in subsection (b)(1), by striking “relevant” and inserting “relevant”; and
(C) in subsection (b)(4), by striking “Environmental” and inserting “Environmental”.

SEC. 13. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as “MTBE”) has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101-549 (commonly known as the “Clean Air Act Amendments of 1990”) (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101-549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(1) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) RESTRICTIONS ON USE OF MTBE.—

"(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

"(i) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

"(ii) any other fuel additive that meets the criteria specified in subparagraph (B).

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

"(i) use of the fuel additive is consistent with this subsection;

"(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

"(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

"(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$250,000,000 for each of fiscal years 2004 through 2007."

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 14. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

"(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

"(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

"(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

"(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the

PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

“(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

“(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

“(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator 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 subparagraph).”

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

“(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

“(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

“(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 1999 and 2000;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999 and 2000; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 203(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 1999 and 2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 15. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking “may also” and inserting “shall, on a regular basis;” and

(B) by striking subparagraph (A) and inserting the following:

“(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and”;

(2) by adding at the end the following:

“(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDESTOCKS.—

“(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

“(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

“(I) ethyl tertiary butyl ether;

“(II) tertiary amyl methyl ether;

“(III) di-isopropyl ether;

“(IV) tertiary butyl alcohol;

“(V) other ethers and heavy alcohols, as determined by then Administrator;

“(VI) ethanol;

“(VII) iso-octane; and

“(VIII) alkylates; and

“(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

“(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

“(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with non-governmental entities such as—

“(i) the national energy laboratories; and

“(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).”

SEC. 16. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 01(a)) is amended by inserting after subsection (o) the following:

“(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

“(1) ANTI-BACKSLIDING ANALYSIS.—

“(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Reliable Fuels Act.

“(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

“(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2006.”

SEC. 17. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking “(6) OPT-IN AREAS.—(A) Upon” and inserting the following:

“(6) OPT-IN AREAS.—

“(A) CLASSIFIED AREAS.—

“(i) IN GENERAL.—Upon”;

(2) in subparagraph (B), by striking “(B) If” and inserting the following:

“(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If”;

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking “subparagraph (A)” and inserting “clause (i)”;

(B) in the second sentence, by striking “this paragraph” and inserting “this subparagraph”;

(4) by adding at the end the following:

“(B) OZONE TRANSPORT REGION.—

“(i) APPLICATION OF PROHIBITION.—

“(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

“(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

“(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

“(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

“(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

“(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

“(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator’s own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

“(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

“(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

“(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.”.

SEC. 18. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

(1) by striking “(C) A State” and inserting the following:

“(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

“(i) IN GENERAL.—A State”; and

(2) by adding at the end the following:

“(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.”.

SEC. 19. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2007, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

SA 3051. Mr. DOMENICI proposed an amendment to amendment SA 3050 proposed by Mr. DASCHLE (for himself, Mr. DURBIN, and Mr. JOHNSON) to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; as follows:

(The amendment will be printed in a future edition of the RECORD.)

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, April 28, 2004, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2172, Tribal Contract Support Cost Technical Amendments of 2004.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, April 29, 2004, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2301, a discussion draft bill to improve the management of Native American fish and wildlife and gathering, and for other purposes.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COCHRAN. Mr. President, I announce that the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on May 6, 2004 in SD-106 at 10 a.m. The purpose of this hearing will be to discuss Biomass Use in Energy Production: New Opportunities for Agriculture.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 27, 2004, at 9:30 a.m., in open session to consider the following nominations: Tina Westby Jonas to be Under Secretary of Defense (Comptroller); Dionel M. Aviles to be Under Secretary of the Navy; and Jerald S. Paul to be Principal Deputy Administrator, National Nuclear Security Administration.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, April 27, 2004, at 9:30 a.m. on Telecommunications Policy Review: Lessons learned from the Telecommunications Act of 1996, in SR-253.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 27 at 10:00 a.m.

The purpose of the hearings is to receive testimony regarding sustainable, low emission, electricity generation.

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

COMMITTEE ON FINANCE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, April 27, 2004, at 10:00 a.m., in 215 Dirksen Senate Office Building, to hear testimony on “International Trade and Pharmaceuticals.”

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 27, 2004 at 10:00 a.m. to hold a Nomination hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Tuesday, April 27, 2004 at 10:00 a.m. on "Judicial Nominations" in the Dirksen Senate Office Building Room 226.

Brett M. Kavanaugh, to be United States Circuit Judge for the District of Columbia Circuit.

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

SPECIAL COMMITTEE ON AGING

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, April 27, 2004 from 10:00 a.m.-12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 27 at 2:30 p.m. in room SD-366.

The purpose of the hearing is to receive testimony on the following bills: S. 1064, to establish a Commission to Commemorate The Sesquicentennial of the American Civil War, and for other purposes; S. 1092, to authorize the establishment of a National Database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans; S. 1748, to establish a program to award grants to improve and maintain sites honoring Presidents of the United States; S. 2046, to authorize the exchange of certain land in Everglades National Park; S. 2052, to amend the National Trails, System Act to designate El Camino Real De Los Tejas as a National Historic Trail; and S. 2319, to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. SUNUNU. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Tuesday, April 27, 2004, at 3:30 p.m., on the International Space Exploration Program, in SR-253.

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

MEASURE PLACED ON THE CALENDAR—S. 2348

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:
A bill (S. 2348) to extend the Internet Tax Freedom Act.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under provisions of rule XIV, I object to further proceedings.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

COMMUNICATIONS SATELLITE ACT OF 1962

Mr. FRIST. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 2315 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:
A bill (S. 2315) to amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 2315) was read the third time and passed, as follows:

S. 2315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i) is amended—

(1) by striking "December 31, 2003," and inserting "June 30, 2005," and

(2) by striking "June 30, 2004," and inserting "December 31, 2005;"

APPOINTMENT

THE ACTING PRESIDENT pro tempore. The Chair, on behalf of the majority leader, pursuant to Public Law 108-132, Section 128, appoints the following individual to the Commission on Review of Overseas Military Facility

Structure of the United States: Admiral Thomas Lopez of Virginia.

ORDERS FOR WEDNESDAY, APRIL 28, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Wednesday, April 28. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and following the time for the two leaders the Senate then begin a period for morning business for up to 60 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee; provided further, that following that 60 minutes, the Senate resume consideration of S. 150, the Internet tax bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, following morning business, the Senate will resume consideration of the Internet tax bill. As I mentioned, I hope we can reach an agreement to address this Internet tax bill, hopefully with some amendments, over the course of tomorrow. That is going to take cooperation from both sides of the aisle.

Rollcall votes are possible during tomorrow's session.

We have a few more issues remaining. I think we can settle them in the next few minutes. At this juncture, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. 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 8:27 p.m., adjourned until Wednesday, April 28, 2004, at 9:30 a.m.