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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

The PRESIDING OFFICER. This morning our guest Chaplain, Reverend Samuel L. Green, St. Mark African Methodist Episcopal Church, in Orlando, FL, will lead the Senate in prayer:

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Oh God, our God. How excellent is Your name. You are wonderful. You are glorious. You are sovereign and majestic. You alone are God. We offer to You today thanksgiving. Thank You for the many blessings You have so graciously bestowed upon us. Thank You for blessing America. We pause as a nation today to bless You. Give us strength and courage to work together as a nation to create environments of liberty and justice throughout our land.

Dear Lord, grant unto this Senate an agenda that will speak to the issues that affect every citizen of our Nation. As these women and men convene, cause them to remember that our Founders established this Nation under God. Then as they deliberate, their thoughts and actions will be led by You.

God of grace, God of glory, on these Senators pour Your power. Grant them wisdom; grant them courage for the facing of this hour in America. Give them a strong resolution against the evils that we as a nation deplore. Search their souls, be their glory so that these women and men who have been elected to serve as Senators will not fail those they represent or Thee. In the name of Jesus, the Christ, we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 18, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, this morning the Senate will resume consideration of the energy reform bill. The ANWR amendments are pending. The time until 11:45 is divided equally between the two leaders or their designees. At 11:45 the Senate will vote on cloture on the Stevens ANWR amendment. If cloture is not invoked on the Stevens amendment, the Senate will immediately vote on cloture on the Murkowski ANWR amendment.

I ask that Senator NELSON of Florida be recognized to give remarks regarding our guest Chaplain.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

WELCOMING THE GUEST CHAPLAIN

Mr. NELSON of Florida. Madam President, the minister who is our guest Chaplain is a personal friend of mine from Orlando. It is noteworthy that I make a couple of remarks concerning him.

Reverend Sam Green of St. Mark AME Church in Orlando is a rather extraordinary minister of the gospel. He comes from a family that has four brothers who are all ministers, in Orlando, Tallahassee, Gainesville, and Miami. Reverend Green's pastorate and his ministry are an outreach to the community of Orlando, for he has created businesses to fill the needs of the Orlando community that are all occupied by parishioners of his church. And so it is with a great deal of pleasure that we welcome Reverend Sam Green of Orlando to be our guest Chaplain this morning.

Thank you, Madam President.

RESERVATION OF LEADER TIME

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission

areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

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

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Schumer amendment No. 3030 (to amendment No. 2917), to strike the section establishing a renewable fuel content requirement for motor vehicle fuel.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

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

Stevens amendment No. 3133 (to amendment No. 3132), to create jobs for Americans, to strengthen the United States steel industry, to reduce dependence on foreign sources of crude oil and energy, and to promote national security.

Mr. REID. Madam President, I ask unanimous consent that the full 2 hours be given and the votes occur at 10 minutes to the hour rather than 15 minutes on the hour.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, I understand I have up to 15 minutes to speak at this time, is that correct?

The ACTING PRESIDENT pro tempore. No time was specifically allotted to any particular Senator.

Mr. DOMENICI. I thank the Chair. I am supposed to proceed on our side. As the majority whip knows, I have a hearing beginning shortly. The Senator from Pennsylvania wanted to use 2 minutes of my time. Could we let him proceed for 2 minutes?

Mr. REID. That would be fine if the three Republican Senators wish to speak.

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

Mr. SANTORUM. Madam President, I want to speak for a couple of minutes on this amendment on steel. We had an opportunity to do something to profoundly help the steel industry this year. The President has done the right thing. He did something tremendously important to help steel jobs by creating the tariff decision a few weeks ago. But the second piece of this puzzle was to do something about the legacy cost, so the steel industry can consolidate and be much more efficient.

We had an opportunity in this bill, because we had a pot of money, to be able to fund this program. I don't see any other pot of money out there that is substantial enough to meet the needs of people who are basically without health insurance now because of the failure of so many companies in the steel industry. We had the money. All we needed was the will. Fortunately, you had the steel companies saying let's do it and make this our chance because the money is here, the will is here. The steelworkers passed. Many people here who are advocates for steelworkers are taking a pass. The reason is because they cannot get a commitment from the President to sign this exact piece of legislation.

I am going to vote for this legislation, but if that now is the standard, I am going to adopt that standard. I will not vote for another piece of steel legacy legislation on the floor of the Senate. I will not advocate for another piece of steel legacy legislation until we have a commitment from the President, before it leaves the Senate, that he will sign it. Since that is the commitment that was necessary here, that will now be the commitment to get my support and advocacy on this side of the aisle for any future steel legacy bailout. You have made your bed, and it is an uncomfortable one, and it is not going to be a satisfying one for the people who could today be realizing health care, could be realizing a restoration of the health care benefits that were promised them. But some people decided to take a political pass. Go ahead and take your political pass, but the impact on all of these workers is profound, and the impact on all of these retirees is profound. It is a very sad day for the steelworkers and the retirees as a result of the politics being played on this issue.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, this side has asked me to ask unanimous consent that the time consumed by the quorum call be equally divided on the unanimous consent the Senator from Nevada just requested.

Mr. REID. I hope we don't have a quorum call.

Mr. DOMENICI. That quorum time be equally divided. That is what we are trying to clear up.

Mr. REID. I am sure it is OK. I'm not sure I understand.

Mr. DOMENICI. Madam President, today we are debating an amendment that, simply put, has a profound impact on our future. This legislation is American jobs and national security. And I will say, what could be more compelling than these two very simple, but profound and obviously important considerations: American jobs and national security.

Our Nation, whether we like it or not, whether we should have done something about it sooner or not, moves on oil. We can wish for a future in which there are other options, but it is not here now. Absolutely nothing changes the stark fact that now, and for the foreseeable future, we need expanded supplies of oil, and we are dangerously dependent on foreign sources.

Our economy grinds to a halt without oil. Our tremendous military capabilities require oil. Today, for example, it takes 8 times more oil to meet the needs of each American soldier than during World War II.

Senator after Senator has noted that we are now importing almost 60 percent of our oil. We all know that the past crises occurred when we were half as much dependent. Those crises occurred when other nations followed their own best interests. That will always be the case. Our interests will not always drive the actions of our neighbors and countries that call themselves our friends.

We know that oil is going to become an increasingly precious resource. Supplies are not infinite, but it is not a question of whether we have enough oil for the foreseeable future; but will America be able to be assured—or can we do things that will make us more assured that we will have what we need?

We know that oil is getting to be a more precious resource. Obviously, we have become vulnerable to disruptions. That vulnerability has never been larger. But I submit that it will get larger in the future because we are not taking any action, in my opinion, that either short-term or long-term will change that situation.

At this instant, we see tremendous instability in the Middle East. We have been getting at least 1 million barrels of oil per day from Iraq. And instability doesn't stop in the Middle East. Whatever it is that is causing instability in our world, has moved over into our hemisphere. Obviously, Venezuela is another very major supplier of the United States. It does not take a genius to look into the cloudiest of crystal balls and forecast that there are likely to be immense shortages of oil in the near future.

Some argue that ANWR oil will not be ready for 10 years, while experts note that oil could be flowing in 1 to 2 years. Others will argue that even with the shorter time, ANWR cannot impact today's crisis sufficiently. Sure, it cannot, but it will be better and it will enable us to withstand the next crisis

much, much better. In fact, it might postpone one crisis or another crisis in the future. And there is no question that prices at the oil pump are now being impacted by this situation that I have just described with reference to our dependence on the Middle East and other world conditions. Whether you're shopping at the neighborhood gas pump or reading the papers, the signs are all around us, oil is approaching $26 a barrel versus $18 earlier this year.

There are headlines such as ''Gas Prices Put Some Budgets Running on Empty,'' and ''The Oil Market is Running Scared.'' Those kinds of signs are plastered in newspapers and magazines. Right here in Washington, gas prices have climbed 20 percent in the past month. Besides giving us more control over our own gas prices, ANWR has other far-reaching impacts. After all, we are just coming out of recession.

This is the time when good jobs are especially precious. ANWR oil, valued at $300 billion or more, means thousands upon thousands of jobs for Americans. It is estimated that the President's whole energy package delivers about 700,000 jobs for Americans. Many of those jobs are represented by some of our strongest unions, and we have seen a number of them support the passage of the ANWR legislation.

It is obvious to me there will be many jobs in special areas of oilfield exploration, and extensive logistic support will be needed at every step of exploration and development.

In one sense, this is a huge jobs opportunity for Americans. These are highly paid jobs. They will go elsewhere. They will not stay in this country. Salaries will be lost as we become more dependent, and without us having the advantage of the ANWR oil activities, the oil money will go elsewhere. We will pay more money to foreign countries rather than keep it for ourselves.

We would rush to the floor to vote for any project or program that we could put into effect that would produce the kind of jobs that ANWR will bring. There is no question it is the biggest job-producing activity that anyone could plan during the next decade and perhaps thereafter.

If we import more oil, we are encouraging more pumping from places in the world with less stringent environmental regulations. If we import more, what sense does it make to ban our exploration and drilling under rigid environmental mandates and tell the rest of the world to use whatever approaches they want, with whatever environmental damage, just to satisfy our needs and our thirst?

We cannot, by defeating ANWR, mandate the environmental conditions that will exist across this world when the oil that would have been ANWR oil is produced by other countries in other places.

ANWR critics need to remember that this amendment limits the total footprint of all operations to 2,000 acres, a tiny piece of a gigantic area encompassing more than 20 million acres. That means 99.99 percent of ANWR is untouched by this development. If the same fraction of New Mexico, my home State, was developed as is being proposed in ANWR, it would consume an area roughly the size of the Albuquerque Sunport and Kirkland Air Force Base.

That piece of geography in the southwest in New Mexico—the Sunport in Albuquerque plus Kirkland Air Force Base—is the entirety of property that would be used. It would leave no destruction or damage or in any way harm the 2,000 acres. That can be done.

For those who wonder whether we can drill that many wells and get that much oil from such a small piece of geography, that is what the law says; that is the only activity the President would be allowed to do if either of the pending amendments were to be adopted.

If the same fraction of New Mexico were developed as is being proposed in the ANWR drilling, it would consume the area I have just described. There are some who do not believe that, but I repeat, we have become such technological experts in drilling for oil that, indeed, 2,000 acres will suffice because we no longer drill straight down, perpendicular. We drill horizontally so there will be many wells many distances from this 2,000 acres, but it will not be visible on the surface nor will it impact the surface.

We have spent a lot of resources—a lot of businesses invested money and we invested money in the research to permit that, to get us to this point where we can stand in this Chamber and talk about horizontal drilling and about a footprint of 2,000 acres that could drain the entirety of ANWR, the entirety of the 1.5 million acres or at least sufficient quantities to make it worthwhile.

If we import more, then we are only encouraging more pumping in places in the world with less stringent regulations, which I have just commented on. If we want to move environmental degradation elsewhere—which will be minuscule in the United States, in Alaska, in ANWR—then shame on us and doubly shame on us if we, with the same set of events, deny an opportunity to produce it under stringent requirements as we have been referring to for ANWR.

It is likely that the ANWR supply would replace about 30 years of oil imports from Saudi Arabia and about 50 years of oil imports from Iraq. Right now, we pay Saddam Hussein about $4.5 billion a year for oil. Do we really want to be dependent on this regime? Do we want it to grow rather than diminish? If we want his regime to grow, then reject the two pending amendments. If we want Saddam Hussein's influence to lessen, then we ought to vote in such a way as to permit American business, American working men and women to proceed to produce on our behalf.

To me, this is a very easy issue. We should drill in the United States using our best environmentally friendly technology under our rigid environmental controls. We should drill where we can find our own oil to satisfy our national needs and, at the same time, we should work to develop new technologies that lessen our dependence on oil and petroleum-based fuels. There can be no doubt, ANWR will not solve our problem, but clearly it will help solve our problem, and with that, there are so many pluses in terms of where the wealth will go, where the money will be invested, which workers will get the jobs, which businesses will be part of the very complicated drilling techniques and apparatus that will be on American soil drilling for oil for Americans, instead of part of the international pool produced by some other country, the benefits of which are absolutely nil to the United States.

It is an easy issue because this is an American issue and a jobs issue with very little downside. Actually, this should not be an environmental issue. This should not be an issue that oil companies favor. This should not be an issue that the labor unions favor. This is an American issue that we should have come to the floor shoulder to shoulder saying: Let's give it a try.

I submit that just as happened in the Prudhoe Bay activity—after lengthy debates and passing by the narrowest of margins, with all that was going to happen environmentally in that area, from what I can tell and on what I have been briefed from people who live there, nothing of significant damage to the environment has occurred—I predict the very same thing will occur if we proceed to drill on the 2,000 acres set aside.

I regret, if it turns out this cannot be passed, that the argument apparently will prevail that we should let the environment be degraded in other countries to produce commodities that we desperately need, but we should not produce this product on our own land under far more stringent environmental controls. To me it makes no sense as an environmental issue.

To me, it is abandoning hundreds, and hundreds of thousands, of jobs and billions of dollars that are American. We are going to be sending those off to others saying: You enjoy them because, after all, America is so powerful, so strong, we do not need any.

I believe this amounts to something very close to economic arrogance on the part of those who promote it. It is kind of like walking out and saying: America is so robust, we do not need to worry about hundreds of thousands of jobs and billions of dollars that could be ours instead of some other country in the world. It would seem to this Senator that it is a very clear issue. I, for one, am sorry we have taken so much time, and I do hope when we finish with this issue that we will proceed.

I note my colleague from New Mexico has been in this Chamber for an inordinate amount of time trying to get this

bill done. I want to say to him, I am not one who wants further delay. When we get this finished, I am for getting on with it. I hope that happens in a few days rather than weeks. The issue has been joined. Both sides have had a good shot at it. Perhaps none of us have understood it correctly, but I think we have all tried.

I yield the floor.

The PRESIDING OFFICER (Mr. MILLER). The Senator from Nevada.

Mr. REID. Mr. President, the Senators on the Democratic side who have requested time will be given this amount of time: Senator BINGAMAN, 10 minutes; Senator BOXER, 5 minutes; Senator DASCHLE, 10 minutes; Senator KERRY, 10 minutes; Senator LIEBERMAN, 5 minutes; Senator REID, 5 minutes; Senator ROCKEFELLER, 10 minutes.

Mr. President, some of my colleagues have advocated opening the Arctic National Wildlife Refuge to drill for oil. Those who favor exploiting the Arctic Refuge for whatever oil might be there often suggest this Coastal Plain is desolate and unforgiving.

The Arctic Refuge is a very different landscape than most of the wildlife refuges in the lower 48 States. This unique Coastal Plain is worthy of protection, and that is an understatement.

I am from a place called Searchlight, NV, a small town in the heart of the Mojave Desert. The Mojave Desert is the driest and one of the most unforgiving regions in North America. It is also one of the most beautiful and awe-inspiring places on Earth. This desert, because of its extreme climate, is very slow to heal from impacts people make in it. The Mojave Desert is hot, it is dry, and it is fragile.

The Arctic Refuge, though so different from the desert, is actually similar to the Mojave in that it is another of North America's most unforgiving landscapes.

Like the Mojave Desert, the Arctic Refuge is a beautiful, irreplaceable and shared national treasure. The Arctic Refuge belongs to all Americans and all Americans should have a voice in determining its future. Those pushing to drill for oil in this American wilderness claim drilling would not have a harmful impact, but we know that due to extreme climate the Arctic would be slow to heal from the wounds caused by oil and gas exploration and development.

The Arctic Refuge is cold, it is wet, it is fragile, and it is also unique and irreplaceable. The Arctic Refuge is not a wasteland. We must not allow it to become one. I am fortunate to be able to return home to the Mojave Desert and enjoy visits with my family. That is where my home is.

Congress should guarantee, for the sake of our children and grandchildren, the Arctic National Wildlife Refuge also remains pristine, unharmed and free from wasteful exploitation.

Behind the misguided drive to drill in the Arctic Refuge is a fundamental issue on which we should all agree: America is too dependent on oil. We must be honest with the American people about this simple truth: America has 3 percent of the world's oil reserves; 90 percent of the oil reserves are elsewhere, but we use 25 percent of the world's supply of oil. America will never again produce all of the oil it uses. As long as America depends on oil, we will have to depend on foreign oil. That is too bad. There is no question that reducing our use of foreign oil is a critical goal for our Nation.

Improving fuel efficiency in cars would significantly reduce our debilitating dependence on foreign oil. If all cars, trucks and pickups had a corporate average fuel economy, or CAFE standard, at 27.5 miles per gallon, the country would save more oil in 3 years than could be recovered economically from the entire Arctic National Wildlife Refuge ever.

It is easier to save a barrel of oil than to produce one. Reducing our demand for oil means eliminating the inefficiencies that plague our Nation's energy use. Our energy policy must promote responsible production of oil and gas. This legislation will provide tax incentives to do just that, but that does not mean we should drill in the pristine Arctic wilderness. Although drilling in the Arctic refuge might seem like a solution to our energy challenges and could be profitable for oil companies, America cannot afford to cut corners at the expense of this refuge.

The refuge can only supply 6 months' worth of oil to meet America's energy needs. This is not a solution. We must find a long-term solution because once the oil is extracted and used it is gone. We will soon find ourselves facing the same dilemma, only this refuge would be destroyed and/or damaged.

There are solutions. Substituting alternative energies, solar, wind and, of course, geothermal, as well as biofuels for fossil fuels or using them as fuel additives can help offset some of our demand for petroleum and at the same time dramatically reduce pollution.

As fantastic as it sounds, with the use of hydrogen fuel cells, as the Senator from Idaho spoke recently, oil will eventually be phased out as a primary transportation fuel. Yes, our Nation will some day abandon oil as its primary energy source in favor of natural gas and renewable energy. The day is coming. I hope it is a day when we can all look back and be proud that we made the right decision to protect the Arctic Refuge for centuries to come.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I welcome a chance to speak for a few additional minutes on this important issue. In my view, opening the Arctic National Wildlife Refuge is not good environmental policy for our country and also it distracts us from the effort we are making to craft a comprehensive energy policy the country can support and with which we can move ahead.

I urge my colleagues to vote against the cloture motions. I have several reasons for that. One point that needs to be made very clearly is one that I think has sort of not been said but has been part of the background discussion, and that is that nothing that is proposed with regard to drilling for oil in the wildlife refuge would in any way reduce the price of gas for Americans.

The suggestion has been made, well, the price of gas is going up. Therefore, we have to rush out and drill in the Arctic Wildlife Refuge. The truth is, there is nothing in these proposals that is going to affect the price of gas to the American consumer. I think everyone sort of concedes that point when asked the question, but I wanted to make it very explicit.

Also, there is nothing in this proposal to help us with our short-term needs. The Energy Information Agency says that even if we were to pass legislation this year to permit drilling in the Arctic Wildlife Refuge, there would be no production out of that area for at least 7 years, perhaps for as long as 12 years.

We had a hearing in the Energy Committee where the representative from ExxonMobil said it would be at least 8 years, and more realistically probably 10 years. So there is no solution to our short-term needs in these proposals.

I would also make the point, which we have tried to make in several ways, that there is really no solution to our long-term needs in this proposal to open the wildlife refuge either. I have a chart that we have shown before, but I think it is a very instructive chart. It is based on information from the Energy Information Agency, which is part of our Federal Government, part of the administration. We asked them first a pretty obvious question. We said, let us look long-term in the year 2020. How dependent will we be on foreign oil if we do not open ANWR to production?

They said, we will be 62 percent dependent. The exact figures they gave us show we are about 55 percent dependent this year on foreign sources of oil. In 2020, we will be 62 percent dependent if we do not open ANWR.

Everybody said, great. Let us think about opening ANWR then. We said, how dependent would we be if we did open ANWR to drilling? They said we would be 60 percent dependent. That is the issue. It is a 2-percent difference in the year 2020.

Then we asked the next question: Longer term, what about 2030? How dependent will we be in 2030 if we don't open ANWR to drilling? The answer is, 75-percent dependent upon foreign sources of oil. This is assuming we don't change any of our other policies with regard to CAFE standards, with regard to use of hydrogen power for fuel cells or anything else. They said 75 percent; we said, if we do open ANWR to drilling, how dependent? And they

say 75 percent. The truth is, their projections indicate that whether ANWR is opened or is not opened for drilling and production, by the year 2030 it is all gone and we are at 75-percent dependence upon foreign sources of oil. So there is nothing in these proposed amendments we are going to be voting on that solves our long-term problems.

The controversy, I do believe, has diverted our attention from other real opportunities to enhance our domestic energy production. Let me recount briefly what some of those are.

Senators from Alaska made the point very strongly, and I agree with them, that a tremendous opportunity for our country as far as meeting our energy needs in the future is concerned is getting the gas that is produced in the Arctic down to the lower 48 so we can use it. We have 32 million cubic feet of natural gas that is immediately available, substantially more natural gas that is expected to be available if there is a way to transport that—a pipeline—from the North Slope down to the lower 48. We have provisions in this bill that will facilitate the construction of that pipeline.

We have worked with the Senators from Alaska to try to devise other provisions, incentives, ways to reduce the risk, the financial risk involved, so that pipeline can be constructed. It is very much in our national interest that be done. I very much hope as a result of the legislation, we are able to do this.

Talking now again about oil rather than natural gas, there are substantial prospects for increased production of oil on the North Slope of Alaska in the National Petroleum Reserve, Alaska. There are 23 million acres of Federal land that have been set aside to secure our petroleum reserves. That is the orange area on this map. This is very promising. The previous administration leased a substantial area for drilling. Those leases were certainly sought by the industry. There is another lease sale being prepared for this June. There are additional lease sales planned in the future. They all have the very high interest of the oil and gas industry. I strongly support going ahead with that development. It is something we need to do to meet our needs. I hope we do.

In addition, there is a substantial area of State and Native lands between the Arctic Refuge and the National Petroleum Reserve, Alaska, between the green area, which is the wildlife refuge area, and the orange area, which is the National Petroleum Reserve, Alaska area. That is State and Native land. There is an aggressive State leasing program going forward there. That benefits, of course, everyone and increases domestic production.

Even when we get away from the North Slope of Alaska and look at the Gulf States, we have today 32 million acres offshore of Louisiana, Texas, and Mississippi, that have been leased for drilling and have not yet been drilled and developed. We need to figure out what we can do through policies and incentives to encourage the development of those resources. Clearly, there is a substantial benefit to our country there.

The point I made repeatedly throughout the 5 or 6 weeks we have been on this bill—I am losing track at this point—the point I have made repeatedly is we need to begin looking to other sources of energy. We need to be looking at other ways to meet our energy needs: Better energy conservation, more attention to research and development, more attention to renewable energy sources. Clearly, that needs to be a major thrust of what we do.

There are provisions in one of the amendments we will vote on related to the steelworkers and to the steel industry. The Senator from Pennsylvania was here a few minutes ago and spoke to that. Many Members in the Senate are sympathetic to the problems the steel industry has encountered, particularly the workers, the retirees from that industry, the legacy issue relating to the steel industry. I am persuaded this is not the right place to try to deal with that issue. We should not be trying to deal with that issue as an add-on to a proposal related to the opening of the Arctic Refuge.

I also don't believe we should be trying to deal with any of our commitments or assistance to Israel as part of this effort to open the Arctic Refuge for drilling. Those are separate issues. There is strong support in the Senate for dealing with both of those issues, but it is not appropriate, in my view, to try to roll those into these amendments.

This energy bill has got enough on it and enough issues to deal with without adding these provisions. Clearly, they complicate the issue substantially and do not hold out a real prospect for solving either of those problems.

There is a lot of talk about jobs. I believe sincerely this energy bill overall, if we can pass it, if we can get it to the President for signature, will create substantial jobs in this country. We will do that in a variety of ways. We will create substantial jobs if we incentivize construction of the gas pipeline from the North Slope down to the lower 48. We will create substantial jobs if we are able to move ahead with more use of renewable energy throughout our country. That will create substantial jobs. There are all sorts of provisions in the bill that will create jobs. I believe it is far better in the job creation arena than the bill passed by the House of Representatives last summer.

I conclude by saying I hope Senators will vote against cloture on these two amendments so we can move on to some other issues and conclude action on this very important energy bill.

Mr. MURKOWSKI. How much time remains on each side?

The PRESIDING OFFICER. Forty minutes remain to the Senator from Alaska.

Mr. REID. And Senator DASCHLE's time?

The PRESIDING OFFICER. Forty-three minutes.

Mr. REID. I make a unanimous consent request. I suggested earlier what we would do in our time remaining: Senator DASCHLE, 10 minutes; Senator ROCKEFELLER, 10 minutes; Senator KERRY, 10 minutes; Senator LIEBERMAN, 5 minutes; and Senator BOXER, 5 minutes; and I ask that be in the form of a unanimous consent request for how the time is distributed on our side.

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

Mr. MURKOWSKI. Mr. President, it is my intention to try to follow a similar pattern on our side. I reserve 10 minutes at the end at my discretion as manager on this side of the aisle.

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

Mr. MURKOWSKI. I yield to Senator STEVENS such time as he needs.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am delighted the Senator from New Mexico has indicated his support for the Alaska natural gas pipeline. I hope we can proceed during this Congress to carry out that commitment.

The gas we will transport is from State land, not Federal land. Obviously, we are going to have to have some changes in Federal law to permit the construction of the largest project in the history of man. It will take some incentives. I tried to provide some incentives to that through the second-degree amendment. That is obviously not going to be adopted by the Senate.

I will speak for a moment about the defeatist attitude of the Democratic Party. The Senator from New Mexico has said we have 75-percent dependence on foreign oil coming. Why? We closed all the coast lines in the United States to oil and gas exploration—except the gulf and a little bit in Alaska on State lands. Those are State lands where oil and gas drilling and production take place. The Federal lands, because of the demands of the Sierra Club and other radical environmental organizations, are closed to oil and gas leasing, almost. The administration is going to try to reopen some of them in the Rocky Mountain area. We will see how the Democratic Party reacts to that. But as a matter of fact, the Clinton administration closed NPRA. The Senator from New Mexico talks about opening it. It is closed. We tried to open it several times.

I welcome the attitude that we are going to open up the reserve set aside for Alaska in 1925 by President Coolidge to try to make up for the Teapot Dome scandal. It has been closed since that time. We had one well drilled during the war by the Navy. By the way, it was a pretty good well. It was very shallow, but it was good.

The Sierra Club and all the radical organizations have brought about the

closure of offshore drilling, the closure of Federal lands drilling, the closure of Alaska lands now. What more do they want? If we follow this defeatist attitude that we are going to face 75-percent imports in the future as far as our oil energy is concerned, it is going to happen. It will not happen if we decide we are going to use our technology base to do what President Truman wanted to do, go offshore and research the seabed. Two-thirds of the world's surface is covered by water and there is very little production in that water around the United States. Half of the Continental Shelf—probably even more than that—off the United States is off our State. Not one well has been drilled out there. Why? The environmental organizations oppose it.

We will have 75-percent dependence on foreign oil if the Democratic Party has its way. It is part of the platform of the Democratic Party to oppose drilling on these lands. So it is a political issue, and it is high time we faced up to it.

We think we have a right to transport that gas. As a matter of fact, in the State of the Senator from New Mexico, the Indians in his State can drill on their lands. They are producing gas on their lands. They are producing oil on their lands. What happens in our State? They cannot drill on privately owned Native land, Eskimo land that is within the 1002 area in the Alaska Coastal Plain, the 1.5 million acres. There are 92,000 acres owned by those Eskimos, and they cannot drill. Why? Because the administration at the time they got the lands, the Clinton administration, demanded that they agree to a provision that they could not drill until we were able to drill within the 1002 area itself.

Talk about discrimination. Not only is the State discriminated against but our Natives are discriminated against. We are going to have an amendment before we are through with this bill. That amendment will be to allow the Alaskan Eskimos to drill on their own land, to stop this discrimination against our people. It is bad enough to discriminate against the State, but to discriminate against Alaskan Eskimos who own that land is just atrocious as far as I am concerned.

I welcome the support of the Senator from New Mexico, as I said, for the Alaska natural gas pipeline. It is going to take some incentives. If we want that gas down here—the equivalent, by the way, of a million barrels of oil a day—if we want that gas down here before 2030, 2050—when they talk about the real demand for energy—if we want it, even then, we are going to have to start now. If we started right now to build the Alaska natural gas pipeline it would be finished in 2011; 9 years minimum. That is nonsense.

It is nonsense that we cannot drill on our lands. It is nonsense they will not keep the commitment that two famous Democratic Senators made.

I have learned a lesson from this in the last 21 years and that is this, something that every Senator should know: Do not depend on future Congresses, particularly future Senators, to keep commitments that were made by a previous Congress and President. In 1980, the commitment was made that this area would be subject to drilling, if it did not—if the environmental impact showed there was not going to be permanent harm to the area as far as the fish and wildlife was concerned. We relied upon that commitment in December of 1980 to go ahead with this whole idea of withdrawing 104 million acres. We relied on a commitment made by an administration and Congress, in law, that we would be able to do that.

In subsequent Congresses the House has carried it out, strangely enough. The Senate has not—except for twice when we sent it down to the President and President Clinton vetoed it.

So if you want a continuum of what is causing the 75-percent dependence upon foreign oil that the majority says is inevitable, then follow the Democratic Party. Follow them to dependence upon foreign oil, the exporting of U.S. jobs, and the total dependence upon the philosophies of foreign nations in order to keep our Nation going.

Just think of that. We are saying it is inevitable, in order to keep this country going—this country, the greatest economic engine the world has ever seen—we have to be totally dependent upon foreign oil; 75 percent is total as far as I am concerned.

The Senator from New Mexico says this will not affect the price of gas. How would you like to make a bet? Do you want to make a little bet? I bet before the end of the year, the price of gas is up again 25 cents at least. As a matter of fact, as the trendline goes up on dependence on foreign oil, the price is going to go up. That happens every time we have seen that line go up in terms of dependence on foreign oil.

If you do not believe that, go back and look at the price of gas before the embargo in the 1970s and then see that as that embargo was lifted, we increased our dependence on foreign oil. It was less than 35 percent in 1973, and it is now 57 percent, they say. If it is going up to 75 percent, just follow the trendline of the price of gasoline.

It may be so. As a matter of fact, it is so. If we pass our amendment, it would not change the price of gas now, but it will change the price of gas in 6 years. We will be more dependent upon foreign oil in 6 years if we do not open up the Arctic Plain.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield to the Senator such time as he wishes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank the senior Senator from Alaska. I congratulate him. But I especially want to congratulate the junior Senator from Alaska for his leadership on this issue. I have been here a long time—some would say too long—but I have seen few people who have done a better job in trying to promote what I perceive to be the public interest than Senator MURKOWSKI.

Today, we are going to vote on cloture on ANWR. I think it is clear that we do not have the votes, and there are many reasons for that. But no one can fault the Senator from Alaska, Mr. MURKOWSKI, because no one has done more to put together a coalition, which now involves labor unions, involves people who are concerned about Israel and the Middle East, and involves people who are concerned about the national security implications of not producing energy here at home to turn the wheels of industry and agriculture, energy that can be produced efficiently, and that can be produced in an environmentally sound way.

Because we are not producing energy at home, we are becoming dependent on foreign oil, and the national defense and security implications and the foreign policy implications are overwhelming.

I could understand opposition to opening up ANWR if a realistic case could be made that it will not produce this energy or create 750,000 jobs in the process. By the way, that is why organized labor is for opening ANWR, in my opinion—that and their legitimate concerns as citizens about national security.

If the price we had to pay to produce this energy was the rape and pillage of the land, and massive environmental destruction, and if we will create something that looked like Azerbaijan in the wake of the efforts of the Soviets to exploit oil and gas there, then I think we could have a legitimate debate on the floor of the Senate about this. Under those circumstances, I think the case we are trying to make here would be a lot harder. But the amazing thing is no one has proposed such a program. What is astounding to me is how extreme the environmental movement in America has gotten in relation to how modest the proposal that we are getting ready to defeat is.

Let me remind people of these numbers.

There are 319.7 million acres in Alaska. Some people claim it is the largest State in the Union. There could be a debate about that.

When you look at the ANWR area where there is the potential for oil and gas production, there are 20 million acres of land in that area. That's just 20 million of 319.7 million.

In 1980, Congress decided to reduce the area open for production from 20 million to 1.5 million acres. But the proposal of Senator MURKOWSKI is so modest that it says let us reduce that even further, down to only 2,000 acres.

So we have now come from 319.7 million acres to 20 million to 1.5 million to the point where we are talking about a relatively tiny footprint for oil and gas exploration of 2,000 acres.

Now, what kind of technology will be employed? Well, we are talking about

the most expensive technology on the planet being used to assure that even in the 2,000 acres, we have a very modest environmental impact.

In addition to that, while we would allow the potential for production in 2,000 acres out of 319.7 million acres under the most restrictive covenant for oil and gas exploration in American history, still, under the Murkowski amendment as offered, you couldn't engage in exploration even on the 2,000 acres unless the President of the United States made a decision through a Presidential finding that the national security interests of the United States dictated that such action be taken.

The provision before us bans export of the oil assuring that every bit of it will be used in the United States.

It has other provisions related to Israel and its special circumstance in terms of oil needs.

Finally, to compensate for 2,000 acres that will have minimal disruption if a national security waiver permits production to occur, the amendment before us reclassifies 1.5 million acres in Alaska as wilderness.

I think if you really thought this was some kind of rational debate about the public interest, you would have to ask yourself: How in the world could anybody be opposed to this amendment? When you are talking about being responsible and moderate, how could you do more than this amendment does? Yet this innocuous proposal has attracted enormous opposition. The opposition basically boils down to the fact that we have gotten into a political situation where vested political interests are dictating the outcome of the debate. God bless them because some of them make up the interests of America, and they have every right to be extreme because that is what having rights is about. A news article from the New York Times which somebody read to me this morning reports that if we could stop global warming in exchange for drilling in ANWR, the environmental groups in this country would be against it. How can that be?

It can be because this has become a debate about symbolism, not energy or the environment. This has become a debate about fundraising and the kind of extremism that creates political causes and that has political impact but that in no way reflects the public interest.

How can it not be in the public interest to take 2,000 acres in a State that has 319.7 million acres, and on the most environmentally responsible basis, over the next 30 years, produce more oil than we are importing from Saudi Arabia?

To offset any negative impact we might have on these 2,000 acres, we put 1.5 million additional acres into the wildlife refuge.

How in the world can such a proposal be controversial? Why don't we have 100 votes in favor of it?

Is no one awake to the fact that we have problems in the Middle East, that we have a growing dependence on oil, that there are profound national security implications of producing as much oil as we will import from Saudi Arabia in the next 30 years on 2,000 acres of land in a State with 317 million acres?

I know I am not going to sway anyone's vote, but I want people to understand this has become a debate not about America's interest, but about political symbols.

Opposition to this amendment cannot be supported on the basis of rationality. It cannot be based on any realistic weighing of the national interest. It can only be based on blind loyalty to symbolism.

When you get into these extreme positions where you are putting political symbolism in front of America's interest, I don't think you are serving the public purpose.

I remind my colleagues that when Greeks went to ask advice from the Oracle, they found this inscription above the gate at Delphi: ''Moderation In All Things.''

I believe this is an issue where we need to step back and ask ourselves: to whom do we owe allegiance? What are we trying to promote? Whose interest are we trying to advance?

I think when one special interest group becomes so demanding as to jeopardize national security and the public interest to try to make a point for them, when symbolism becomes more important than the security of America, then something is badly wrong.

I just wanted to make that point.

I am going to vote with Senator MURKOWSKI. I see that he has come back to the Chamber.

I just want to say this: I have watched him debate. I have been involved in many of them. But I have not seen anybody do a better job than Senator MURKOWSKI has done on this issue. I have never seen a better political base built for an issue.

If we were having a rational debate in this body about a proposal with a broad spectrum of political support—which it has from labor unions, to people concerned about peace in the Middle East, to national security, to working people, and to people who want to be able to use their cars and trucks, and who want to turn the wheels of industry and agriculture with American-produced energy—this vote would be 100 to nothing. It is simply a measure of how extreme this issue has become that Senator MURKOWSKI is not going to prevail on this issue.

Finally, let me say we are going to have two votes to bring to an end debate on this issue. I am going to vote in favor of the ending debate on the Murkowski amendment. We deserve an up-or-down vote on this amendment. I do not know if it will be this year or next year or sometime in the future, but I am confident that the public interest will ultimately be served. Someday we will produce this energy. Someday, when we have felt pain from not acting rationally, that rationality and the public interest will override the wishes of extreme special interests. The sooner we can do it the better. We ought to do it now. Even if we started preparing today, it would take years to get the oil and gas in ANWR. I think is an indication that time is wasting, and that we need to get on with this.

We will also have a cloture vote this morning on the so-called steel legacy issue. I intend to vote against cloture. I am adamantly opposed to that amendment. It is a bad idea whose time has not come. I would like to remind my colleagues that the majority of the members of the Steel Manufacturers Association oppose the amendment because it rewards inefficient producers and those who granted benefits they could not pay for at the expense of efficient producers.

Secondly, I think it is important to note that some of these steel companies are still in business and have roughly 200,000 retirees. If we are going to come in and start paying benefits for operating companies that are irresponsible in promising benefits that they cannot afford, then we are going to encourage other companies act in a similar manner.

I think it is very important we recognize that by doing this, we are adding to the problem in the steel industry by keeping excess capacity in business when everybody knows capacity should be reduced, not maintained. I think spending $7 billion to bail out these steel companies is a misuse of taxpayer money.

Finally, all over the world today, socialist countries are trying to get out of the business of bailing out inefficient, feather-bedded companies. All over the world, in every socialist country on Earth, people are trying to undo this stuff. Yet, here we are, in the United States of America, trying to get into the business of subsidizing companies that overpromise and underdeliver.

It is a very bad idea. It richly deserves to be killed, and I am hopeful it will be.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, the manager of this bill, Senator BINGAMAN, will use up to 3 minutes, if necessary, at this time. I yield that to him.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in response to some of the comments that have been made, I want to make two points, very simply.

First of all, the projections for the extent of our dependence on foreign oil in the future are not my projections. They are the projections of the current administration, the Bush administration, the Department of Energy, the Energy Information Agency within the Department of Energy. They have said if we do not change policies in some

other significant respects, we will be 75-percent dependent upon foreign sources of oil by the year 2030 if ANWR is opened, and we will be 75-percent dependent on foreign sources of oil if ANWR is not opened. So that is the point I was trying to make.

The second issue I want to clarify—I believe Senator STEVENS raised the question or disputed that the National Petroleum Reserve, Alaska, had been opened for drilling. My information, which I believe is accurate, is that the Bureau of Land Management held a sale, an oil and gas lease sale in May of 1999, during the Clinton administration. It generated a high level of industry interest. There were 3.9 million acres that were offered for lease at that time. In fact, 132 leases were issued covering 867,000 acres. The bonus bids on that lease sale were $104.6 million.

So there has been a significant lease sale in the National Petroleum Reserve, Alaska.

I know there is another lease sale scheduled for June of this year, which I support, with which Secretary Norton is going forward. And I know there are plans being made for even a more substantial lease sale in the next few years. So there certainly is the opportunity for oil and gas development in those areas.

I have a press release dated May of last year, 2001, saying Phillips Alaska, a wholly owned subsidiary of Phillips Petroleum, and Anadarko Petroleum have announced the first discoveries in the National Petroleum Reserve, Alaska, since the area was reopened for exploration in 1999. So there has been real success for developing oil and gas in that area.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the time under my control be changed to allow Senator BOXER 7 minutes, Senator ROCKEFELLER 9 minutes, and Senator KERRY 9 minutes.

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

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Fourteen minutes 22 seconds.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senators BINGAMAN and REID for their generosity in giving me this 7 minutes of time. I have been trying to get some time on this matter for quite a while.

Mr. President, I am not going to get into a number of details today. What I really want to do is paint more of a broad-brush argument as to why it is so important to preserve this beautiful area.

Some 2 years ago, I sent my eyes and ears, my top environmental adviser on the Arctic, Sara Barth, who is in the Chamber today, to the area in my stead. I think it is fair to say that she came back a changed person because of what she had seen because she really, truly was stunned by the beauty of this area.

Many times in the debate, when people have been talking about this area, it has sounded as though this area is not really a beautiful area. So what I thought I would do today is put in the RECORD information that has been taken off the Web site of the Bush administration's Interior Department. This was given to me by Chairman BINGAMAN. I think it is a good way for me to lead off.

It is not BARBARA BOXER's words or the Sierra Club's words or the wildlife people's words. It is the Bush administration's words. If you go on their Web site, you get it. It says:

The Unique Conservation Values of Arctic Refuge.

The Arctic National Wildlife Refuge is the largest unit in the National Wildlife Refuge System. The Refuge is America's finest example of an intact, naturally functioning community of arctic/subarctic ecosystems. Such a broad spectrum of diverse habitats occurring within a single protected unit is unparalleled in North America, and perhaps in the entire circumpolar north.

When the Eisenhower Administration established the original Arctic Range in 1960, Secretary of Interior Seaton described it as—

And this is a quote from Eisenhower's Secretary of Interior—

one of the world's great wildlife areas. The great diversity of vegetation and topography in this compact area, together with its relatively undisturbed condition, led to its selection as . . . one of our remaining wildlife and wilderness frontiers.

I think nothing says it better than the words of our own former Interior Secretary under President Eisenhower. And this is from the Web site of Interior Secretary Norton today.

I want to show a few beautiful photographs. I know the Senators from Alaska live in a magnificent place. Some of these photos are just unbelievable.

Here in this photo we see an area in the Coastal Plain, the 1002 area of the Arctic National Wildlife Refuge. It is a photograph by Pamela Miller. The incredible colors are stunning.

We will go to the next photo because we have so little time and so many photos.

This is a beautiful picture of a songbird that you can find in the refuge. It makes clear why these words are up on the Web site of our own Interior Department.

This is a magnificent photograph as well.

Here is a polar bear, which I know we have seen walking across a pipeline, but here it is walking in its natural surroundings—very beautiful. Here are the caribou. I think you have seen a lot of this before. Here are the musk oxen—quite beautiful.

I have another beautiful landscape to show of another view of this magnificent area. We do have drilling in a national wildlife refuge there in Alaska. Everyone says there is no damage done. Remember the pictures I just showed. Now look at how it is all left with these floating barrels. It is a pretty devastated site.

I think you need to come back to the question of what is a refuge. You could look it up in the dictionary: a place to find comfort and peace and tranquility. Therefore, it seems to me it doesn't make any sense to disturb a refuge. When you do this, if you go this way and drill there, we are going to disturb it.

Someone sent me a cartoon. I think it was a constituent. It never ran in the newspaper, but it basically says: The George Bush Arctic National Wildlife Refuge. It shows that cars are lapping up the oil on the plain. And it says:

Where S.U.V.s are free to roam without fear of regulation.

That is somebody's sense of humor about what we are going to do to the wildlife refuge. I hope we don't. I hope we hold the line.

It is very fair for people who don't agree with me on this to ask: What is your solution? I really want to talk about that.

We know when something isn't a solution. In my opinion, the amount of oil there, from everything we know, is hardly going to make a dent. Here is a chart that shows that. We have a chart that shows the projected consumption of U.S. citizens of oil. Right down here on this little black line is the amount of oil we will get, 3.2 billion barrels over 50 years.

I have another chart that tells the tale. You save 2.38 billion barrels more oil from the Arctic if you have just better tires. With just better tires, you get more oil. And then if you close the SUV loophole, which is really not that hard to do—they are going to have hybrid SUVs coming up shortly—you save about 10 billion barrels. And if you just go up to 35 miles per gallon—Senator KERRY led us so well on that issue; I think we made a huge mistake—we save 18 billion barrels.

So look at this. Out of all these options, you get more oil if you just use better tires. Some of the people who want to drill seem to oppose a lot of these other easy ways to govern.

The PRESIDING OFFICER (Mr. REED). The time of the Senator from California has expired.

Mrs. BOXER. I would like to sum up in 1 more minute, if I might.

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

Mrs. BOXER. I will go to the Los Angeles Times editorial which I thought was right on point. They say:

Wilderness is or it is not. There is no mostly wilderness with just a little bit of development.

It continues: No matter what Dick Cheney says, U.S. energy security does not depend on drilling for fuel in the Arctic refuge. The Alaskan oil would not come on line for 10 years. It goes through that.

It says: The fastest way to gain more energy security is to use less oil and

use it more efficiently. It shows that better tires alone will give you more oil than lies in the refuge.

Then it ends up:

The nation doesn't need a muscle-bound energy policy. It needs a smart one—one that does not rely so heavily on fossil fuels and fossil thinking.

The choice is clear. I respect my friends from the other side on this debate, but I hope we will defeat the proposal to open the refuge.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I yield myself 9 minutes.

Let me begin by paying respect to both Senators from Alaska. Though I disagree with them and they know that, they waged an effort that represents their principles, their views, their beliefs and, most especially, the beliefs of the people of Alaska, as they understand their responsibility.

I emphasize as strongly as I can, none of us in the U.S. Senate are cavalier or dismissive of Alaska's interests. There are many ways to serve those interests. I certainly am one Senator who is prepared always to try to help with respect to economic development issues, other hardship issues that exist in a State that faces a different set of challenges from many of us in the Senate. I hope they understand that, that this is a difference based on an equally fervently held set of beliefs and a different interpretation of the facts.

I think they are facts. There are some profound differences in that regard.

With respect to the amendment on steel, I believe Congress must act to deal with the plight of steelworkers, retired steelworkers and their families. Steelworker retirees are being devastated by the loss of health care benefits. More than 125,000 steelworkers have lost those benefits due to the liquidation of 17 American steel companies, and another 500,000 steelworker retirees stand to lose their health care unless we act to protect them.

I am glad that some of our Republican friends have discovered this issue. I regret that they want to trade their concern for steelworkers with the opening of the Arctic Wildlife Refuge. It would be disappointing if down the road our Republican friends are only prepared to try to deal with steelworkers in the context of the Arctic wildlife refuge and not in the context of their personal human plight. We will have an opportunity in a short period of time to try to deal appropriately with the problem of steelworkers.

Yesterday Senator WELLSTONE made a very powerful statement in the Senate Chamber. There is nobody in the Senate who has fought harder or will fight harder for steelworkers than Senator WELLSTONE, but he will work in a bipartisan way, as he is now, to help us deal with this issue at the appropriate time.

One of the things with which I disagree with my colleagues, as they have presented this issue, is that there has been this moving target of rationale for why we should be asked to drill in the Arctic wildlife refuge. We have heard on the other hand that those of us who oppose it somehow oppose job creation or we are in favor of high gasoline prices or we oppose energy independence or we support electricity brownouts, blackouts, that we oppose Israel, that we support Saddam Hussein. There have been a series of insinuations in the course of this argument that really don't do proper service to the merits of the argument or to the good faith of most U.S. Senators.

It is interesting also that this moving target of support for this issue has found different rationale at different points of time. When California faced an electricity crisis last year in January, we heard Senators come to the floor and suggest that ANWR would help solve that problem. We actually had those arguments made. But only 1 percent of all of the electricity of California comes from oil-based, oil-fired electricity.

ANWR has nothing to do with it. The Middle East has nothing to do with California's brownout problems or electricity problems. Then we heard when heating oils spiked and gas prices spiked, of course: ANWR is the answer. But the Arctic Wildlife Refuge drilling will not come online for about 7 to 10 years. When it does come online, it doesn't produce a sufficient amount of oil under anybody's scenario to have an effect on the world price or world supply. So that argument simply doesn't stand scrutiny.

The Arctic Wildlife Refuge, at its best offering, will not affect the price of oil globally, and it cannot affect America's supply. Then, when we were hit with a recession and layoffs, we were told: the Arctic Wildlife Refuge is the solution. It is going to produce 700,000 jobs. But now the very people who made that study and talked about those numbers of jobs have repudiated that number and have acknowledged that that number was based on a 12-year-old study that had oil at the price of $45 a barrel in the year 2000, and all of us know it has been at about $25 or less, and that provides a different economic reality.

The truth is that one might be talking about somewhere in the vicinity of 50,000, 60,000, 100,000 jobs, which is the number of jobs produced in the American economy in a 3-week period and anytime we are doing what we were doing in the period of 1997 to the year 2000. So this is really not even a jobs program. In fact, the very people who produced the faulty study acknowledged that, until the year 2007, the Arctic Wildlife Refuge doesn't provide any jobs at all—zero. That is according to the American Petroleum Institute's funded study that is faulty—maybe it was faulty to the wrong side, but they suggested there would be zero jobs in that period of time. So it is certainly not an antidote to recession, to the current economic problems we face.

Promise after promise after promise about what it will do has been punctured by the truth. Here is a truth with which our colleagues on the other side of the aisle can never adequately deal. The truth is, even with the best, most optimistic prognosis of what you might get out of the Arctic Wildlife Refuge—even with that, and all of the other oil we possess in the United States of America, we have a problem: God only gave our country 3 percent of the world's oil reserves. The Middle East, Saudi Arabia, the gulf states, all of the countries from which we import, including Iran and Iraq, which have been the subject of much vilification, for good reason, have the largest share of the world's oil reserves. Saudi Arabia alone has 46 percent, compared to our 3 percent.

Here is the other truth they don't want to deal with: Every year, the United States of America uses 25 percent of the world's reserves. Of the available oil, 25 percent goes to America, even though we only have 3 percent of the oil reserves. The simple equation, the truth that they don't want to deal with, is that the United States of America has an ultimate confrontation with its dependency on oil.

Oil is a finite resource. One day, it is going to be used up. One day, we are going to have to move to a different form of transportation dependency. The question to be asked of Americans is: If we have to do it one day, and with all these ills that are associated with the dependency today, why don't we make the choice today to begin to define that dependency?

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

Mr. KERRY. I ask unanimous consent that I may yield myself 1 additional minute.

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

Mr. KERRY. Mr. President, on every category with respect to independence, this will not affect the independence of the United States. We have to invent the new technologies that provide the new fuels for America. This will not affect the price for America. This will not liberate us from our dependency in the Middle East. This will not bring home one of America's young men or women who are in harm's way as a consequence of opening the Arctic Wildlife Refuge. What it will do is destroy forever this precious resource, designated as a pristine wilderness, that can never be returned to that state, which has been cherished by Republican Presidents, Democratic Presidents, Republican administrations, Democratic administrations, and by all Americans for all of these years. Let's not vote today to give that up when there is a better set of choices for our country.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There are 14 minutes 20 seconds.

Mr. MURKOWSKI. I yield 4 minutes to my friend from Wyoming.

I would like to put up a picture that shows a producing well from the Don Edwards Bay National Wildlife Refuge out of San Francisco, CA. It is a wildlife refuge, Mr. President.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I thank my friend from Alaska. I served with him on the Energy Committee for some time when he was chairman. I served closely with him in this idea of doing something to develop an energy policy in this country. I want to speak very briefly about our need for a balanced energy policy.

Obviously, we are on ANWR here, of course, which is part of that total policy. That has been and should be the emphasis. It is only part of the policy, but a very important part of it. I am amazed at the opponents who talk about how we face these problems in the future, and we need to do something about it and refuse to move forward on one of the things we can most reasonably do.

I come from a State where we have a good deal of production, where we have a great deal of public lands. I can tell you that multiple use of those lands is one of the things we really believe in and can do and have proven can be done.

The lands I am talking about in Wyoming are really a little different from the ones in Alaska. I have visited there, and I can tell you that we can use those in multiple use. We can continue to have the uses that are there. We can use it for energy.

It has been years since we have moved on an energy policy—years. It is time we do that, and it is time we do a balanced bill that has in it one of the things that are most clearly needed, and that is domestic production. I am amazed that particularly my friends from New England, who use most of the energy in this country and don't produce any, are very concerned about the fact that we are trying to use multiple use ideas in the rest of the country where we can help provide these kinds of resources. There is nothing more important. What is more important than our energy?

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

Mr. THOMAS. No. I think the Senator from Massachusetts has had ample time to discuss this issue.

One of the things we need to do is take a real look at this, of course. ANWR was set aside for future exploration, no question about that. ANWR, obviously, will reduce our dependence on foreign oil. We are nearly 60-percent dependent on foreign oil in an unstable world such as we have now. ANWR is the largest onshore prospect for oil and gas. That is clear. It is clearly there. ANWR would require the toughest environmental standards ever imposed on energy production, and that goes back to this idea of having multiple use, to be able to do it with this 2,000-acre footprint and, at the same time, preserve that environment. We can do that. It creates jobs, of course, for the whole country and for Alaska, for the Native Americans who live there. It gives us a more affordable and reliable energy. That is the basis.

Many of us have been working on energy for a very long time. We need to have that reliable source. We are going to look for new ways, and we will find new ways.

I remember going to a meeting in Casper years ago, and someone, I think from Europe, said we would never run out of the fuel, and we will. We don't know. We need oil, and we need domestic oil.

Mr. President, I am not going to take more time. We have had thousands of people come here—veterans, Jewish folks, labor unions.

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

Mr. THOMAS. They are very aware of what we need to do. I urge we do it, including drilling in ANWR.

I yield the floor.

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

Mr. LIEBERMAN. Mr. President, I believe I have 5 minutes to speak.

The PRESIDING OFFICER. That is correct.

Mr. LIEBERMAN. I thank the Chair. Mr. President, this debate about the proposal to drill for oil in the Arctic Refuge has been simmering for a long time, and it has finally been joined in this Chamber over the last 2 days.

It has been a good, spirited debate. I have great respect for those who are proponents of drilling, particularly my two colleagues and friends from Alaska. I never question their sincerity. We have a good-faith difference point of view.

Let me try, if I can, for a few moments to summarize what I believe are our arguments against drilling and then talk about where I hope we go after we have voted on these cloture motions.

First, we are talking about 5 percent of the North Slope in Alaska. Ninety-five percent is now open for oil exploration and development. A lot of it is happening now. A lot of it is planned. This 5 percent is the heart of a thriving, beautiful ecosystem described by someone as the American Serengeti.

The question is, Do we want to disrupt it, develop on it, some would say destroy its natural state—I would say that—for the oil that we could get out of it? And would that development for oil affect the health of that beautiful part of Alaska?

I contend and we have contended in this debate that the development of the refuge as proposed in the pending amendments would irreversibly damage this natural treasure. The U.S. Geological Survey recently produced a 78-page report encapsulating 12 years of research which, in my opinion, concludes that very fact of irreversible damage to this natural treasure.

For what? As we have said over and over, maybe oil coming out of there in 10 years and how much, will it break our dependence on foreign oil? By the Energy Department's own estimate, in 2020, if we allow drilling for oil in the Arctic Refuge, our dependence on foreign oil would drop from 62 percent to 60 percent, still painfully dependent. The only way to break our dependence on foreign oil is to break our dependence on oil and develop new homegrown sources of energy and conserve.

Second, what effect would the drilling have on prices? We are all worried about gas prices going up now. The development of the refuge for oil would do nothing to affect oil and gas prices. Drilling would have no impact, even under the inflated estimates for petroleum potential that are cited by the proponents of the amendment because the price of oil is determined on the world market no matter from where it comes.

As we approach these votes, I am confident that the cloture motions will not succeed. I thank my colleagues for listening to the debate and moving in this direction which I think reflects the opinions of the American people. The question is, What do we do then? I hope we will set aside this divisive amendment and join around the underlying bill which does offer progress, a balanced energy plan for America, including some development within our American sovereignty, our land, but also has the kind of incentives we need for new technologies and conservation, which is the only way for this great Nation to remain great and not dependent on foreign sources of oil.

I say to my colleague from Wyoming that we in New England actually believe we do contribute to the energy supply. My guess is about 50 percent of the energy in the New England States comes from nuclear powerplants right in our region. I know in Connecticut, we have two plants functioning. Forty-five percent of our electricity comes from those plants. More hopefully, New England has become a center for technology development using the brilliance of American ingenuity and innovation and capitalism to create new sources of energy.

One of our great companies, United Technologies, is investing hundreds of millions of dollars in fuel cell technology—clean, efficient, and ours.

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

Mr. LIEBERMAN. I ask unanimous consent for 30 seconds more.

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

Mr. LIEBERMAN. I thank the Chair. Nearly 100 years ago, President Teddy Roosevelt, a great American, great

conservationist, great Republican—this really is not a partisan issue—said that the conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of national life.

It is a century later, but there is still a lot of wisdom in T.R.'s statement. I hope we will heed it, defeat these motions for cloture, and then move on to work together side by side for the kind of balanced progressive energy program that is in the underlying bill.

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

Mr. LIEBERMAN. I thank the Chair and yield the floor.

• Mr. CORZINE. Mr. President, I rise in strong opposition to the Murkowski amendment, which calls for oil drilling in the Arctic National Wildlife Refuge. My opposition is based, primarily, on the critical importance of protecting this special part of the world. But my objection is also based on my view that this proposal represents a fundamental endorsement of a skewed and misguided energy policy.

ANWR is a unique and pristine area. It is the only unbroken continuum of arctic and subarctic ecosystems on the planet. It is home to a wide variety of plants and animals, including 135 bird species. It is the central area for the huge Porcupine caribou herd. It is home to polar bears, wolves, grizzly bears, muskoxen, and wolverines.

And there is no doubt that drilling there would despoil the area. It would risk and potentially harm wildlife. And it would destroy ANWR's unique character as wilderness, regardless of whether that is an applicable legal term or not.

So there is a very serious downside to drilling.

So what is the upside? Why are we even thinking about despoiling a place that so many Americans want us to protect? What's the risk-reward quotient?

We have heard several arguments here on the Senate floor. But they just don't hold up. Notwithstanding claims to the contrary, ANWR oil won't create 735,000 jobs. It won't give an assurance of a reduction in the price of oil, certainly not anytime soon. And it surely won't make us energy independent, lowering our import needs only marginally.

The fact is, there is just not all that much oil in ANWR. Based on estimates from the U.S. Geological Survey, it is likely to have little more than 6 months' worth of capacity relative to 1 year of U.S. demand. The oil wouldn't even begin to be available for at least 10 years. And it wouldn't reach peak production for 20 years.

According to a recent Department of Energy study, even at its peak, total oil production from ANWR would be 800,000 barrels a day. That is only about 0.7 percent of global production.

Who are we kidding here? Is it really worth risking such a treasured space for the prospect of increasing global production by 0.7 percent in 20 years?

I, for one, don't think so.

Now, let me address the issue of jobs.

Yesterday, drilling proponents claimed that drilling in ANWR could create 735,000 jobs. That's a significant number. But it just doesn't hold up. The estimate comes from a study conducted for the American Petroleum Institute more than 10 years ago. And it's fundamentally flawed.

For example, the study assumed that peak ANWR production would be 3.5 percent of world supply. Yet, as I have discussed, the real level, based on government estimates, is less than 1 percent.

The study also badly overestimated the world price of oil. It forecasted that the world price of oil would be $46.86 per barrel by 2015, and that price was a driver of the jobs estimate. But when the authors of the study issued a similar forecast recently, they forecast a price of $25.12, a huge difference.

Because of these and other mistakes, the study relied on by ANWR proponents simply has no credibility. And nobody should be fooled by it.

I would point out, that if we want to create jobs, there are much better ways to do that while promoting energy independence. For example, there is no reason why America can't lead in next-generation energy technologies the way we have in information technology and biotechnology. Renewables and fuel cells will be growth industries, and the United States ought to get out front and then export those technologies to the world. That, to me, sounds like a better job creation strategy then drilling in ANWR.

Another argument made by drilling proponents is that drilling in ANWR would reduce the price of world oil. But the oil market is a global market. And it is dominated by players far larger than the United States. We have only 3 percent of the world's oil reserves.

As I mentioned earlier, ANWR's peak production would amount to less than 1 percent of world production. And it's just not realistic to claim that this will have more than negligible impact on the world oil price.

Why? Because it's a huge global market, one that currently has about 7 million barrels a day of excess capacity in the system today.

So a modest decrease in supply, such as the recent disruptions in Iraqi and Venezuelan supplies, can be made up by other producers.

And this process can just as easily work in reverse. Any increase in world oil supply resulting from bringing ANWR on line could simply be offset by decreases in production elsewhere in the world.

Aggregate supply and demand conditions in the global market will set the marginal price, and the prices will be determined by the cumulative decisions of individual producers. The United States simply cannot control the price of oil in the world market, because we don't control the aggregate supply. And drilling in ANWR is not going to change that.

That leads me to the next topic I want to address, national security.

We're now importing about 57 percent of the oil we consume. According to the Department of Energy, if we don't drill in ANWR, we'll be importing 62 percent of our oil by 2020.

If we do drill in ANWR, the Department of Energy estimates that imports would be reduced to 60 percent of U.S. consumption in 2020. That's only a 2-percent decrease in import share resulting from peak ANWR production.

How can anyone pretend that this will make a difference in our national security? It just won't. That 2-percent differential, when it finally comes, simply won't matter.

As I said earlier, the oil market is a world market. No nation or company has a monopoly on supply. So the relatively small amount, in a global context, that ANWR could produce could easily be offset by decreased production elsewhere.

So we are going to be just as vulnerable to price shocks in 2020 if we drill in ANWR as if we don't.

Rather than pretending that ANWR is the answer to our energy security needs, we ought to take steps that can have a real impact. And the most effective step we can take is to reduce consumption. Unfortunately, we have already voted down a CAFE increase, and I think that was a big mistake. But if we are serious about reducing our dependence on foreign oil, we simply have to deal with demand.

Another thing we should do is diversify our sources of oil. And to a large extent, we have already done that. Only 13 percent of the oil we consume comes from the Middle East. The rest is produced here, and in places like Canada, Mexico, the United Kingdom, and Norway.

These particular producers are our closest allies. Are we really supposed to believe that importing oil from these countries is a threat to our national security?

Having said that, I recognize that the Middle East does contain the lion's share of the world's oil reserves. And political turmoil there has clear implications for the world oil market, as does instability in Latin America. But getting a relative trickle of oil from Alaska 10–20 years from now won't make the problems in the Middle East magically disappear, or change the supply of oil enough to impact the price of oil. Instead, we need to engage now and work consistently to bring a lasting peace to the region. Until instability is eliminated, our national security will always be at risk from turmoil in the Middle East. That is an issue that is much larger than oil.

Finally, I wanted to take a moment to briefly discuss energy policy more broadly. As many have said, we need an energy policy that is balanced. But that balance needs to be weighted toward the future, not the past.

That means that our first priority should be to create incentives and standards that encourage the development of next-generation energy technologies. I am talking about technologies like wind, solar, and fuel cells.

Second, we should set tougher energy efficiently standards for appliances, buildings, and vehicles so that we can grow our economy while we use less energy.

And third, we should increase our domestic supplies of fossil fuels in an environmentally responsible way so we can continue to power our economy as we transition to new technologies and energy sources.

In my view, ANWR doesn't fit anywhere in this framework, certainly not as the centerpiece. And it just doesn't make sense as a matter of macroenergy policy.

I think the American people believe that we should leave ANWR alone. That is certainly the sentiment in New Jersey. I have received letters from more than 9,000 New Jerseyans urging me to oppose drilling in ANWR, that's more than I received on any other topic in my 16 months as a Senator.

The people who wrote to me about ANWR aren't ''radical environmentalists,'' as some drilling proponents have suggested. They're ordinary Americans who believe that ANWR is one of those special places that should be preserved in its natural state. And they are convinced, like I am, that drilling might well cause unacceptable environmental damage.

In conclusion, we know that drilling in ANWR will harm the Arctic wilderness. And the economic and national security benefits just aren't there. So I will vote against cloture, and I urge my colleagues to do the same.

Mr. GREGG. Mr. President, I believe that a comprehensive energy plan is absolutely critical security and economic well-being of this nation. A national energy policy needs to balance our growing demand for energy with conservation and supply. I believe that this balance should include the use of sustainable, renewable energy sources along with continued responsible development of traditional fuels including limited, environmentally-sensitive exploration in a small fraction of the Arctic National Wildlife Refuge, ANWR. Energy exploration in ANWR has become a very contentious and highly polarized issue. I would like to take this opportunity and talk frankly about energy exploration in this area and dispel some of the many myths associated with this issue.

An overwhelming majority of the Arctic Refuge is protected from energy development. In fact, 92 percent of the refuge is not eligible for development at all. However, more than 20 years ago, Congress set aside 8 percent of ANWR—1.5 million acres of the Refuge—for possible energy exploration. In 1980, under the Alaska National Interest Lands Conservation Act, Congress expanded ANWR to 19 million acres, and designated 8 million acres as wilderness area. Under this act, the designated wilderness area cannot be considered for development.

However, the current debate regarding drilling in ANWR surrounds the 1.5 million acres—outlined in Section 1002 of the act—that was set aside by Congress for further study into the development of mineral resources. Under Section 1002, Congress called upon the Department of Interior to conduct a study on the biological resources and oil and gas potential of the 1.5 million acre coastal plain. This study, commonly called the 1002 Report or the Final Legislative Environmental Impact Study, was released in 1987 and recommended full leasing of the coastal plain. The Section 1002 area has always been a potential site for mineral recovery, and is not, as has been expressed by some, part of a wilderness designation.

It is true that Section 1002 makes up at most 8 percent of the total refuge or 1.5 million acres. However, this number is misleading. In reality, the entire 1.5 million acres would not be developed. Current estimates place the total acreage of development at far less than a million acres. In fact, HR. 4, the House-passed energy bill, and the current Senate amendment contain provisions to limit development to 2,000 acres or 0.01 percent of the refuge. Our opponents say that the ''2000 acres'' grossly underestimates the infrastructure required to support energy development, that it merely describes the exact imprint of the core facilities, and does not include the area encompassed by those facilities, nor any of the supporting infrastructure. However, the nature of the facilities covered by the House bill and the exact shape of the 2000 acres was not specified. I believe that the amendment offered by Senator MURKOWSKI better clarifies the scope of development for these 2000 acres.

The use of new technologies will further limit the foot print of development. Thanks to our nation's ingenuity and technological advances, the footprints of energy development infrastructure are drastically reduced. Production of oil is safer and cleaner than ever before. Smaller gravel pads, advances in horizontal drilling, the re-injection of drilling wastes, and ice roads, all decrease the ''footprint'' of development. Furthermore, several new technologies have increased the success rate of exploratory wells from about 10 percent to as much as 50 percent. Such technologies include: 3–D seismic imaging, 4–D time lapse imaging, ground-penetrating radar, and enhanced computer processing. The greater percentage of successful wells, the fewer number of pads and the lower the exploration costs. Our experiences at Prudhoe Bay are testament to our technological successes. If Prudhoe Bay were built today, the footprint would only be 1,526 acres, 64 percent smaller than it is today.

But no matter how minimal the intrusion, opponents argue that any development will permanently degrade the sense of pristine wilderness found in the refuge. While most of the refuge has little sign of human encroachment, the coastal plain is home to the Inupiat tribe and their village of Kaktovik. Additionally, the nearby Distant Early Warning line (DEWline) for missile detection, the remnants of former or uncompleted DEWline installations, a garbage dump, and a runway are scattered in or near the 1002 area.

Typically, development of mineral resources is often extremely controversial in neighboring state and local communities. That is not true in this case. A majority of Alaskans, 75 percent, the entire Alaskan delegation, and the closest Native American tribe support energy development in ANWR. These constituencies all see ANWR as a tool for supporting a modern economy to meet such basic human needs as health care and education.

More specifically, the Inupiat tribe supports development. This tribe lives on 92,000 acres of privately held land within ANWR, and inhabits the only village within the 1002 area. According to Tara Sweeney, an Inupiat, ''We believe that responsible development of this area is our fundamental human right to self-determination.'' She goes on to say, ''When oil was discovered in our region in the late 1960s we were fearful of development. . . . Over thirty years later we have changed our opinion. Development has not adversely impacted our ancient traditions or our food supply. The caribou population . . . has thrived.''

Opponents argue that the Gwich'in tribe is strongly opposed to drilling in ANWR. The Gwich'in Tribe depends upon the Porcupine Caribou for food and reveres its calving area and rituals. According to some, developing ANWR is effectively raping and pillaging the land of one of the last great traditional tribes. However, the often quoted Gwich'in Tribe in fact lives over 100 miles away, on the other side of the mountains. The Gwich'in are not and never have been—indigenous to the North Slope. On the other hand, the Inupiat, who live within the 1002 area, support development and feel strongly that it will improve their way of life. It is my firm belief that the people of Alaska, the people who live closest to the refuge, should be allowed to determine their future and the future of ANWR. These people see that development of ANWR will lead to both a healthy economy and a healthy environment.

Opponents also raise concern about animals, such as the polar bears and the Porcupine Caribou, which reside in and around the 1002 area. Some believe that drilling would endanger both populations. For polar bears, the concerns have focused on how modern winter technology will affect winter dens and if pregnant polar bears denning on the coastal plain would be affected. Despite these concerns, the record is clear. Over the past 20 years, the population

of polar bears has remained exceedingly healthy. In fact, over ninety percent of Alaska's 2,000 polar bears den in the offshore pack ice and would not be affected by onshore development along the Arctic coastal plain.

Ill-founded concerns regarding the welfare of caribou have been raised during the discovery of oil at Prudhoe Bay. Yet, following the development of Prudhoe, the herd seemed to adapt, and even prosper. In 1969, when oil was first discovered in the region, the Central Arctic caribou herd was estimated at 3,000 animals. Today, the same herd has grown to almost 20,000 animals. The herd is healthy and continues to calve and nurse their young alongside the oil field operations. Opponents suggest the following: that the Porcupine Caribou cannot be compared to the Central Arctic herd; that the narrower coastal plain off the 1002 area results in a smaller calving area than Prudhoe; that the pictures of caribou on drilling pads and near pipelines are misleading; that the encroachment of development facilities will force the animals into the more dangerous foothills; and furthermore, that Porcupine Caribou is sacred to the Gwich'in tribe.

While a few of these concerns may be valid, empirical evidence suggests that the Porcupine Caribou population is robust, nearly 130,000 stronger, compared to the present Central Arctic Herd, only 20,000. Therefore, I am confident that development of a few thousand acres of the coastal plain will not harm the far stronger 130,000 member Arctic Porcupine Caribou herd which inhabits the Arctic Refuge. This is not to say that impacts on animals—even in the slightest and most unexpected form—are not possible. Should such impacts become apparent, the federal government may establish special protections for impacted animals, such as wilderness designation, delayed exploration, or a special regulatory regime.

On a larger scale, development of ANWR could reduce America's dependence on foreign oil. Currently, the United States imports 57 percent of our oil supply. By 2020, experts project that this country could be importing up to 65 percent of our oil supply. This reliance on foreign oil jeopardizes our national security and makes our economy susceptible to the frequent and recurring crises that occur around the world. As we have experienced over the last few weeks, we can not afford to rely on rogue nations like Iraq for oil, a resource vital to the economy and security of our country. Dependence on foreign sources of oil holds Americans hostage, by exposing the United States to every crisis within every nation we depend on for oil. For instance, over the last few weeks, we have witnessed turmoil within Venezuela that resulted in reduction of Venezuelan oil being shipped to the United States. Prior to this crisis, Venezuela was the third largest supplier of oil to the U.S. If this crisis continues, Americans could suffer price increases at the gas pump, the grocery store, and in their heating bills this winter.

However, if this country is allowed to move forward with development in the 1002 area, and we are again faced with oil embargoes, war, or further terrorist attacks, it will be possible to mitigate those hardships, by increasing our reliance on domestic production from Alaska's North Slope.

The fields in ANWR are the best bet for significant oil finds in the United States. Assuming 9.4 billion barrels are economically recoverable at a world market price of $24 per barrel, development of ANWR's oil fields would be roughly 1.4 million barrels per day. By 2015, projected U.S. oil imports will be 15.25 million barrels per day and petroleum use is estimated at 24.26 million barrels per day. This would mean that peak production in the 1002 area could reduce U.S. imports by a significant 9 percent by 2015.

As our technologies advance, more and more of the oil present in the 1002 area will become technically recoverable. Should the prices of oil significantly increase over time, more oil from ANWR will become economically recoverable. The amount of economically recoverable oil estimated in the 1002 area is comparable to the giant field at Prudhoe Bay, now estimated to have held 11–13 billion barrels.

Opponents insist that drilling in ANWR will not alleviate our dependence on foreign oil. They assume that ANWR's oil will be sold to the highest bidder and therefore can just as easily be sold abroad as sold domestically. The amendment currently being debated in the Senate would limit the exportation of oil from ANWR to Israel alone. In addition, H.R. 4 contains a provision which prohibits the exportation of oil under a lease in the 1002 area, as a condition of the lease.

Development of ANWR's resources could bring jobs to every state in the union. Further development of the North Slope is expected to create between 60,000 and 735,000 new jobs, depending on the amount of oil found, the price of oil, and the unemployment rate at the time of development. For this reason, the International Brotherhood of Teamsters and several other labor unions have spoken out publicly in support of ANWR development. According to James P. Hoffa, Teamsters general president, ''Working families are about to be caught between a recession and a deepening energy crisis. By tapping into petroleum resources in Alaska, we can create jobs and stabilize our economy by lessening our dependence on foreign oil.''

Revenues from any recovered resource will be split between the Federal Government and the State of Alaska. According to the Alaska Statehood Act and the Mineral Leasing Act, Alaska should be treated like any other State where revenues are split 90/10, in favor of the State. However, Congress could, as they have in HR. 4, establish a different arrangement, where the revenue sharing formula is 50/50. Federal revenues would be enhanced by billions of dollars from bonus bids, lease rentals, royalties and taxes. Estimates in 1995 on bonus bids alone were $2.6 billion. The Inupiat tribe sees development as a good move for their economy too, since they are only allowed to develop their subsurface mineral resources, if the Federal Government develops the 1002 area.

Opponents argue that a six month supply of oil hardly seems worth destroying America's Serengeti. However, the ''6-month'' argument is misleading. This figure assumes that all U.S. consumption will be met by ANWR, that we will not produce any oil domestically, and that we will not import any oil whatsoever. This is actually an impossible scenario. All of the oil in the 1002 area can not be removed within a 6-month time frame. Furthermore, it would be impossible to move that much oil via the Trans-Alaskan Pipeline during such a short time frame. A much more realistic scenario is to say that there is enough oil in the 1002 area to curtail all imports from Iraq over the lifetime of the 1002 oilfields.

Drilling in ANWR will not alleviate an immediate energy crisis or solve any of our immediate needs. Depending on the time it takes to navigate through the permitting process, full scale production in the 1002 area is likely to take 7–12 years. However, development in the 1002 area will help to mitigate future problems stemming from a reliance on foreign oil and a shortage of domestic energy sources.

We need a comprehensive energy policy which, while developing conventional resources, also includes energy conservation and research into renewable power generation. There are many very promising renewable energy sources currently being researched and developed. However, it will likely take at least a decade to bring renewable technologies into the market place. I feel it is important that as we pursue new and innovative technologies, we continue to develop our conventional fuels to guarantee a vibrant economy, jobs, and our national security.

Mr. SMITH of New Hampshire. Mr. President, I rise in opposition to amendment No. 3132 to the energy bill allowing for the opening of the Arctic National Wildlife Refuge to oil exploration and development. My decision to oppose this amendment was not made lightly. It was made after much thought and deliberation and after carefully reviewing all of the information available.

I think it is important to put today's debate in context with the 1980 decision by Congress to set aside the Arctic National Wildlife Refuge. In 1980, just before the election of Ronald Reagan, this country was in the middle of economic disaster, the Carter ''malaise.'' Our Nation was just exiting a terrible energy crisis; we were suffering from stagflation; the Middle East was in crisis with Americans being held hostage

in Iran; and gas prices, adjusted for 2002 dollars, were well over $2 per gallon. Yet it was in that atmosphere that the United States Senate established, by a 78–14 vote, the Arctic National Wildlife Refuge and prohibited drilling in the refuge. That strong bipartisan decision was supported by the overwhelming majority of both Republicans and Democrats, conservative and liberal, including many of both parties who are still in the Senate today. I believe that was the right decision then, and I believe the Senate should maintain its support for protecting this wildlife refuge.

My support for the Arctic National Wildlife Refuge is nothing new. In fact, in 1990, I was a cosponsor of legislation in the House of Representatives to designate the wildlife refuge as wilderness in order to ensure protection from oil and gas exploration. I believed then, as I do now, this area represents one of our last complete and unspoiled arctic ecosystems in the world. It is a very special place deserving protection. While I have been a supporter for exploration of many areas of this country, in fact some areas that arctic drilling proponents have opposed, I believe it is a different case to drill and develop in a designated wildlife refuge that was set aside because of its wilderness qualities by Congress.

I would like to quickly address the provisions in the amendment that limit the exploration and development infrastructure to 2,000 acres. I think that there are misconceptions about what these provisions actually do. This provision reads, ''the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.'' Supporters of this amendment believe that this provision will limit production to just 2,000 acres of the coastal plain, an area about the size of a large airport.

What needs to be kept in mind, is that the oil reserves in ANWR are not found in a concentrated area. They are spread out over the coastal plain in various pockets that differ in size. Production activities will not be limited to just one section of the coastal plain. Oil rigs, pipelines and other facilities will be spread throughout the area, resulting in a spider-web effect of infrastructure than could cover much of the coastal plain. This is especially true since pipelines are not included in the amendment, just the support beams. To put this all in perspective, the infrastructure associated with existing oil development on the North Slope has a ''footprint,'' as defined in this amendment, of 12,000-acres, but in reality covers an area of more than 640,000 acres, or 1,000 square miles. It is safe to assume that in this amendment the so-called 2,000 acre limitation in ANWR would likely impact an area over 50 times that size.

This Nation must have a comprehensive energy strategy that ensures a reliable, environmentally friendly, safe and economic supply of energy. I applaud President Bush for his commitment and I am proud to be a strong supporter of nearly all of his plan. I have been a long advocate of incentives for next generation vehicles and alternative fuels. These are vehicles that will not only provide clean transportation, but will dramatically reduce our oil dependency. I have also introduced legislation providing incentives for the construction of energy efficient buildings. However, I do not believe that allowing oil development in the Arctic National Wildlife Refuge is the right answer.

Mr. SHELBY. Mr. President, I rise today to discuss the Arctic national Wildlife Refuge or ANWR. As my good friend and colleague from Alaska Senator STEVENS has outlined, oil and gas exploration in ANWR is not a new issue. In fact, it is an issue that was contemplated when Congress expanded the boundaries of the Arctic national Wildlife Refuge in 1980, by requiring the Department of Interior to prepare a detailed study on the Coastal Plain area and recommend how it should be managed.

The Department of Interior's study recommended that the entire area be made available for oil and gas leasing, describing it as ''the most outstanding petroleum exploration target in the onshore United States.'' Despite this recommendation, no action has been taken an ANWR the intervening years except for the 1996 Budget Reauthorization Act authorizing the opening of ANWR which was retold by President Clinton.

I understand that there is a push and pull between those who believe we should strive to achieve energy independence by drilling in ANWR and those who feel that we should protect the environment and preserve ANWR. But, I believe that we can do both. We have come a long way since the very first oil fields were drilled. Today we have the ability, the technology and the know-how to drill in ANWR and protect and preserve the environment.

What is more, we are not proposing to drill in the entire Arctic National Wildlife Refuge as one might assume when they listen to our debate. In fact, this amendment will only allow for drilling on 2,000 acres of the total 19 million acres that encompasses the Arctic National Wildlife Refuge.

The events of September 11th have made it glaringly obvious that the time has come for the United States Congress to step up to the plate and take an active interest and an active role in securing our nation's energy future. We can no longer sit on the side lines and assume that wind energy, solar panels, and battery packs are going to advance our Nation's energy interest. No matter how many tax credits we force on alternative fuels or how much money we devote to research into these technologies, the fact remains that our country is increasingly dependent on foreign sources of oil.

The reality of the situation is that our Nation is more reliant on foreign sources of oil today than it was during World War II. This despite CAFE standards and other investments in alternative fuel vehicles. The Energy Information Administration estimates that in the next 20 years America's demand for oil is projected to increase by 33 percent. Yet as consumption increases, U.S. production continues to decrease. I think that is a frightening fact and I believe that we must address it by increasing domestic production. If this means that we need to drill in ANWR, then we must drill in ANWR.

Today, foreign imports supply 60 percent of our Nation's consumption. This dependence makes us vulnerable. It is not in our national interest to continue to be beholden to volatile foreign countries for our energy needs.

This country needs a rational energy policy. And we need a national energy policy that includes new sources of production so that we have access to our own energy supplies. Without our own energy supplies, this country will continue its increasing dependence on volatile foreign sources that could be terminated at any moment.

We cannot continue to put more and more power in the hands of foreign suppliers, foreign countries. ANWR has the potential to produce over one million barrels of oil a day. One million barrels a day is enough to replace the volume that we currently import from Saudi Arabia or Iraq for more than 25 years.

Energy independence should be our long-term goal. But reducing our reliance on foreign energy sources should be our short-term goal. This country needs a balanced national energy policy that encompasses these goals. We need an energy policy that protects the environment, increases the efficient and effective use of renewables, encourages diversification of generating capacity AND most importantly, increases our domestic production. ANWR presents the United States with enormous potential for increasing domestic production. I think that we would be fools to pass up such an important opportunity for our Nation.

I encourage my colleagues to join with me in supporting this amendment to allow oil and gas exploration in ANWR.

Mr. SPECTER. Mr. President, in my 22 years in the Senate, there has not been a more heavily lobbied issue than ANWR and there has not been a tougher vote. It is especially difficult because of my commitment to protecting the environment for future generations, including my own grandchildren, as evidenced by my strong environmental voting record.

After extensive deliberation, I have decided to vote for cloture, to cut off debate, for a composite of reasons: 1. The United States needs to become independent of OPEC oil; 2. this modified legislation greatly reduces the environmental impact; 3. Federal funds

from ANWR would cover legacy retiree health costs for steel workers to allow for re-structuring to save the American steel industry and tens of thousands of jobs, including thousands for Pennsylvanians.

Many steps must be taken to free the U.S. from dependence on OPEC oil. To rely on the Saudis, let alone Iraq and Iran, is to court disaster. Our reliance on Arab oil has broad-ranging implications on our policy in the Mid-East including our support for Israel.

In this bill, I have voted for a significant increase in renewables to generate more energy from wind, the sun, biomass, hydropower and geothermal sources. I have supported expanded tax credits for clean coal and conservation measures including increasing mileage requirements for motor vehicles.

While I would prefer not to open ANWR to drilling if we could become independent of OPEC oil without it, I have visited ANWR and believe that significant steps have been taken to reduce the incursion, such as a reduced footprint through multi-directional drilling, ice roads and winter season drilling.

This legislation also allows for the use of funds from ANWR to cover so-called legacy costs for retired steel workers which would enable re-structuring of the domestic industry which is vital for national security. More than thirty steel companies have filed for bankruptcy in the past few years and tens of thousands of steel workers have lost their jobs. The recently imposed tariffs on imported steel gives the industry a three-year period for restructuring with consolidation of many potentially failing companies into a company which could compete with foreign steel producers. That consolidation could not take place if the acquiring company has to assume the legacy costs. Federal funds derived from ANWR would be used to cover such legacy costs and permit consolidation.

Another consideration in my vote to invoke cloture is my view that the Senate should not require 60 votes for passage, a super majority, unless there is a great principle at issue, such as civil rights or civil liberties. Regrettably, a practice has evolved in the Senate to require cloture or 60 votes to pass legislation which is contrary to the fundamental principle, that in a democracy, decisions should be made by a majority.

Ms. COLLINS. Mr. President, today I express my opposition to drilling in the Arctic National Wildlife Refuge. I oppose drilling in the Arctic Refuge because it is both poor energy policy and poor environmental policy.

A sound energy policy is critical to our Nation's security. The United States is currently 56 percent dependent on foreign oil. By 2020, this number could rise to 70 percent. At that time, over 64 percent of the world's oil exports will come from Persian Gulf nations, a prospect that causes me great concern.

In light of our increasing dependence on a profoundly undependable source of oil, we must ask ourselves what course do we now chart for our Nation's energy policy? Should we rush to deplete our last major reserve of oil, or should we increase conservation and develop alternative technologies that will allow our children to enjoy a better quality of life?

President Teddy Roosevelt once said: ''I recognize the right and duty of this generation to develop and use our natural resources, but I do not recognize the right to waste them, or to rob by wasteful use, the generations that come after us.''

Americans have a right to develop our energy resources, but not to waste them. We could do far more to reduce our reliance on foreign oil by increasing the efficiency of our automobiles than by drilling in the Arctic. Drilling in the Arctic National Wildlife Refuge today would be akin to wasting resources that should rightfully be there for future generations. We must embrace an ethic of stewardship of our most treasured national resources.

Instead of rushing to deplete what is likely the last major oil reserve in the United States, we should instead promote energy efficiency and develop alternative technologies. Doing so will not only make more of an immediate difference than drilling in the Arctic, but it will also ensure that we leave our children with ample energy supplies and a broader array of energy options.

We can achieve greater and more immediate energy security by increasing our energy efficiency. According to testimony heard before the Senate Government Affairs Committee, the United States could cut our dangerous reliance on foreign oil by more than 50 percent by increasing energy efficiency by 2.2 percent per year. This would do far more to reduce our reliance on foreign oil than would drilling in ANWR, and the benefits could start almost immediately, not in 10 years. I note that the United States has a tremendous record of increasing energy efficiency when we put our minds to it: following the 1979 OPEC energy shock, the United States increased its energy efficiency by 3.2 percent per year for several years. With today's improvements in technology, 2.2 percent is attainable.

I am disappointed that the Senate last month failed to adopt higher automobile fuel economy standards. The Senate had the chance to save more than twice as much oil as is in the Arctic Refuge by simply increasing fuel economy standards. That proposal, which I cosponsored, would have saved consumers billions of dollars in annual gasoline bills while doing more to reduce our reliance on foreign oil than any other single measure.

It was Republican President Dwight Eisenhower who first set aside the Arctic National Wildlife Refuge. In his parting words from the Oval Office, President Eisenhower told the Nation: ''As we peer into society's future, . . . [we] must avoid the impulse to live only for today, plundering for our own ease and convenience, the precious resources of tomorrow.'' Although the Arctic Refuge may seem to some to be the easiest and most convenient source of oil available, drilling in the Arctic Refuge will not solve our energy problems. I urge my colleagues to increase our energy efficiency, develop alternative energy sources, and preserve our precious Arctic resources so that our children will have the freedom to make their own choice concerning this vast wilderness reserve.

Mr. McCAIN. Mr. President, I would like to speak about today's vote to end debate on the two pending amendments to authorize oil and gas development in the Arctic National Wildlife Refuge.

In past years, I have voted in support of exploring development options in ANWR as part of budget reconciliation measures. I believed that was the right vote. I was not an expert on the issue and I believed that further deliberation was warranted.

Unfortunately, the information presented to us consistently reveals widely varying predictions of actual oil potential and economic benefits, as well as various scenarios of possible impacts on wildlife and the environment. Even government studies are not conclusive and raise more questions than they answer. The various interpretations have already been debated by each side, and I need not rehash them now.

However, several factors are clear to me.

Oil and gas could be recovered from ANWR many years from now, but not without considerable costs to taxpayers.

Most scientific analyses conclude that both the land and wildlife would adversely be impacted by development.

The two Alaska Native communities most impacted by this debate are split in their positions on this issue.

Even if ANWR were authorized for development, we would still rely on imported oil supplies and require other sources of energy development and generation.

I, too, am concerned about our Nation's dependence on foreign oil supplies. Unless we act in some comprehensive manner on several fronts, including conservation measures and greater use of nuclear and other forms of alternative energy generation, our current dependence on foreign oil could increase from 56 percent to 70 percent in less than 20 years.

With respect to taking truly effective action to reduce our oil dependence, regrettably the Senate rejected a more effective measure to modestly increase fuel efficiency standards, a proposal that would substantially decrease our Nation's dependence on foreign oil and also reduce greenhouse gas emissions. Had we adopted an increase of fuel efficiency standards to 36 mpg average by 2013, we could have potentially saved 2.5 million barrels of oil per day by 2020

which is about equal to present imports from the Persian Gulf. This prudent conservation measure would also save twice as much, if not more, oil than what is in ANWR.

Opening the refuge could only meet about 2 to 5 percent of the Nation's oil needs, at best. Even some oil company executives have expressed doubts about drilling in ANWR, as stated by one: ''Big oil companies go where there are substantial fields and where they can produce oil economically . . . does ANWR have that? Who knows?''

Let me also say that the answer to threats posed by the regime of Saddam Hussein is not to drill in ANWR but to end his regime sooner rather than later. Drilling in ANWR will not remove the clear and present danger posed by Hussein and will not stop in any way whatsoever his weapons of mass destruction program or for that matter his ''inspiring and financing a culture of political murder and suicide bombing,'' as Defense Secretary Rumsfeld so aptly described his lawless and murderous behavior.

I also wish to comment briefly about the second-degree amendment offered to the underlying ANWR amendment to divert a majority of revenues derived from oil and gas development to retirement and other benefits for the steel industry.

I am not against our steel workers. They helped build our Nation and are among the hardest working people in America. But to underwrite their retirement in a transparent effort to attract more votes is very bad policy. What do we say to all the other workers who are also suffering during economic hard times? Are we going to say, ''sorry, but giving royalties to folks in your industry won't get us the votes we need to pass our bill''?

Miners, teachers, construction laborers, and many other hard-working Americans have seen their jobs, benefits, and pensions endangered by the recent hard economic times. Yet, they would not benefit from this proposal. Nor would our veterans, who undoubtably could use more help paying for their medical bills. These last-minute tactics are not a credit to this deliberative body and only serve to increase the public's skepticism of government.

America will need oil for the foreseeable future. What gives this generation the right to deplete this vital resource when we have the opportunity to preserve it for the benefit of future generations? At the end of our day, we still have prudent alternatives to ANWR to meet our energy demands and we should aggressively pursue them. A more acute energy need than our own in the future may require development, where assurances of improved technology may better protect the environment. With other viable energy options available to us today, to approve ANWR drilling would be a dereliction of our duty to posterity.

Teddy Roosevelt, the champion of conservation, once said: ''Conservation means development as much as it does protection. I recognize the right and duty of this generation to develop and use the natural resources of our land; but I do not recognize the right to waste them, or rob, by wasteful use, the generations that come after us.''

I have thought long and hard about this debate and the vote that I will cast. I still hope we can achieve a more balanced national energy strategy, but I am not convinced that a key component of that policy should be to drill in ANWR. I will vote against the motions to invoke cloture on these amendments.

The PRESIDING OFFICER. Who yields time? The Senator from New Mexico.

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

The PRESIDING OFFICER. The Senator from Alaska controls 10 minutes. The Senator from New Mexico has 14½ minutes.

Mr. BINGAMAN. Mr. President, I am informed Senator DASCHLE wishes to speak and is going to be coming to the floor in a few minutes to do that. 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. MURKOWSKI. 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. MURKOWSKI. Mr. President, is time running off the side of the majority at this time?

The PRESIDING OFFICER. It is running off the time of the majority.

Mr. MURKOWSKI. I thank the Chair. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. We are playing games here, Mr. President, so I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MURKOWSKI. Mr. President, I will take a few minutes at this time, and I would appreciate the Chair reminding me when half my time is up. My understanding is that is in 5 minutes.

I want to show a chart. We had the Senator from California talk a little bit about refuges. This happens to be a producing well in a refuge in California. It is near San Francisco. The point is, there are refuges in many States, as additional charts will show.

Be that as it may, I am not going to belabor that point because there are a few other issues on which we need to reflect.

Today we are seeing headlines: ''Summer Gasoline Prices Again Headed Higher.''

We also see information coming at us from the Mideast relative to the crisis, and Saddam Hussein advises that oil is going to be used as a weapon.

Oil as a weapon. We remember the last time we saw a weapon in this country, it was an aircraft being used as a weapon—two aircraft, three aircraft. There was the Pentagon, there was the New York Twin Towers, and there was the terrible crash in Pennsylvania.

This is as a consequence, to some degree, of our continued reliance on imported oil. We have heard a lot on the other side relative to ANWR and what it would contribute. Let me identify for the record—and this is from the Energy Institute—crude oil imports relative to the annual report for the year 2002. Opening ANWR would reduce oil dependence from 66 percent in 2020 to 62 percent by 2024; 58 percent by 2020 in a high case. So we have a low case, a mean, and a high.

The significance is what it does relative to domestic production. Assuming the USGS mean case for oil in ANWR, there would be an increase of domestic production by 13.9 percent; assuming a higher case for oil—and this is USGS figures—25 percent of total domestic production, an increase—well, the increase is clearly substantial.

I think what a lot of people have forgotten in this debate is what we are debating. This second degree amendment, of course, provides funding for the rejuvenation of the American steel industry, with the proceeds from ANWR. But for a moment, let us reflect on the fact that passing the underlying amendment does not automatically open ANWR. In this amendment, we have given the President the authority to open ANWR. The President has to certify to Congress that the exploration, development, and production of the oil and gas resources in the ANWR Coastal Plain are in the U.S. national, economic, and security interests. I think we should trust our President to make that decision. Clearly, at a time when the Mideast is in an inferno and we are 58 percent dependent, we should trust our President to make this decision.

Further, there is a 2,000-acre limitation on surface disturbance. That is in the House bill. There is an export ban, with the exception of exports to Israel. Under the Israeli oil supply agreement, we are extending it through the year 2014. There are 1.5 million acres of wilderness in ANWR, in exchange for opening approximately the 1.5 million acres of the Coastal Plain. We believe that is a responsible exchange.

We talk about a process. This is what I find totally unacceptable. One might say we were defeated before we even started on this project. Why? Well, because the majority leader basically pulled away from the committee of jurisdiction the process of developing out of that committee an orderly transition and development of a bill that could be brought to the floor and voted on by 50 votes.

We had 50 votes. We were victorious, and the Democratic leader knew it, but

he pulled the bill from the Energy Committee and put us in a position of having to come up with 60 votes, and that is where we are today.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MURKOWSKI. I guess one could say when we had control of the Senate the last time, 55 to 45 in 1995, we passed ANWR. President Clinton vetoed it. Now it is a different story in the Senate. We have 50/49/1. That is the reality associated with this issue.

The final point I want to make relative to the majority leader and his handling of this bill is one that I think bears consideration by all Members of this body. He said, even if we get 60 votes, we are not going to get ANWR because he will pull the energy bill.

I reserve the remainder of my time.

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

Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, Senator ROCKEFELLER was scheduled to speak. Of his time, which is 10 minutes, we yield 3 minutes to the manager of the bill, Senator BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will summarize some points we have made several times before. I think this debate has been useful in that all the arguments have been heard extensively. I do think it is an important issue.

I commend the Senators from Alaska for their efforts to move ahead. I do not favor going ahead with opening ANWR to drilling, and I think this is a debate which has continued, frankly, for decades in this Senate and in this country.

My own view is the long-term energy needs of our country can be best met with a balanced, comprehensive bill, which we are trying hard to enact and perfect in the Senate, that encourages domestic production in ways that are not environmentally objectionable to a substantial portion of our population. I mentioned those.

There are substantial opportunities for us to increase production on the North Slope of Alaska. There are substantial opportunities for us to increase production in the Rocky Mountain region, and I know that is going to be objectionable to some people, but we have a lot of production in my State. I think there are opportunities for additional production. There is a lot of opportunity for increased production in the gulf that we can benefit from substantially.

In addition to that domestic production, though, we need to have a heavy emphasis on increased efficiency. There is no reason we cannot use the new technology that has been developed to reduce dependence on foreign sources of oil. I regret some of the earlier votes we have had on this bill in that regard. I will not revisit that right now, but I will say there are opportunities for us to pursue an enlightened policy that positions us better in the future with regard to our energy needs. Meeting those needs and opening ANWR to drilling is not a necessary part of that.

I do not support it as an environmental policy, and I do not support it as part of this energy bill. We will have a good opportunity to express views on that in these upcoming two votes, and Members know exactly what the issues are. There is no mystery about that.

With regard to the first of the votes we are going to cast, it is complicated by the fact that we have had loaded in there provisions relating to the steel industry and the legacy issues related to the steel industry. I have said before, and I reiterate, this is not the right place to deal with those issues. I support trying to find a solution to those problems, but this is not the right place to do so.

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

Who yields time?

Mr. REID. How much time is remaining now on the majority side?

The PRESIDING OFFICER. Ten minutes is available to the Senator from New Mexico.

Mr. REID. That time is yielded to the Senator from West Virginia, Mr. ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I want to read one paragraph of a letter from the United Steelworkers of America which was given to me last night. It says:

> The United Steelworkers of America support you—
>
> That happens to be me——
>
> now and will continue to support you as you go forward to explore every avenue for the passage of this vital legislation [the legacy costs for health care].
>
> In the last 2 weeks, despite every effort, the White House and the Republican leadership in the House and Senate refused to grant the ironclad assurances necessary to go forward with legacy costs legislation as part of the energy bill. In fact, the inaction of the White House and the Republican leadership shows a total lack of concern for the 600,000 steelworkers who have or are about to lose their retiree health care.

I ask unanimous consent that the remainder of this letter be printed in the RECORD.

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

UNITED STEELWORKERS OF AMERICA,
Pittsburgh, PA, April 17, 2002.

Hon. JOHN D. ROCKEFELLER IV,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR ROCKEFELLER: I want to thank you for your continuing efforts to obtain a retiree health care program that will address the needs of hundreds of thousands of Steelworker retirees. The United Steelworkers of America support you now and will continue to support you as you go forward to explore every avenue for the passage of this vital legislation.

In the last two weeks, despite every effort, the White House and the Republican leadership in the House and Senate refused to grant the ironclad assurances necessary to go forward with legacy costs legislation as part of the Energy bill. In fact, the inaction of the White House and the Republican leadership shows a total lack of concern for the 600,000 steelworkers who have, or are about to lose, their retiree health care.

Without your consent or the support of the United Steelworkers of America, the Republican leadership has attached the legacy costs legislation to an amendment that would open Alaska to new oil exploration and production. The United Steelworkers of America oppose this action. The issue of ANWR stands alone. This is not the way to obtain legacy costs relief.

What the Steelworkers do support is the legacy costs legislation that you will introduce today, co-sponsored by Senator Specter of Pennsylvania.

In the coming weeks, we will work with you and other Senators on both sides of the aisle in order to build a broad-based grassroots campaign to ensure the speedy enactment of legacy costs relief. We urge the Republican leadership not to call for a vote on the Stevens' Amendment. Our members, and in particular our 600,000 retirees, their dependents and surviving spouses, deserve serious consideration of this problem, not political exploitation.

Sincerely,

LEO W. GERARD,
International President.

Mr. ROCKEFELLER. Mr. President, I have consistently, over the years, voted against drilling in the Arctic National Wildlife Refuge area. I will oppose both the Murkowski and the Stevens amendments. As a refuge, ANWR is protected land, intended to ensure the national diversity of wildlife, to ensure quality in water and conservation, and to provide subsistence living for Native Americans who have lived in that region for many generations.

The Coastal Plain within the refuge is targeted by some, as we well know, for oil exploration while only 8 percent of this refuge, the plain, is home to a wide variety of wildlife, including polar bears, caribou, and 100 species of birds.

ANWR is likely to produce, at best, 2 percent of America's oil demand in a given year if the oil, in fact, is there. Extracting it, if it is there, will be extremely costly. According to the Congressional Research Service, ANWR would not under any circumstances start producing oil for at least 7 years, or perhaps as many as 12 years.

The limited amount of oil and the problems extracting it make it clear we should not risk opening the refuge, which is the last 5 percent of Alaska's vast North Slope that remains protected. There are other, better ways to promote domestic oil production and other more effective ways to deal with our country's energy needs.

In addition to opening ANWR to oil exploration, Senator STEVENS—who in my work with him acted in total honor and integrity, which is part and parcel of his nature—adds a provision that appears to provide health care benefits to retired steelworkers and also coal miners. They relate to ANWR. He links the two. If that were a real possibility, it would be very hard to resist for somebody like me, who has been fighting for

steelworkers who have been going downhill.

However, no matter how genuine the Senator from Alaska is—and he is—he has been unable to secure any kind of support for either himself, myself, or anybody else from the White House that it would support it through the conference committee. Remember, the House has passed this bill. ANWR is in it; there is no steel. Therefore, no matter what we do, it has to go to conference. The whole problem is they would then drop legacy costs for steel and coal miners and keep ANWR, and that would be easy, unless, of course, the White House committed and the House committed not to do so. Senator STEVENS asked for that kind of commitment and was given no such commitment whatsoever. That leaves an empty promise.

It basically says: Vote for me on what I want and when your turn comes, I will consider what you want. In addition, the White House said they would not even consider sending a letter of any sort until they had 60 votes on ANWR. That is the same thing as saying: Give us 60 votes; we will write you some kind of a letter, and steel will get dropped in conference.

No. No. I represent West Virginia, as well as the United States of America and steelworkers and other people everywhere. I am not a part of anything of that sort. I will not and cannot support the effort of the Senator from Alaska to add steel retiree legacy costs to the ANWR amendment, although I am very sympathetic with what his predicament is. It is the same predicament I face. I have great respect for the Senator. His amendment offers nothing to steelworkers across this Nation, through no fault of his own.

The American steel industry and retired steelworkers were struggling in the face of an unprecedented steel crisis. They deserve help from their Government and need help. The steel industry is not a casual industry. It is no less strong in its meaning to America than the oil industry, but nobody seems to care about the steel industry. Not that many States produce steel, and half the Senators from those States do not care. It is a discouraging situation.

The steelworkers deserve straight talk about what the administration is prepared to do to help them, not political gain. There are nearly 100,000 steelworkers without health care benefits today. Most are former LTV workers who lost their benefits less than 8 months ago. Some are workers of American steel companies that went bankrupt waiting for the President to act on section 201, which was the matter of tariffs for unfair trade practices. There are hundreds of thousands of steelworkers whose health benefits are in imminent jeopardy without some help. There is an urgent need for legislation to restore the health benefits and to protect the steelworker health benefits that are at risk.

I want my colleagues to know for months and months I have tried in every way I possibly could to try to get the White House to have some sense of empathy for this situation. They did the tariffs. All that did was buy time. It did nothing for the steel industry. You have to have legacy followed by consolidation. Without consolidation, there is no steel industry. Without legacy there is no consolidation. It has to be tariffs, legacy, consolidation. They said no to legacy.

Don Evans, Secretary of Commerce, was on one of the Sunday shows. He said: That is up to the Congress to pass.

Well, there is a Republican House, a one-vote organizing majority in the Senate, and a Republican White House. What do you think that says? We are not interested.

It is, unfortunately, the steel industry that is not a priority for this administration. I am disappointed but not surprised. I am disappointed. I am bitter about it. I will be back about it. I will be back on this because I represent steelworkers.

There has never been a single solitary indication that this administration would support the concept of legacy relief. The President's refusal to make a commitment to retired steelworkers at this point sends a very chilling message to every steelworker, every steel company in the United States of America that this White House simply does not care about the long-term well-being of the steel industry. I don't know how I can reach any other conclusion. I tried to work with them, but there could be no other conclusion.

For our own industrial manufacturing base, of which steelworkers are 14 percent in West Virginia, for our national security interests, we all have a vested interest in doing something about steel. I conclude by saying, again, please do not be fooled by the linking of drilling and legacy costs. This amendment is misleading. There will be legislation introduced in this body that will represent a meaningful way to protect steel retiree benefits, but this is not the vehicle. Drilling in and of itself is wrong.

I urge my colleagues to vote against both the Stevens amendment and the Murkowski amendment.

I thank the Presiding Officer. I yield the floor.

Mr. MURKOWSKI. I ask how much time remains on the other side?

The PRESIDING OFFICER. The Senator from Alaska controls 4 minutes and the other side controls 8 seconds.

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

The PRESIDING OFFICER. The majority has no time remaining.

Mr. DASCHLE. Mr. President, obviously, I have the availability of leader time, but in the interest of moving these votes along, it is important we try to stay as close to schedule as we can.

Mr. DASCHLE. Mr. President, we have now been debating how best to reshape our Nation's energy policy for 24 days.

Time and again, we have heard our Republican colleagues say that opening Alaska's arctic wilderness is the cornerstone of their energy policy.

Time and again, we have said, if that is the case, then offer an amendment to that effect.

Time and again, they declined.

I am mystified as to why it has taken us so long to get to this point, but now that we are here, I want to talk about the substance of this amendment, because I support policies that will encourage domestic production of oil and gas.

I also believe that we need a comprehensive and balanced energy policy that will help to meet our Nation's critical energy needs.

But, given the fact that drilling in the Arctic Refuge won't increase our energy independence, but will have an adverse impact on the wildlife refuge—I believe that it does not belong as part of our Nation's energy policy.

America's appetite for energy continues to grow each year. Over the next 10 years, the United States is expected to consume roughly 1.5 trillion gallons of gasoline. At the same time, the United States holds only 3 percent of the known world oil reserves.

Even if we drilled in everybody's back yard, we could never meet our own demand with our own supply.

That is not to say that we shouldn't drill for oil and gas in the United States—to the contrary, we can and we should.

But we cannot simply drill our way out of this problem, and we should not be drilling in environmentally sensitive areas.

Supporters of drilling in the Arctic Refuge have used every possible opportunity to justify their position.

When we were experiencing rising oil prices, supporters said it would make oil available quickly and drive prices down in the process.

But even if Congress were to authorize drilling in the Arctic National Wildlife Refuge today, we would not see significant quantities of oil produced from the refuge for 8 years at the earliest.

When our economy began to slow, supporters began billing it as an economic stimulus measure, saying it will create 750,000 jobs.

Yet that number comes from an outdated and biased study commissioned by the American Petroleum Institute. Recent, more credible estimates by the Congressional Research Service, the Joint Economic Committee and others suggest that less than one-tenth that number would actually be created.

And now, as we see volatility in a number of oil-producing nations, those same supporters are saying that drilling in ANWR is vital to increasing our energy independence.

But estimates of the amount of oil that might potentially be available if

we drilled in the Arctic Refuge average around 3.2 billion barrels.

Let me give you an important point of comparison: if we all put replacement tires on our cars that were as good as the ones that came with the cars when they were new, the resulting increase in efficiency would save 5.4 billion gallons of oil—70 percent more than the total amount of oil in the Arctic Refuge.

Perhaps the most cynical attempt to justify drilling in the arctic refuge was the most recent. It was an attempt to link drilling in ANWR to an issue that many of my colleagues care about—the issue of health and retirement benefits for laid-off steelworkers.

All I can say is that I hope those who proposed this addition to the ANWR amendment remember their newfound commitment to steelworkers when it comes time for us to debate trade adjustment assistance.

The bottom line is this: anytime you see a policy so desperately in search of a justification, you can count on one of two things—either it's not that good a policy, or it doesn't have much support.

Drilling in ANWR falls into both categories.

And here's why: right now, more than 95 percent of the Alaskan North Slope is already open to oil and gas drilling.

I find it ironic that by focusing this debate on ANWR, we are missing the other opportunities to produce oil and gas in Alaska that we should be encouraging.

The first amendment that we passed to this bill authorizes the construction of a pipeline to bring natural gas from Alaska to the lower 48 States.

There are 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska.

There is more we can do to encourage sensible production. We should explore ways to pump the heavy crude oil that remains in the ground in northern Alaska.

And we should explore for oil and gas in the National Petroleum Reserve in Alaska—the area where the 3 largest onshore oil reserves in the last 10 years were found.

Faced with so little evidence that drilling in the Arctic Refuge would do anything significant to help our economic situation or increase our energy independence, some are now arguing that at the very least it can be done without harming the environment, or without exploiting too much land.

But those arguments are flawed as well.

For 12 years—over the course of a Democratic and a Republican administration—the U.S. Geological Survey studied the impact that drilling in the Arctic Refuge would have on the local wildlife.

In March they came out with their final report—and it couldn't have been more straightforward: the wildlife in the region will be seriously hurt by oil development.

Now, some Republicans are saying that they will limit the operation to a 2,000 acre ''footprint,'' and the environmental damage will be minimal.

Well, ''footprint'' is a misleading term.

In reality, oil production on the coastal plain area would require central production facilities, drilling pads, roads, airstrips, pipelines, water and gravel sources, base camps, construction camps, storage pads, powerlines, powerplants, and possibly a coastal marine facility.

When you add those logistical necessities to the fact that those 2,000 acres doesn't include an additional 93,000 acres of Native American land—you begin to see how that 2,000 acre footprint could easily trample a substantial amount of the coastal plain.

Finally, we need to recognize that this debate is about more than just drilling in the Arctic Refuge.

It is about whether we are willing to recognize that decreasing our dependence on foreign oil means decreasing our dependence on oil, period.

It is about whether we choose to pursue an energy future based upon the old philosophy of dig, drill, and burn—or whether we embrace innovative approaches to our energy future.

We need to expand production of renewable fuels, such as ethanol and biodiesel, develop cars and trucks that do not run on gasoline, but on fuel cells or other energy technologies that we can produce here in the United States, and, in the meantime, build more innovative and efficient automobiles.

Let me give you just one example of what the innovative new approach could achieve:

If we had fully implemented the vehicle fuel-efficiency provisions that were originally in this bill—something that could have been done without affecting safety or performance—we would have saved American drivers billions of dollars—and saved our Nation the same amount of oil we are currently importing from the Persian Gulf.

Bold steps like that are the path to energy independence—not backward steps like this.

Most Americans will never have the opportunity to visit the Arctic National Wildlife Refuge and see the beauty and wonder of land that has been largely untouched by humans since the dawn of time.

It is a tribute to the best of America that Americans still want to protect that ecologically rich expanse.

It is a tribute to the best of America that so many people today want to give future generations the opportunity to see that land as it once was, and always should be.

So I urge my colleagues to use these votes to show that we have the creativity to meet our energy needs, and the character to resist violating the few natural sanctuaries that we have set aside to protect in the process.

Let's defeat these amendments. I urge all my colleagues to vote against cloture.

Mr. MURKOWSKI. Mr. President, I yield myself the remaining time.

I want my colleagues to note there is not one single thing in here that increases domestic oil production in this energy bill. I find that unconscionable at a time when energy prices are increasing. We face continued crisis in the Middle East, and the intention of Saddam Hussein is, in his words, ''use oil as a weapon.'' We have seen that.

I am very pleased to stand with Senator STEVENS and recognize the support on this issue, from seafarers, teamsters, ironworkers, laborers, operating engineers, plumbers, pipefitters and many other unions in America that recognize this legislation as good for the American worker. A vote on the second degree which Senator ROCKEFELLER just talked about is a vote for America's steel industry.

He didn't talk about rejuvenating the industry. This is money that could come from opening ANWR, some $12 billion. It is unconscionable that they are not giving serious consideration to this because we are talking about passing a law; the conference is something else. Finally, a vote for this amendment is a vote for the Native people of my State of Alaska. They were promised they would have access to their lands. The underlying amendment would give them that.

We talk about truth today. I am going to close with one reference from the New York Times.

A Democrat from the northeast who considers himself a strong environmentalist also said he once tried quietly to see if he could broker a deal in which Democrats would back limited exploration in the wildlife reserve and Republicans would support much tougher fuel efficiency standards for cars and trucks.

The Democrat said he quickly gave up when it became apparent that the environmental organizations would not budge in their opposition to new drilling.

''If you told the environmentalists we would end global warming once and for all in return for ANWR,'' he said, ''they'd still say no.''

The truth is, what is going on here is simply the word ''greed.'' The so-called environmentalists are not interested in science; they are not interested in the health of this planet; they are not interested in the welfare of the people of my State; they are interested in only one thing—fundraising and keeping their high-paid jobs.

They know that we can explore Alaska safely; and that the wildlife will not be hurt. But they know that if we win ANWR, and we will, their chief fundraising tool goes away. That's what this entire debate is about—it is about raising money and keeping jobs for people who call themselves environmentalists.

That is the bottom line. We could pull this bill but the people of Alaska are entitled to a vote and Members are entitled to stand and be heard. They are going to be held accountable, and that is the way it should be.

I urge my colleagues to do what is right, what is right for America, not

what is right for America's environmental community that has lobbied this issue hell-bent for election.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, the clerk will report the motion to invoke cloture.

The bill 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 debate on the Stevens amendment No. 3133, regarding drilling in ANWR:

Tom Daschle, Kent Conrad, Harry Reid, Ben Nelson, Barbara Mikulski, Patty Murray, Dianne Feinstein, Tim Johnson, Tom Carper, Jeff Bingaman, Byron Dorgan, Richard Durbin, Mark Dayton, Jay Rockefeller, Patrick Leahy, Jack Reed.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on the Stevens amendment, No. 3133, to amendment No. 3132 to S. 517, a bill to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnership for fiscal years 2002 through 2006 and for other purposes shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 36, nays 64, as follows:

[Rollcall Vote No. 70 Leg.]

YEAS—36

Akaka	Domenici	McConnell
Allard	Frist	Miller
Allen	Grassley	Murkowski
Bond	Hagel	Santorum
Breaux	Hatch	Sessions
Bunning	Helms	Shelby
Burns	Hutchinson	Specter
Byrd	Inhofe	Stevens
Campbell	Inouye	Thompson
Cochran	Landrieu	Thurmond
Craig	Lott	Voinovich
Crapo	Lugar	Warner

NAYS—64

Baucus	Edwards	McCain
Bayh	Ensign	Mikulski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Brownback	Graham	Reed
Cantwell	Gramm	Reid
Carnahan	Gregg	Roberts
Carper	Harkin	Rockefeller
Chafee	Hollings	Sarbanes
Cleland	Hutchison	Schumer
Clinton	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kennedy	Snowe
Corzine	Kerry	Stabenow
Daschle	Kohl	Thomas
Dayton	Kyl	Torricelli
DeWine	Leahy	Wellstone
Dodd	Levin	Wyden
Dorgan	Lieberman	
Durbin	Lincoln	

The PRESIDING OFFICER (Mrs. CARNAHAN). On this vote, the yeas are 36, the nays are 64. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

AMENDMENT NO. 3133, WITHDRAWN

Mr. STEVENS. Madam President, I withdraw amendment No. 3133.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

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, hereby move to bring to a close the debate on the Murkowski ANWR amendment No. 3132 to S. 517, the Energy Bill:

Tim Johnson, Tom Carper, John Kerry, Jeff Bingaman, Patrick Leahy, Tom Harkin, Tom Daschle, Harry Reid, Hillary Rodham Clinton, Max Cleland, Maria Cantwell, Jack Reed, Ron Wyden, Carl Levin, Patty Murray, Max Baucus.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Murkowski ANWR amendment No. 3132 to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 46, nays 54, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—46

Akaka	Frist	Miller
Allard	Gramm	Murkowski
Allen	Grassley	Nickles
Bennett	Gregg	Roberts
Bond	Hagel	Santorum
Breaux	Hatch	Sessions
Brownback	Helms	Shelby
Bunning	Hutchinson	Specter
Burns	Hutchison	Stevens
Campbell	Inhofe	Thomas
Cochran	Inouye	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Voinovich
Domenici	Lott	Warner
Ensign	Lugar	
Enzi	McConnell	

NAYS—54

Baucus	Dodd	Lincoln
Bayh	Dorgan	McCain
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Boxer	Feingold	Nelson (FL)
Byrd	Feinstein	Nelson (NE)
Cantwell	Fitzgerald	Reed
Carnahan	Graham	Reid
Carper	Harkin	Rockefeller
Chafee	Hollings	Sarbanes
Cleland	Jeffords	Schumer
Clinton	Johnson	Smith (NH)
Collins	Kennedy	Smith (OR)
Conrad	Kerry	Snowe
Corzine	Kohl	Stabenow
Daschle	Leahy	Torricelli
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 54. Three-fifths of the Senate duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

Mr. LOTT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAMM. Madam President, I call for regular order.

AMENDMENT NO. 3144 TO AMENDMENT NO. 2999

Mr. GRAMM. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator specify the amendment.

Mr. GRAMM. The Kerry-McCain amendment is the pending business, as I understand the regular order. I think we have about 10 amendments that are in the stack of regular order, but I think it is at the top.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAMM. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself and Mr. KYL, proposes an amendment numbered 3144 to amendment No. 2999.

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

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

The amendment is as follows:

(Purpose: To make permanent the repeal of the death tax)

Strike all beginning on page 2, line 1, and insert the following:

SEC. . PERMANENT REPEAL OF DEATH TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended—

(1) by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than Title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and

(2) by striking '', estates, gifts, and transfers'' in subsection (b).

Mr. GRAMM. Madam President, I called for the regular order, which brought up the Kerry-McCain amendment as the pending business. I have sent a second-degree amendment to the desk sponsored by myself and the Senator from Arizona, Mr. KYL. It is an amendment that makes the repeal of the death tax permanent.

I say to my colleagues this is a revenue bill. This may very well be the only revenue bill we have for the remainder of this Congress. Perhaps there may be others, but as of today there is no guarantee that there will be.

The House is voting today to make the tax cut permanent. Senator KYL and I thought the Senate should have an opportunity to have a vote on that issue, and we decided if we were going to try to focus on one part of the tax cut, this would be the relevant part to focus on. We now have a revenue measure before us, and therefore we believe this is an opportunity for us to fix something that is very broken.

I will not belabor the point because our colleagues are very familiar with it, but basically because of a quirk in the Budget Act, we made the tax cut temporary, and it expires in 10 years. We could have made it permanent had we had 60 votes, but we only had 58 votes. So we had to use a procedure called reconciliation.

Under that procedure, the tax cut expires when the reconciliation expires, which is in 10 years. This produces the extraordinary anomaly that every year for the next 10 years, the death tax—that is the tax that is imposed on small businesses, family farms, and the wealth that people build up over their lifetime by working, sacrificing, and saving—will be reduced. Before we passed the tax cut, when these people died, their children often have to sell the business or the family farm to give the Government up to 55 cents out of every dollar they have accumulated in their lifetime.

We decided to repeal the death tax in our tax cut, and we decided to phase it out over a 10-year period. Yet because of this anomaly in the budget law, if you die 9 years from now, your family does not have to sell your farm or business, and your children get to keep every penny of wealth you have accumulated on which you paid taxes once before. It will belong to them. But if you die in the 10th year after the passage of the tax cut, the death tax returns, and they will have to sell the business, sell the farm, or sell your assets, and give the Government up to 55 cents out of every dollar you have earned in your lifetime.

Senator KYL and I believe that is outrageous tax policy. We think it is very unfair, and this is a tax measure that is in the Senate on the very day the House is moving to rectify this problem by making the tax cut permanent.

Therefore, I have sent this amendment to the desk on behalf of Senator KYL and myself. I hope my colleagues will look very closely at it. I cannot imagine we would want to let stand a provision of law whereby we repeal the death tax with great fanfare, we trumpet the fact that we had done away with this evil and unfair tax, and yet 10 years from now it all comes back in its full force, its full vengeance, and its full negative impact on every business and every farm in America. The amendment which is now pending is Senator KYL's amendment, which I have cosponsored, and I ask others who want to cosponsor it to do so. The amendment would make the repeal of the death tax permanent. I thank my colleagues for their indulgence. I ask them to look at this amendment.

I think someone could always say, this is an energy bill. Well, this bill is many different things. It has literally hundreds of different provisions that are more or less related—and many are less related—to energy. I do not know anything that has more to do with energy than giving people an incentive to work and save, with the knowledge that when they build up a farm or a business the Government is not going to take it away from their children. That unleashes the most powerful energy source in the universe, and that is the energy that is in the soul of men and women who want to better themselves and their family.

In my mind, this is the clearest energy provision in this bill if we adopt it, and I commend it to my colleagues.

I yield the floor.

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

Mr. KYL. Mr. President, I appreciate the remarks of the Senator from Texas and would reiterate that this is really a propitious time for us to deal with this issue, for the following reasons: The House of Representatives, as we speak, is taking action to pass a bill that would make permanent all of the tax reform we enacted less than a year ago. That includes the death tax repeal.

Second, we all recall what we did 4 days ago, on April 15, and I know at that time there were a lot of calls by friends on both sides of the aisle in both bodies talking about how the tax burden was too great for most Americans and we wished we could do something about it. We now have an opportunity to do something about it, as Senator GRAMM said.

Third, in his Saturday radio message—and I know there are still a lot of Americans who listen to the President's radio message on Saturday morning; I know I do—he explicitly called for us to do what Senator GRAMM and I are suggesting.

I read briefly from the remarks of President Bush in his radio address on Saturday morning:

> One thing that is pretty interesting to note is that some of these tax reforms are going to expire at the end of ten years, or in 2011. It is a quirk in the law. I think that doesn't make much sense. It is going to be hard to plan your future. If you think all of a sudden these things get kicked in full time and then go away, they need to make these tax cuts permanent. For the good of the working people of America, for the good of families, for the good of small businesses, for the good of farmers and ranchers, we need to make the tax relief plan permanent in the Tax Code.

President Bush was saying the reform the Congress passed, and he signed about 10 months ago, is going to expire now in 9 years, and if we really meant it when we passed those reforms, we should make those reforms permanent, especially the death tax. The reason I say ''especially the death tax'' is because people have to plan to deal with the death tax. They have to think ahead. If they don't know what the Tax Code is going to be when, say, the head of the household dies, they don't know what to do to plan for it.

The tax relief we voted on gradually reduces the death tax burden until the 10th year when it goes away altogether. When the sunset expires, the entire Tax Code, the way it was before, comes back into play, and people are then paying the death tax at a rate of up to 55 percent, with an exemption of only $675,000.

How do they plan? Are they going to die in the year 2009, 2010, or 2011? It makes a big difference in which year they die. The irony is that one of the major reasons for eliminating the death tax was that they wouldn't have to spend the enormous amounts of money they spend each year—to plan, to buy the insurance, do the estate planning, and all that goes with planning—to preserve as much of their estate as possible.

We have found, and I have quoted the statistics in the past, Americans spend about the same amount of money each year on lawyers and insurance companies planning their estates as other Americans do in actually paying the estate tax, just about the same amount of money. It turns out to be a double tax, except each year, every single year, Americans spend $20 to $30 billion on estate planning.

The President is saying: Since you can't plan because you don't know what the law is going to be, we have to figure out what that is, and make it permanent so that everybody knows what the rules are and what they need to plan against.

Obviously, we believe what the rules should be is what the Congress decides and what the President signed into law, which is that the death tax should be repealed, as it is in the year 2010. That is what everybody was gearing toward. That was the whole idea, get to final repeal. That is what we voted for. We want to give our colleagues the opportunity to make that repeal permanent so people can plan for the future, so they will know what the rules of the road and the Tax Code are at the time of death.

We could probably have picked some other way to bring this to our colleagues, but the distinguished Presiding Officer will recall the only way we have had an opportunity so far to bring this question before our colleagues is through a sense of the Senate. The distinguished Presiding Officer and many others were supportive of that sense of the Senate, saying we need to get on about the business of doing this. We all agreed—not all, but most Members agreed—with that. There are very limited opportunities to do that in the Senate. We have to have a bill that has revenue factors involved. This bill before the Senate now has a feature from the Finance Committee that deals with revenue and therefore it is one of the few opportunities—maybe the only opportunity,

quite possibly the only opportunity—we will have all year long to bring this issue to the floor when it is germane to the legislation pending.

There is some talk that on down the road we may or may not have a pension bill. If we did, and it got to the floor, the issue would be germane to that, as well, but that is very uncertain. Therefore, Senator GRAMM and I believed the best way to bring this issue before the body in a way we could express ourselves on this once and for all was through the only vehicle that existed, which is the vehicle of the Finance Committee work on the energy bill. That is why we do it at this time.

As I said before, there is a secondary reason, and that is because most Americans are focused this week on having paid their taxes, and at least for those who are listening to what the President had to say, we are well aware of the fact that the President wants to make the tax cuts permanent. He especially mentioned the death tax.

Now, it is one thing to do this because the House of Representatives is doing it this week and the President has called for it, the other reason to do it obviously is it is the right thing to do. I will spend a few minutes talking about that.

We knew when we debated a few weeks ago, when we had the sense of the Senate before the Senate, which was, of course, adopted, that one of the things on people's minds at that time was stimulating the economy, getting the economy going, and making sure the economic growth we were beginning to see signs of—it is almost like the flowers of spring coming up out of the soil; we can see economic recovery coming. But there is a question whether we can sustain that with oil prices that are now probably going to increase substantially. That could knock out the economic recovery.

For our families back home thinking about what they can afford this year and whether it will be a good year economically and whether they will save their job, we need to do everything we can to let them know we will work as hard as we can to make sure the economic recovery is sustained, they keep their job, we keep oil prices as low as possible, and all the rest.

We found during the previous debate that pumping money back into the economy, which occurs as a result of the capital formation from repeal of the death tax, is one of the surest ways of creating jobs and maintaining this economic expansion. There were several experts who made that point in one way or another. There are studies that make the point.

One study talked about a $40 billion stimulus to the economy from the repeal of the death tax. Let me refer to some of these in order.

What Alan Greenspan said on this issue is instructive. He was asked a question during a hearing at the House of Representatives: What's your thought on what we ought to be doing here with regard to permanency—meaning making the tax cuts permanent? Chairman Greenspan's reply stresses the need for certainty in the Tax Code, which is what I was talking about. It is the key.

He said:

> Whatever you do, Congresswoman, I think it has to be clear where the longer term tax structure in this area is. You cannot do estate planning, as you point out, unless you have a judgment as to what these numbers are. And wherever the Congress comes out, I think it is far more important that it come out clearly and unequivocally and not have an issue pending as to an issue which would create a degree of uncertainty which could make estate planning very difficult to implement.

Those are almost the exact words I used before. I had forgotten Chairman Greenspan expressed it in exactly this way. However, that is the point. When there is certainty, people know how to plan, they know how to invest. As a result, the capital formation that our economic recovery requires is available for investment.

What Mr. Greenspan is saying is, this is an area where this is most important, where planning is most critical, the area of the estate tax. We have to have clarity. We have to have, as Mr. Greenspan said, the code ''come out clearly and unequivocally,'' with a degree of certainty so that estate planning is not difficult to implement.

Mr. Greenspan testified in another forum in response to a question from one of our colleagues in the Senate. He very clearly rejected the notion that making the tax cut permanent would complicate efforts to meet the Federal Government's long-term financial obligations to Social Security and Medicare.

I read:

> I don't know of any economist who does long-term forecasting and presumes that the tax cuts will fall off a cliff at the end of the period in which they are statutorily in place. I don't think it is an economic issue because I don't know anyone who seriously believes the world works the way legislation stipulates.

That is the end of the quote by Chairman Greenspan.

He is absolutely right. Nobody would imagine that at the end of 10 years all the work toward eliminating the estate tax simply disappears and we go back to the way it was in the year 2000. Who would think that? My friends back home, with whom I talked, to whom I kind of came home and bragged about repealing the estate tax, were very surprised when I said: You understand when I said repeal it, what it meant was it was phased down to the 10th year and then on the 11th year it comes back again. They said: How could it be?

I had to explain to them the arcane—I should not say arcane—the rule under which the Senate operated to get this adopted was the reconciliation procedure. That has a 10-year limit to it. That means whatever you do can only have an effect of 10 years. That means if you reform taxes and repeal a section, at the end of 10 years, the 11th year it goes right back the way it was before.

That is not the way we should have to do it. Unfortunately, it was the only way to get the matter before the Senate at the time it was brought forward, and it was the only way to get the number of votes necessary to effect all the reforms we wanted to adopt. So there we are with a procedure that Alan Greenspan says nobody would understand—but it is the reality, so at the end of 10 years we are faced with this absurd situation that the repeal that we effected disappears and we are right back where we started.

Mr. Greenspan is saying that is unacceptable. We are saying that is unacceptable. The President is saying it is unacceptable. The House of Representatives today is going to invoke saying it is unacceptable. We have now an opportunity in this body to make sure that unacceptable result does not continue, that we have an opportunity to finally, once and for all, repeal the death tax so people can get about their planning, get about their business, and we do not have this immoral tax hanging around our heads.

Both the President and I have spoken about this, and the Senator from Texas has made the point as well, that not only is this a bad tax in terms of what it does to capital formation and economics, but it is an unfair tax. I know some of my colleagues on the other side have made the point that we have to find a way that rich people can pay a tax on the unrealized gain. In other words, if an asset is purchased, there are a lot of folks who want to make sure a tax is paid when that asset is finally disposed.

In the real world we call it a capital gains tax. We say when you buy something, buy it at $100 and sell it at $500 and you do not do any improving on it, then you have a gain of $400 and the capital gains tax rate is going to apply against that $400 gain when you decide to sell the asset.

So you stop and think, I have this piece of property that is worth $500. I know if I sell it I am going to have to pay a capital gains tax because I did not pay that much for it at the beginning; it has really appreciated in value. Do I want to do that? And you make a judgment in your mind to either sell it or not sell it. You know what the tax liability will be. You make an economic decision.

With the death tax, it is totally different. There are two or three other examples in our Tax Code. You didn't decide to die or you didn't decide for your father to die. It happens. It is an unfortunate circumstance, but it is not or should not be a taxable circumstance. The Tax Code should tax behavior. It should tax action. It should tax decision.

In other words, when Americans decide to do a certain thing that we have said is taxable, we do it knowing what the tax consequences are. The Tax Code should not penalize you for dying.

It should not tax you for the act of having died or, to be more precise, it should not tax your heirs because you died. You didn't intend it; they didn't intend it. But people say you should still pay a tax or your heirs should pay a tax on the unrealized gain from the assets.

So what we did in constructing this estate tax repeal was to say: You are right. That unrealized gain will be taxed. To be fair, we are not going to let anybody off the hook. No asset is going to be untaxed—even though, by the way, in most cases this is the second tax. The first tax was the income tax that was paid and then this will be the second tax on the investment income, in effect. But in any event, in order to make sure nobody would go untaxed with the unrealized gains, in effect we have not just repealed the estate tax, we have substituted for the estate tax a capital gains tax on those assets, saying that if and when the heirs ever decide to sell that property, then and only then will they pay the tax. It will not be the estate tax of 55 percent; it will be a capital gains tax on the gains at the appropriate capital gains rate, whatever that applicable rate may be at that time.

We did one other thing. Today under the Tax Code the minute you die your property has a new value attributed to it. It is not the value at the time you purchased it but the value now at the time you die, so the value is much higher. If you were to sell that—let me use an example. Let's say a billionaire in our country today dies and his widow inherits all the assets. The very next day that widow decides to sell those assets. How much capital gains tax does the widow pay? The answer is none. The reason is that the value of the estate is now the value at the day of death. Technically, if she sold it immediately it would be none. There might be a little appreciation of a few hours. But the point is, if she sold it the next day there would be no capital gains tax due because the value would be increased to the value at the time of the death rather than at the time acquired.

What we say is it is going to be a capital gains tax based on the appreciation of the original value of the property. If it had been acquired 10 years earlier and had a value of $100 and the value at the time of death is $500, A, when the property is sold, it is sold by the lawyers, it is going to have a gain of $400, but again the tax rate is the estate tax rate, which is in some cases less than half of the estate tax rate and, B, the tax is only due if the heirs make an affirmative decision to sell the property knowing what the tax consequences will be.

That is fair. I certainly do not attribute this to any of my colleagues, but there are those on the outside who like to demagog this issue. They like to say this is just a rich man's tax and we are going to let all the rich people in the world off because we are going to repeal the tax that applies to them. They are not telling you the truth. The truth is, a tax will be due on those estates, but it will be a tax due at the time the assets are sold.

It is the same rule in the Tax Code that applies to other situations in which, by fate, in effect, something happened to you and then you got income as a result and you should not have to pay income tax on that immediately. It is the same thing that applies when something is stolen from you and you are recompensed for the theft. It is the same thing that applies when you have property condemned and the State pays you money.

It wasn't your choice to have the property condemned so you should not have to pay tax on the money at that time.

As a result, there are few provisions of the Tax Code that recognize, where there is involuntary behavior that resulted in gain, or income, that people ought to have the ability to defer the tax on that until they want to sell the asset and at that point in time the capital gains tax is the appropriate tax.

I hope my colleagues appreciate when we talk about the repeal of the death tax here, what we voted for and what was signed into law is not a provision that says those assets are never taxed. It is a provision that says they are taxed when the assets are sold by the heirs at the capital gains tax rate.

I want my colleagues to understand this because I think when we explain to our constituents back home how we voted on this, whether we voted to make this tax cut permanent or not, we also need to appreciate that we can demonstrate what we have done is eminently fair; that people shouldn't have to pay a tax at the involuntary time of death. That is a most unfair thing to do at the worst time in a family's life, that they should have to pay a tax on the unrealized gains. But they should do that as we do in the other parts of the Tax Code when an economic decision is made based upon, among other things, the tax consequences that pertain.

When we have an opportunity to vote on this amendment, I hope my colleagues will consider the economic improvement that would result; the fact that we will be following what the President and House of Representatives have in effect asked the Senate to do; that we will be keeping faith with our constituents whom we told we repealed the tax and who now would want to know that we did in fact do it permanently; and that it wasn't just a charade for a 1-year period of time in the year 2001 and then go back to the way it was before.

If my colleagues can appreciate those points, I hope they will join us when we have an opportunity to make this permanent, and join Senator GRAMM and me in accomplishing that result.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, Members on this side of the aisle have concerns about the structure of the estate tax. In fact, we voted to change it significantly. I think the estate size threshold could be even higher. We don't want small businesses to be hurt by people who, upon death, have to lose a family business or lose jobs in communities.

There is a lot we need to talk about. But I think this is not the moment given what we are discussing. It is perhaps better that we save it for a different point in time.

My amendment, No. 2999, is the pending business. Is that correct?

The PRESIDING OFFICER. Amendment No. 2999 is the pending question.

AMENDMENT NO. 2999, WITHDRAWN

Mr. KERRY. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. REID. Mr. President, I have spoken to the Senator from Texas. He has indicated that during the course of the debate on this matter he is going to offer his amendment at a subsequent time. I certainly appreciate that.

It is my understanding that the pending business is amendment No. 3008. Is that correct?

The PRESIDING OFFICER. That is the regular order.

Mr. REID. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 3145 TO AMENDMENT NO. 3008

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3145 to amendment No. 3008.

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

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

The amendment is as follows:

(Purpose: To require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available)

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

SEC. 8___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

"SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available at a competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which biodiesel-blended diesel fuel is available at a competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

''(c) EXEMPTION FOR MILITARY VEHICLES.—This section does not apply to fuel used in vehicles used for military purposes that the Secretary of Defense certifies to the Secretary must be exempt for national security reasons.''.

Mr. REID. Mr. President, for edification of the Senators, what the two leaders have suggested we do is early this afternoon move to border security. There is a unanimous consent that has been prepared. It is being circulated now. We should be able to enter into that agreement hopefully very soon.

In the meantime, I think the Senate would be well advised to continue working on the bill that is now before us—the energy bill. There are a number of amendments that have been cleared.

In a moment, the Senator from New York will be here to speak on ethanol. There are a number of amendments dealing with that subject in this legislation. Until the Senator from New York returns, 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. SCHUMER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SCHUMER. Mr. President, I ask for the regular order and call up amendment No. 3030.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. If the Senator will allow me to make a suggestion?

Mr. SCHUMER. Please.

Mr. REID. The Senator should call up his amendment, that it be the pending business.

AMENDMENT NO. 3030, WITHDRAWN

Mr. SCHUMER. Mr. President, I call up amendment No. 3030.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I withdraw this amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

Mr. SCHUMER. Thank you, Mr. President.

Mr. President, I plan, along with several of my colleagues, to discuss this amendment. We are going to offer it again for a vote at a time that is agreeable to everybody. The only reason I withdrew it is I didn't want there to be a motion to table it where we wouldn't have a full debate on this very important amendment.

This is, of course, the amendment that would remove the ethanol mandate from the energy bill, not removing either of the other parts. It keeps the clean air standards, and it keeps the ban on the MTBE, but it does not require that ethanol be used as an oxygenate. It does not even require an oxygenate as long as the MTBE standard is met.

Before I begin, I want to say how much I respect and admire our majority leader, TOM DASCHLE. He is just a leader par excellence. He is a principled, compassionate, and extraordinary public servant, and a true friend to the people of my State. I consider it a privilege to serve under him and to be his friend.

For that reason, believe me, I do not enjoy opposing a provision in a bill about which I know Senator DASCHLE cares very deeply. I thought long and hard about whether to oppose the amendment and came to the conclusion that I had no choice, that I was compelled to do so because I sincerely believe this provision will hurt consumers dramatically in my State of New York and throughout the country.

So I do rise to my feet in this Chamber to speak on amendment No. 3030, reluctantly, with some sadness, but nonetheless, bolstered in the belief that it is the right thing to do and that I would be derelict in my responsibilities as a Senator to the people of my State and to our country if I did not offer my amendment. I had hoped that someone else would have, but they did not, so here I am.

I have been in Congress for 22 years. Every so often there is an amendment that people vote for that becomes part of the law that isn't paid too much attention to, and then, a year or two later, it turns out to be a big disaster. Our constituents turn to us and ask: How, the heck did you do that? How could you have done this? How could you have created something that has caused so much hardship without even thinking about it, without debating it, without opposing it?

I remember the catastrophic illness amendment 10, 12 years ago. I know some of my colleagues disagree about the analogy, but I think it is an apt one. We passed that amendment in the House, when I was in that body, with, I believe, minimal debate. I may be mistaken, but I think it was even on a two-thirds vote on the consent calendar. Everyone thought they were doing a good thing.

When the bill bit—when people realized how much they had to pay for a service that they would have liked to have had, but it was not essential to them, when people realized they all paid for it, even though many of them did not need it because they had other coverage—there was a public outcry, and there was almost a rush to the floor by House Members to get up and say why they really did not vote for what had happened, why they did not mean to do what had been done.

That happens every so often around here. It does not happen often. We are generally pretty careful, and the slowness of the legislative process stops it.

I say to my colleagues: Beware. If there were ever an amendment quietly put in a bill that should have a ''tread cautiously'' label on it, that should have perhaps a skull and crossbones on it, this is it. This is not an innocuous amendment. This is not an amendment that simply helps some farmers and does no harm to the rest of us. It is a deep and profound change in terms of how we use our motor fuel. It will require dramatic changes in investments throughout the land. It will create consequences that none of us are sure of because we are jumping into this pool of ethanol, if you will, without having put our toe in first. I fear the consequences.

So today I rise with my fellow Senator from New York, Mrs. CLINTON, our colleagues from California, and now a small but growing band of Members throughout the Senate, to oppose the unprecedented new ethanol gas tax which was quietly inserted into the Senate energy bill a few weeks ago without any debate.

My amendment may be adopted, but I do not fool myself. It may not. There is a huge group—some of whom I have often allied with, some of whom I usually oppose—arrayed against it. But I am convinced we will be the better for this debate, whatever our view is, because of the breathtaking change that the ethanol mandate imposes throughout the land.

The antioxygenate provisions in the bill accomplish two goals that are not disputed by my amendment. One is banning the use of MTBE. We have found that MTBE has resulted in ground water pollution all over the country. In my home State, on Long Island, where drinking water comes from one big single aquifer, MTBE that is spilled on the ground is slowly seeping into the soil, and it actually permanently pollutes that precious aquifer which close to 3 million people depend upon for their drinking and bathing and their washing.

My State, along with many others, has banned MTBE and many more States are planning to do it. This bill does that. We are not changing that.

The second is the scrapping of the oxygenate mandate that led so many States to make such heavy use of MTBE in the first place. The proposal in the bill provides an antibacksliding provision that says if you don't use MTBE, you can't backslide on clean air. Some believe those provisions could be stronger, but we are not opposing either of those two parts: the ban on MTBE or the antibacksliding

provisions, the provisions that require the air to stay as clean as we require it now. It is not those provisions we are opposing.

Beyond those two provisions, this new provision added to the energy bill—again, without any debate—adds an astonishing new anticonsumer, antifree market requirement that every refiner in the country, regardless of where they are located, regardless of whether their State mandates it or not, regardless of whether the State chooses a different path to get to clean air, regardless of whether the refiners in that State say that ethanol doesn't work or works very expensively, it requires them to use an ever-increasing volume of ethanol.

Here is the kicker—there are a lot of kickers in this provision, the ethanol provision that was quietly added to the bill. If your State or your region does not want to use ethanol, you still have to pay for ethanol. You have to buy what is called ethanol credits. It costs you the same as if you bought the ethanol yourself. When have we done that before? When have we said, even if you choose not to use a product, an expensive product, a product that affects just about everyone, anyone who owns a car, any company that drives trucks, when have we ever said in such a dramatic way that you are forced to use something? It is astounding. It would be similar to saying to people who needed heating in their homes, you have to use oil rather than gas, and if you choose to use gas for whatever reason, you still have to pay for the oil.

That is what we are doing here, no less, except we are doing it with gasoline, and it sounds sort of complicated, ethanol sounds chemical, and all that. The effect is very simple.

This is a gas tax. In 1993, many of us debated whether there ought to be a gas tax. Some say the whole Congress changed on the basis of that debate; that in 1994, the House and Senate switched parties in part because of that debate. This is, for most States, a larger gas tax than the one that was proposed. And, to boot, it doesn't even go to a useful purpose. The gas tax at least built new highways to help the driver, and there was a theory about it. This makes you buy ethanol—hardly a return to motorists the way the gas tax was to be.

It will affect every employee driving to work. It will affect every mom driving the kids to school. It will affect every Teamster driving a truck. It will affect every company that uses automobiles and cars and trucks. I don't think there are many that don't. Every gasoline user in this country will pay.

The mandate is so steep that sure as we are sitting here, it is not just the added cost of the ethanol—which will be great enough; I will talk about that in a minute—but it is going to cause price spikes. Currently, refiners across the Nation use 1.7 billion gallons of ethanol. That is the total amount. Starting in 2004, 2 years away, they would be required to use 2.3 billion gallons of ethanol. Almost immediately, we are requiring a large amount of ethanol. You know what happens when you place a huge demand on a product and you don't have the supply? Simple economics: The price goes through the roof.

I am opposed to this substantively. But I say to my colleagues who are running in 2004: Beware. Let's say the proponents of the bill are wrong. Let's say I am right and all of a sudden next summer, the summer of 2004, gasoline goes up 30, 40, 50 cents a gallon, which is very possible. What are you going to say?

I want to help the corn farmers, too. I vote for everything that comes up to help the middle western and southern farmers. But this is not the way to do it. We can do it a lot more efficiently and with a lot less harm to the driver.

You don't need a degree in economics to know that if ethanol producers can't meet the demand, there are going to be price spikes, big price spikes. That is just the beginning. It is going to get worse. We ratchet up the number from 2.3 billion in 2004, up to 5 billion gallons of ethanol in 2012. Then we increase it by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity. We are locking people into one method of cleaning the gasoline and the air forever. That means from 2012 on, the Nation's ethanol producers will have a guaranteed annual market of over 5 billion gallons, which every consumer in this country will pay for at the pump.

Here is how much you are all going to pay. This is a conservative estimate. They use Department of Energy numbers, but it is called Hart/IRI Fuels Information Services. They are a well-established group. They are not part of the petroleum industry or anybody else. The estimates are conservative because that is without price spikes and that is assuming the best of circumstances, that everything works smoothly.

Here is how much each of your States will pay. The minimum is 4 cents, 4 cents a gallon every time you go to the pump. But I am going to read all the States where it is greater than 4 cents a gallon, how much you would pay.

In Arizona, you would pay 7.6 cents a gallon; in California, you would pay an extra 9.6 cents a gallon; in Connecticut—I see my colleague from Connecticut here in the Chamber—it is estimated you would pay an extra 9.7 cents a gallon; District of Columbia, 9.7 cents a gallon; Illinois, 7.3 cents a gallon; Indiana, 4.9 cents a gallon; Kentucky, 5.4 cents a gallon; Louisiana, 4.2 cents a gallon; Maryland, 9.1 cents a gallon—that is a lot of money—Massachusetts even more, 9.7 cents a gallon; Missouri, 5.6 cents a gallon; New Hampshire, 8.4 cents a gallon; New Jersey, 9.1 cents a gallon; New York, 7.1 cents a gallon; Pennsylvania, 5.5 cents a gallon; Rhode Island, 9.7 cents a gallon; Texas 5.7 cents a gallon; Virginia, 7.2 cents a gallon; Wisconsin—I see my friend from Wisconsin here; we have worked on agricultural issues together—5.5 cents a gallon.

Every one of those States pays more than the 4 cents.

If you hear the name of your State now, your drivers will pay, under the best of circumstances by these estimates, an extra 4 cents a gallon: Alabama, Alaska, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maine, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Mexico, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

The annual aggregate impact is $8.3 billion. That is a lot of money. Even in the Middle West, where there is a lot of ethanol production, where it would be less onerous than in other places, the cost of gasoline goes up 4 or 5 cents a gallon. That is a lot of money.

I know there are some supporters here. We have had many good arguments privately and on the floor and some are going to say these numbers are inaccurate. They include the cost of banning MTBE. The cost of forcing the entire country to use 5 billion gallons of ethanol will be a mere pittance.

Remember this, my friends: Ethanol is very hard to transport. It cannot be carried through our existing pipeline infrastructure because it is so volatile. It has to be put on a truck, a barge, and sent down the Mississippi to New Orleans, usually, and then sent by boat around the country, and then loaded back onto a truck and taken to a local refinery and put into the gasoline. You can see why it is so expensive.

Then some people say they will build ethanol plants closer to the big users, particularly on the coast and in the South, where this has the greatest effect. There is not enough corn and ethanol production down there. Who is going to pay for the cost of all those new ethanol plants? It will be the drivers of all of our States. Because of its volatility, because you cannot create a pipeline and pipe it through to the refinery and add it in, because you have to transport it in this particular way, you can see that ethanol is not the cheapest way to do what we want to do in terms of cleaning our air.

With all due respect, I think the cost estimates I am citing are based on more realistic assumptions than those that went into my opponents' number. We tried to be as careful and conservative as we could. To forecast how much a 10-year, 5-billion-gallon ethanol mandate is going to cost consumers across the country, you have to look at interplay of a host of complex factors: growth in auto travel, gasoline prices, corn prices, ethanol price, and how many new ethanol plants are expected to come online. That is all inextricably linked to how high the price of ethanol is going to go. If the price is

high and manufacturing ethanol becomes profitable, yes, the private sector will build the plants. If it is not, they will not. Yet in the numbers I have seen circulated by the proponents of this issue, they use contradictory figures. They say ethanol prices will be unusually low for the next 10 years. At the same time, the private sector is going to build plants all over the country.

You cannot have it both ways. If the price is low, you are not going to build new plants. If the price is high, then you will. I am willing to concede that modeling this unprecedented, inefficient, untested, jerry-built contraption, a nationwide mandate on every refiner in the United States to pay for billions and billions of gallons of ethanol whether they use it or not is difficult.

I know my staff has been working with Senator DASCHLE's staff and a number of technical experts to see if we can reach agreement on the numbers. If we can do so, that would be great.

In truth, whether it costs a penny a gallon or a dollar a gallon—my guess is, from the estimates I read, the State-by-State numbers I read are low, because those are under the best of market conditions—why are we mandating it? There is no public policy reason for the use of ethanol other than the political might of the ethanol lobby.

I say to colleagues from the farm States, the fact that we are getting rid of MTBE and keeping the air standards high is going to increase demand for ethanol. I think you are going to do better than you have ever done before. Without casting aspersions on colleagues and individuals, the proposal is kind of greedy. Yes, ethanol is going to be needed more. But a mandate to the ethanol world? You are going to do well under this. Once MTBE is gone, your main competitor is gone.

For States such as mine, where the refiners believe they can find a better method that is cheaper, why would you require us to use ethanol? That is the fundamental weakness.

I was having a good discussion with my friend from Iowa, who does a great job defending farmers and farm States. He has even tried to help us in an unprecedented way in the Northeast. He says: What will replace ethanol if you don't mandate?

The first and best argument is to let the market come up with something. If you mandate it, there is going to be no alternative; you are stuck with it. If it is the best in the market, it will prevail in the marketplace.

There are alternatives. Refiners have told me—those away from the Middle West—that they will use a combination of aromatics and alkaloids. Alkaloids are about as clean as ethanol. Aromatics are kind of dirty. Aromatics break down so you cannot use all of them. But a form called Alkaloids are clean. Alkaloids could be used, plain and simple. I don't know if they work better than ethanol or not. But I will tell you, the people in my State say they will. Why mandate that?

So the bottom line is, there is no sound public policy reason for mandating the use of ethanol. We live in a free market economy. We hardly mandate anything, especially when there is a choice.

Well, the new ethanol gas tax will contribute to market volatility and price spikes, especially since the industry is concentrated in the Midwest. It is going to increase costs in general. That is the second issue. But you are going to create price spikes all over the place. When you increase the amount that is needed, you know when there is one big boy, one producer, they are going to go to town.

Archer Daniels Midland, alone, controls 41 percent of the market—a monopoly. Certainly, somebody is asserting huge market control. When they have to build more refineries, who is going to have the best access to capital and technology? They are. My guess is their market share will actually increase. Who knows, 41 percent is a lot.

Well, let me tell you, the mandates frighten people even in the Middle West. I want to make a point. Two States in the heartland of America—two of the biggest corn-producing States in the country considered mandating ethanol—Iowa and Nebraska. Both of them rejected it. If the people of Iowa, through their legislature, and the people of Nebraska withdrew the legislation—it was not a referendum—and rejected this, why now are we in the Senate imposing it on Iowa, Nebraska, and everybody else who is in a far worse position?

Let me read what some of the newspapers in those areas said:

> An ethanol mandate would deny Iowans a choice of fuels and short circuit the process of ethanol establishing its own worth in the marketplace. . . . The justification is to marginally boost the price of corn. Cleaner air is offered as a reason, too, but that's an afterthought. If that were the goal, other measures would be far more effective. . . .

That is the Des Moines Sunday Register, 9–19–1999, headlined ''Let Ethanol Prove Itself.''

The Quad City Times from Davenport, IA, in an editorial entitled ''Ethanol Only Proposal Doesn't Help Consumers'':

> With research and continued refinements, it might someday become an economically viable alternative to gasoline—but until that day, it is ludicrous to argue that Iowa's gas stations be required to sell only ethanol. . . . Ethanol might be worth some level of support, but it will never be so valuable as to justify scrapping our free enterprise system.

That is not the New York Times. That is not the Los Angeles Times in California. That is the Quad City Times at the border of Iowa and Illinois.

Nebraska, as I mentioned, considered an ethanol mandate and rejected it. Here is what the Grand Island Independent said about a year ago in an editorial:

> ''Ethanol Use Shouldn't Be a Forced Buy.'' Americans don't like to be forced to do anything and Nebraskans are no different. Yet the Legislature is considering forcing all gas stations throughout the state—

This was a State mandate—

> to start selling ethanol blends. . . .That just doesn't seem fair. Our country and our business system is based on supply and demand. Consumers determine the products they want and businesses meeting those needs succeed. While many in Nebraska may want ethanol-based fuels, many Americans traveling our highways don't.

Finally, the Omaha World Herald, in the year 2000, editorialized:

> Now the Nebraska Legislature is considering eliminating the competition altogether. Support is building for a proposed state law to require most general purpose automotive fuel sold in the state to contain ethanol. . . .As a general principle, government should not take sides in such matters unless a strong case can be made that intervention serves a major public purpose. In this instance, the arguments for eliminating competition haven't been persuasive.

Even editorials, as well as voters, in the heartland of America, where there is much more corn and ethanol is far more likely to succeed, argue against a mandate, which is what we are about to impose.

My opponents also argue that this ethanol gas tax is needed to help family farms, and I take those arguments very seriously. I know that many of my colleagues from the Middle West want to help their family farmers who are struggling. I want to help those farmers, too, and I have stood by my Senate colleagues from Illinois, Iowa, Nebraska, the Dakotas, Montana, Minnesota, Wisconsin, and I have voted for billions and billions of dollars in agricultural subsidies to help the farmers in the West and South. That is a decision I think I can make in good conscience. Commodity subsidies, by the way, do very little for New York.

Since I have been in the Senate, I have supported the Midwestern farmers. I know how important they are to the economy of those States. I know how important they are as a breeding ground for American values. I say to my colleagues, I think a majority in this Senate Chamber—a big majority—are willing to help some more. But find a way that works. Do not do it by imposing a gas tax on all of our drivers.

I speak for my State of New York. Our economy is hurting after 9–11. We do not need this which particularly affects the east and west coasts worse than other places.

Guess what. In addition, what pains me is this has not trickled down. Do you think corn growers of the Middle West are going to make most of the money? I have heard our farm State folks complain over and over that it is the middleman who gets most of the farm dollar. It is the people in the middle who make the money and a few bits trickle down to the family farmer. Yet that is just what we are doing here.

We are giving Archer Daniels Midland, Williams Energy Company, Minnesota corn processors, and giant corporations the real control in the market. They are the ones who will make most of the money. When the price spikes the way electricity spiked in California, do you think that money will trickle down to your farmers? Forget it. Maybe if they own stock in Archer Daniels Midland they will do well, but they will get very little bang for the buck. If the past is any indication, for every nickel that our drivers pay throughout the country, the farmer will receive certainly less than a penny.

This policy does not even do its best to help the farmers. Take this $5 billion mandate and put it into some kind of direct subsidy that goes to small family farmers, main-line it directly to them, and you will get my support. That will not make the drivers in my State pay.

I say to my colleagues from the Middle West, figure out better ways we can help our farmers and I will support you, but not this one.

Let me read to you from the CRS report on ethanol. It is on energy security. They say:

Another frequent argument for the use of ethanol as a motor fuel is that it reduces U.S. reliance on oil imports, making the U.S. less vulnerable to a fuel embargo of the sort that occurred in the 1970s, which was the event that initially stimulated development of the ethanol industry. According to the Argonne National Laboratory, with current technology, the use of E–10 leads to a 3-percent reduction in fossil fuel energy per vehicle mile, while use of E–95 could lead to a 44-percent reduction in fossil energy use. However, our studies contradict the Argonne studies suggesting the amount of money needed to produce energy is roughly equal to the amount of energy obtained from its combustion—

So you have to create as much energy to use it as you would save in using it.

Continuing the quote:

which could lead to little or no reductions in fossil energy use. Thus, if the energy used in ethanol production is petroleum-based—

Which it is likely to be—

ethanol would do nothing to contribute to energy security.

That is CRS, not somebody with an ax to grind.

Remember, in terms of conserving energy, ethanol is basically a wash.

The final argument my opponents will make, I believe—I think this is somewhat cynical, but it will be made, I guess; that has never been a bar to any of us on the floor of the Senate—is that if New York and California and other States want to clean up their water by banning MTBE and maintain clean air, they should have to pay the price of an ethanol gas tax, and that it is political naivete to think otherwise.

My State has already banned the use of MTBE, and so have 12 other States, including: Arizona, California, Colorado, Connecticut, Illinois, Kansas, Michigan, Minnesota, Nebraska, New Hampshire, South Dakota, and Washington.

A number of other States are also in the process of taking action, as well, because MTBE pollutes the groundwater. But everyone in those States who banned MTBE is going to be in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they cannot successfully do so.

Last year, President Bush's administration denied California's petition to waive the oxygenate requirement, despite the State's ability to comply with air quality standards without it. They deny the waivers, even though you can get there a better way. This denial forced the State to defer its critical ban on MTBE and suffer groundwater contamination.

New York State is considering requesting a waiver. Although I call on President Bush and Administrator Whitman to look favorably on New York's waiver request, my guess is if and when New York applies, we will be met with the same denial as that of the Governor of the State of California. States such as New York, California, States on the coasts, many States in the South, even States that are large urban States in the Middle West, such as Illinois, are between a rock and a hard place.

Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make ever larger profits.

Let us meet the same clean air standards we now have in the way we think is best. Let us use reformulated gasoline. Let us use these outlets which are as clean as ethanol and cheaper if one is not near corn. If ethanol is better, the marketplace will prevail.

What makes me doubt all the virtues of ethanol, when my colleagues propose it, is that they mandate. If it is going to be so cheap and so clean and so good, let the market prevail. As I said before, the ethanol producers and corn growers are going to be in a better position, even with my amendment, than otherwise because MTBEs are banned. The clean air standard stays, and in many cases ethanol will be the best way to go.

It is an outrage that Congress is telling Americans across the country that we refuse to clean up their air and water unless they pay off ADM. That is unconscionable. There is no public policy reason on Earth not to allow States to ban MTBEs and remove the oxygenate requirement and keep clean air standards in place without requiring them to buy ethanol.

Ironically, the ethanol mandate, because ethanol is exempt, reduces the highway trust fund in State after State. It is going to reduce it in California by $900 million, in New York by $493 million, in Pennsylvania by $446 million, in Massachusetts by $183 million. It can be looked up to see how much less highway money each Senator's State will get as a result of this mandate. In New York, we need that money. We have a great need for transportation dollars, especially with the damage done to our subway system on 9–11.

Other States such as Virginia that suffered an attack and had to struggle to accommodate transportation needs of its fast growing suburbs need it as well.

So for consumers throughout the country, this is a one-two punch. First, one pays more at the pump to meet arbitrary goals that boost the sales of ethanol but are not necessary to achieve clean air. Second—and this is another zinger in this bill; it is loaded with boobytraps consumers will face restrictions from suing manufacturers, and oil companies will have less incentive to ensure that the additives they manufacture and use are safe.

There is a provision that says not only can States such as California, New York, and so many others—not only do they have to use ethanol, but we are banning MTBEs and we are prohibiting anyone from suing companies that may have polluted their water. My goodness, how much can they pile on us?

This is no longer an academic discussion. Three oil companies have been found liable in California—I am sure my colleague from California, the senior Senator, knows about this—of knowingly polluting the ground water around Lake Tahoe with MTBEs. My colleague from California, our junior Senator, Mrs. BOXER, will have a lot more to say about that case and what these provisions that exempt the refineries and oil companies from being sued mean. But the case demonstrates something truly disturbing.

The petroleum industry opposed ethanol mandates for years, but now, facing a raft of MTBE lawsuits, including the first defeat in California, they have signed off on this deal in return for a really disgraceful liability provision.

Mrs. FEINSTEIN. Will the Senator yield for a question?

Mr. SCHUMER. I would be happy to yield to my friend from California.

Mrs. FEINSTEIN. If I understand the context of the Senator's argument, what he is saying is that New York does not need an oxygen requirement, that New York can use reformulated gasoline and can meet the clean air standards by this reformulated gasoline, and California as well does not need an oxygen requirement; we can meet clean air standards without an oxygenate requirement and, where we do not meet clean air standards—summer months in Southern California—can use ethanol and we do not need an around-the-year requirement.

So if I understand the Senator correctly, his position then is exempt New York, exempt California, from the strictures of this bill, and exempt us from an oxygenate requirement. Is that the position of the Senator?

Mr. SCHUMER. Well, my position is we should not have this mandate anywhere, but obviously if we were offered

an exemption for New York, and for California, the vehemence against this opposition would disappear. We are defending the vital interests of our States. I would simply argue with my friend from California, this is not just a New York and California problem; this is a problem in many States.

Mrs. FEINSTEIN. I realize that. I find myself in agreement with the Senator. What I have wanted all along is for California—because we do not have an infrastructure in place in the state and we know there is going to be a price spike—to have the EPA sign off on a waiver.

Mr. SCHUMER. Right. I apologize.

Mrs. FEINSTEIN. So I want to identify myself with where the Senator is going. If these two States were to receive a waiver from the oxygenate requirement, we would certainly be satisfied.

Mr. SCHUMER. I misinterpreted what my friend from California was saying, for which I apologize. California applied for a waiver from the oxygenate standard and was rejected by the current administration. No good reason was given. I think, again, this was a sop to the ethanol lobby.

New York would like to apply. If we knew these waivers would be granted, if we knew that consideration would be made on the merits, we would not be debating today. But if someone tells us, well, you can get the standard waived, forget it; they are not waiving it. The administration is not waiving it. If we were to get a letter from President Bush saying he will waive States that can find a better way, we are in; but we are not. As I had mentioned earlier, we are between a rock and a hard place.

In conclusion, I ask my colleagues to support the amendment sponsored by myself and the senior Senator from California, the Senator from New York, Mrs. CLINTON, the Senator from California, Mrs. BOXER, and some others, to strike the ethanol mandate. If we believe Congress has an obligation to protect the health of our citizens and environment, if we believe that maintaining clean air standards is important but also believe there are different ways to get there, do not support forcing American consumers to pay for ethanol.

If my colleagues believe Congress has the obligation to protect consumers and keep our market economy running as efficiently as possible, then I would ask them not to mandate ethanol and impose a gas tax.

I say to my colleagues who support this amendment, the heart of which is in the Middle West, find us a better way. We do not want to hurt their farmers. In fact, we want to help them, as our record has shown, but not at undoing the entire fuel economy of much of the country.

I say to my colleagues that as they listen to this debate, I think it is very hard not to be persuaded that we have a good argument. I urge them to listen to the debate. I urge them to look at the substance. I urge them to look at the politics. I urge them to defeat the ethanol gas tax, the mandated ethanol gas tax, by supporting our amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. REID. Will the Senator from Wisconsin yield for a unanimous consent request?

Mr. KOHL. Yes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. So Senators understand what we are trying to do this afternoon, we are going to ask unanimous consent the Senator from Wisconsin proceed for up to 5 minutes as if in morning business. Following that, the Senator from New Mexico, the manager of this bill, has a significant number of amendments that have been cleared, almost 20 amendments that have been cleared. He will have cleared those.

Senator MURKOWSKI has been called away for a funeral this afternoon. He will be back in about an hour.

Senator DAYTON wishes to speak on the ethanol provision, following the statement of the Senator from Wisconsin and the work done by the manager of the bill.

Then Senator FEINSTEIN and Senator MCCONNELL have some business they want to do. That will also be in morning business, as I understand it.

As I say, when Senator MURKOWSKI returns, the two leaders, Senator DASCHLE and Senator LOTT, agree it would be appropriate for him to offer an amendment dealing with Iraqi sanctions. We hope after he gets back to complete the debate on that within a relatively short period of time, perhaps an hour or less. Then we would go this evening to border security. Senator KENNEDY and others have been working on that matter, and we would be in a position in the near future to offer a unanimous consent request. That should take us into the evening time with several votes during the next several hours.

I ask unanimous consent the Senator from Wisconsin be recognized for up to 5 minutes.

Mrs. FEINSTEIN. Reserving the right to object, so that I can advise Senator MCCONNELL, my understanding of the unanimous consent agreement is Senator KOHL, Senator DAYTON, and then Senator MCCONNELL and I will have a chance to introduce legislation in morning business.

Mr. REID. I say to my friend from California, the only unanimous consent request I requested was Senator KOHL. I was relaying what I hope will happen. As soon as Senator BINGAMAN finishes his business, Senator DAYTON will speak for 15 or 20 minutes, at the most, and then there will be time for you and Senator MCCONNELL to take up your matter for up to a half hour.

That is not in the form of a unanimous consent agreement, but I think everyone should recognize that is the courteous thing to do, to allow people to proceed in that manner.

The ACTING PRESIDENT pro tempore. Is there objection to allowing the Senator from Wisconsin to speak?

Without objection, it is so ordered.

(The remarks of Mr. KOHL are printed in today's RECORD under ''Morning Business.'')

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

AMENDMENTS NOS. 3015, AS MODIFIED; 3024, AS MODIFIED; 3078, AS MODIFIED; AND 3141, EN BLOC

Mr. BINGAMAN. Madam President, I ask unanimous consent the Senate now proceed to the consideration en bloc of the following amendments: Amendment No. 3015, relating to a National Academy of Sciences study on certain spent nuclear fuel shipments; amendment No. 3024, relating to nuclear powerplant licensing and regulation; amendment No. 3078, relating to a review of Federal procurement initiatives, and that those amendments be modified with changes at the desk.

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

The amendments will be so modified.

Mr. BINGAMAN. I further ask unanimous consent that it be in order to also consider amendment No. 3141, relating to fuel cell vehicles, and that all four amendments I have referred to be agreed to en bloc.

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

The amendments (Nos. 3015, 3024, 3078, and 3041) were agreed to en bloc, as follows:

AMENDMENT NO. 3015 AS MODIFIED

(Purpose: To require a National Academy of Sciences study of procedures for the selection and assessment of certain routes for the shipment of spent nuclear fuel from research nuclear reactors)

At the end of title XVII, add the following:

SEC. 1704. NATIONAL ACADEMY OF SCIENCES STUDY OF PROCEDURES FOR SELECTION AND ASSESSMENT OF CERTAIN ROUTES FOR SHIPMENT OF SPENT NUCLEAR FUEL FROM RESEARCH NUCLEAR REACTORS.

(a) IN GENERAL.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences under which agreement the National Academy of Sciences shall conduct a study of the procedures by which the Department of Energy, together with the Department of Transportation and the Nuclear Regulatory Commission, selects routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department of Energy facilities currently licensed to accept such spent nuclear fuel.

(b) ELEMENTS OF STUDY.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—

(1) selects potential routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department facilities currently licensed to accept such spent nuclear fuel;

(2) selects such a route for a specific shipment of such spent nuclear fuel; and

(3) conducts assessments of the risks associated with shipments of such spent nuclear fuel along such a route.

(c) CONSIDERATIONS REGARDING ROUTE SELECTION.—The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of that subsection take into account the following:

(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from research nuclear reactors through densely populated areas.

(2) Current traffic and accident data with respect to the routes under consideration.

(3) The quality of the roads comprising the routes under consideration.

(4) Emergency response capabilities along the routes under consideration.

(5) The proximity of the routes under consideration to places or venues (including sports stadiums, convention centers, concert halls and theaters, and other venues) where large numbers of people gather.

(d) RECOMMENDATIONS.—In conducting the study under subsection (a), the National Academy of Sciences shall also make such recommendations regarding the matters studied as the National Academy of Sciences considers appropriate.

(e) DEADLINE FOR DISPERSAL OF FUNDS FOR STUDY.—The Secretary shall disperse to the National Academy of Sciences the funds for the cost of the study required by subsection (a) not later than 30 days after the date of the enactment of this Act.

(f) REPORT ON RESULTS OF STUDY.—Not later than six months after the date of the dispersal of funds under subsection (e), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a), including the recommendations required by subsection (d).

(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(2) the Committee on Energy and Commerce of the House of Representatives.

AMENDMENT NO. 3024 AS MODIFIED

(Purpose: To promote the safe and efficient supply of energy while maintaining strong environmental protections)

On page 123, aftger line 17, insert the following:

Subtitle C—Growth of Nuclear Energy

SEC. 521. COMBINED LICENSE PERIODS.

Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—

(1) by striking ''c. Each such'' and inserting the following:

''c. LICENSE PERIOD.—

''(1) IN GENERAL.—Each such''; and

(2) by adding at the end the following:

''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.''.

Subtitle D—NRC Regulatory Reform

SEC. 531. ANTITRUST REVIEW.

(a) IN GENERAL.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:

''d. ANTITRUST LAWS.—

''(1) NOTIFICATION.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.

''(2) ACTION BY THE ATTORNEY GENERAL.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.

''(3) INFORMATION.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).

''(4) APPLICABILITY.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.''.

(b) CONFORMING AMENDMENT.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

''(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.''.

SEC. 532. DECOMMISSIONING.

(a) AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.

(b) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

''(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

''(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

''(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.''.

Subtitle E—NRC Personnel Crisis

SEC. 541. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

''y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.''.

SEC. 542. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 through 2006.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

AMENDMENT NO. 3078, AS MODIFIED

(Purpose: To require the General Services Administration to conduct a study regarding Government procurement policies)

On page 244, after line 23, add the following:

SEC. 840. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

AMENDMENT NO. 3141

(Purpose: To promote a plan that would enhance and accelerate the development of fuel cell technology to result in the deployment of 2.5 million hydrogen-fueled fuel cell vehicles by 2020)

On page 213, after line 10, insert:

''SEC. 824. FUEL CELL VEHICLE PROGRAM:

Not later than one year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget.''

Mr. BINGAMAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3141

Mr. DORGAN. Madam President, I believe it is in our national interest to improve the efficiency of our vehicles, for example, through new vehicles and vehicle fuel technologies, so that we can reduce our oil dependence and better protect the environment.

Several months ago, I test drove a fuel cell vehicle. A fuel cell vehicle produces electricity from the reaction of hydrogen and oxygen. The only by-product is water. Fuel-cell vehicles are similar to battery-powered electric cars in that the fuel cell produces electricity that powers motors at the wheels.

But while a battery must be recharged after all of the fuel inside it has reacted, a fuel cell is a ''refillable battery,'' in the sense that recharging the vehicle only requires refilling the fuel tank. The hydrogen fuel required to power it can be stored directly on the vehicle in tanks or extracted from a secondary fuel, like methanol or ethanol, that carries oxygen. So, a fuel cell car can get double or triple the mileage of cars on the road today.

This new technology would decrease emissions, help reduce global climate change, and protect our national security by reducing the amount of oil we would need to import from unstable regions.

All we need to do is look at the political conditions in Venezuela and the situation in the Middle East, coupled with Saddam Hussein's sanctions against exporting oil to the United States, to realize the precariousness of our dependence on these imports. At this point, we still have other countries that can meet the global oil market requirements and we are not in a crisis, but this could change at any moment.

Our transportation sector consumes the largest amount of energy in our society. Passenger vehicles account for 40 percent of the oil products the Nation consumes each year, or nearly 8 million barrels of oil each day. And, in 2001, the United States imported 53 percent of the Nation's oil and this is expected to increase to 60 percent or more by 2020, according to the Energy Information Administration. So we can and must change our oil consumption habits. We can do this by implementing new technologies that will increase fuel efficiency and help create jobs.

A Ford Motor Company representative has stated ''the technology . . . has the potential to significantly improve the fuel economy of [vehicles], which could reduce U.S. dependence on imported oil, reduce greenhouse gas emissions and save consumers money at the pump.''

That is why I am introducing an amendment directing the Energy Department to develop a program that would create measurable goals and timetables with the aim of putting 100,000 hydrogen-fueled fuel cell vehicles on the road by 2010 and 2.5 million by 2020, along with the needed hydrogen infrastructure. DOE would have to report annually on its progress toward achieving these goals.

The amendment is designed to have DOE work with the auto manufacturers to ensure that these goals are met. With this amendment, we are sending a strong message that our goal is to accelerate and enhance the development of fuel cell vehicle technologies with concrete targets and timetables.

Most major automakers are racing to produce prototype fuel cell vehicles. DaimlerChrysler has plans to have fuel-cell cars in production by 2004.

California's clean air act requirements also will ensure that many fuel cell vehicles are on the road in the near future. Specifically, by next year, 2003, 2 percent of California's vehicles have to be zero-emission vehicles and around 10 percent of its vehicles must be zero-emission vehicles by 2018. This means that California could have nearly 40,000 or 50,000 fuel cell cars on the road by the end of the next decade. Federal fleet purchase requirements also would help realize the targets established in my amendment.

I am pleased that my amendment is supported by United Technologies, the Alliance to Save Energy, and Senators CANTWELL, BAYH, and REID.

I know there are a number of other Members that also share my enthusiasm for hydrogen-fueled fuel cell vehicles, and I look forward to working with my colleagues to move this important and promising technology off the shelves and onto our streets.

AMENDMENT NO. 3024

Mr. VOINOVICH. Madam President, I rise today to propose an amendment to the energy bill that will promote the safe and efficient supply of nuclear energy while maintaining strong environmental protections. My amendment, the Nuclear Safety and Promotion Act, supports the growth of nuclear energy, provides regulatory reform to the Nuclear Regulatory Commission, and addresses the personnel crisis at the NRC.

According to the Department of Energy, we are going to have to increase the amount of energy we produce by 30 percent by 2015 in order to meet our demand. Nuclear power must be a significant part of meeting this demand.

My amendment addresses an unintended consequence of the Energy Policy Act of 1992 that will help nuclear energy grow in our country. This act created a combined construction and operating license of 40 years. However, it inadvertently caused the clock on the 40-year period to begin ticking when the license is issued, not when the facility actually begins operating. Since this could result in a difference of several years, this amendment fixes the quirk in the law by making the clock on a license start when a facility begins operating.

In addition, the Energy Policy Act of 1954 requires the NRC to perform antitrust reviews when considering initial licensing. However, these reviews are currently also performed by the Department of Justice and the Federal Energy Regulatory Commission. This duplication is unnecessary and inefficient. My amendment establishes antitrust review authority firmly in the hands of the Justice Department, who has the experience and background to best perform these reviews.

Under this new provision, the NRC would have no authority to either review the application or impose conditions regarding antitrust matters on any new or renewed license for commercial reactors. The NRC simply would be required to notify the Attorney General when the NRC proposes to issue a license for a reactor, and if the Attorney General requests, the NRC would provide general information about the facility and the applicants. Thus, the Attorney General would make a determination as to whether the proposed license for the reactor would create or maintain a situation inconsistent with antitrust laws.

The licensing process and the antitrust review are two different matters and should be treated as such. The NRC would continue with its licensing action while the Justice Department makes its determination. In fact, this determination would not affect the NRC's licensing action in any way. If it is determined that the license would create or maintain a situation inconsistent with the antitrust laws, then the Attorney General could take action, but these actions would and should be independent of NRC's licensing process.

While removing this inefficient duplicative burden on the NRC, my amendment also ensures that NRC maintains authority of a facility regardless of its status. In most cases, where a nuclear power reactor licensee sells ownership of a reactor to a new licensee, the responsibility for funding decommissioning is the new owner's, and decommissioning funds that have been set aside in a trust fund are transferred to the new licensee as part of the transfer.

However, in license transfers involving the Indian Point 3 and Fitzpatrick reactors, the former licensee has retained the trust funds. Although the NRC, in approving the transfer of the reactors, imposed conditions aimed at ensuring that the former licensee may only use the decomissioning funds for that purpose, I, as well as the NRC, am concerned about this situation not being clearly provided for in law. My amendment would provide the explicit statutory authority to ensure that decomissioning funds are used for that purpose and that decomissioning is done in accordance with NRC regulatory requirements. Furthermore, the NRC would be able to retain a decomissioning fund over sellers of nuclear facilities even though the seller may no longer be a NRC licensee.

Additionally, a provision of this amendment would prevent any funds or other assets held by a licensee or former licensee of the NRC to be used to satisfy the claim of any creditor until the decontamination and decomissioning of the nuclear power reactor is completed. Both of these provisions ensure that decomissioning funds are used for decomissioning.

One of the biggest problems in our country and government is the human capital crisis, and the NRC is no different. The NRC currently has six times as many employees older than 60 as it does under age 30, meaning that a potential wave of retirements could leave the agency without the expertise it needs. Adding to this problem is the fact that former employees cannot consult for the NRC without jeopardizing their pensions. These are people with critical skills that cannot provide their expertise without being penalized.

Fortunately, the Office of Personnel Management has provided the NRC with a limited-scope, temporary pension offset waiver to rehire former employees. My amendment would eliminate this pension offset to help preserve the knowledge base by allowing individuals with critical skills to be hired as consultants in future years. Under this amendment, individuals like the former Deputy Director of the Office of Nuclear Regulatory Research, who has 44 years of experience in the nuclear industry and is currently consulting with the NRC due to the temporary waiver, would be paid for their consulting services to the NRC while still receiving their federal pensions.

The NRC is also facing extreme shortages of individuals with critical safety skills. The numbers of education and training programs in the two basic disciplines, nuclear engineering and health physics, are declining. From 1996 to 2001, university programs in nuclear engineering have declined 26 percent, from 50 to 37, and healthy physics programs have declined 12 percent, from 49 to 43. Within the general disciplines, the NRC is experiencing shortages of people with a variety of critical skills, including: nuclear process engineering, thermal hydraulics, geology, structural engineering, and transportation. The shortages in these fields are a result of NRC's aging workforce and nuclear industry requirements. Over the next decade, the demand for nuclear engineers is projected to be twice the supply, and for health physicists, one and one half times the supply.

To help train and recruit the next generation of nuclear regulatory specialists, this amendment authorizes the NRC to fund academic fellowships to address shortages of individuals with critical safety skills. Instead of the funding coming from user fees, $1 million would be authorized per year for 2002–2005. The ability to fund training programs in specialized areas at universities would enable the NRC to implement more timely and effective strategies to close future skill gaps identified through the agency's planning processes.

Our Nation needs to be responsible to future generations. We must allow nuclear energy to grow today to meet future needs. We also must realize that our resources are scarce and we should not waste them on duplicative and costly regulatory burdens that place us into further debt. We also must plan for the future by ensuring that nuclear plants are cared for properly when they are closed, that we fully utilize the people who have spent years in this industry, and that have future generations with the necessary critical skills.

AMENDMENTS NOS. 3148 THROUGH 3156, EN BLOC

Mr. BINGAMAN. Madam President, I ask that the Senate now proceed to the following amendments that are at the desk. There are nine.

First is an amendment for Senator CANTWELL relating to the high-power density industry program; the second is an amendment for Senator REID relating to precious metal catalysis research; the third is an amendment for myself relating to energy savings associated with water use; the fourth is an amendment for Senator SCHUMER relating to appliance rebates; the fifth is an amendment for Senator LANDRIEU relating to small businesses; the sixth is an amendment for Senator CORZINE relating to public housing; the seventh is an amendment for Senator KENNEDY relating to schoolbuses; the eighth is an amendment for Senator LINCOLN relating to a decommissioning pilot program; and the ninth is an amendment for Senator MURKOWSKI relating to a clean coal technology loan.

I ask for the immediate consideration of these amendments, en bloc.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments, en bloc.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes amendments No. 3148 through 3156, en bloc.

Mr. BINGAMAN. I ask unanimous consent reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 3148

(Purpose: To improve energy efficiency in industries that use high power density facilities)

On page 403, after line 12, insert the following:

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

AMENDMENT NO. 3149

(Purpose: To authorize the Secretary of Energy to carry out research in the use of precious metals in catalysis for the purpose of developing improved catalytic converters)

On page 403, after line 12, insert the following:

"SEC. 1215. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

''The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, through national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.''.

AMENDMENT NO. 3150

(Purpose: To provide for a report on energy savings and water use)

At the end of title XVII, add the following:

SEC. 17 . REPORT ON ENERGY SAVINGS AND WATER USE.

(a) REPORT.—The Secretary of Energy Shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and waste water treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring and reporting; and public education.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than two years from the date of enactment of this section..

(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

AMENDMENT NO. 3151

(Purpose: To provide funds to States to establish and carry out energy efficient appliance rebate programs)

At the end of subtitle A of title IX add the following:

SEC. 9 . ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:.

(1) ELIGIBLE STATE.—The term ''eligible state'' means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term ''State program'' means a State energy efficient applicants rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to

provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type.

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satifactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.

AMENDMENT NO. 3152

(Purpose: To assist small businesses to become more energy efficient)

On page 301, line 22, strike ''organizations.'.'' and insert the following: ''organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.'.''.

AMENDMENT NO. 3153

(Purpose: To establish energy efficiency provisions for public housing agencies, and for other purposes)

At the end of subtitle D of title IX, add the following:

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437(g), as amended by section 934, is amended—

(1) in subsection (d)(I)—

(A) in subparagraph (L), by striking the period at the end and inserting ''; and'';

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.''.

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development; and

(B) in paragraph (2) by striking ''Council of American'' and all that follows through ''life-cycle cost basis'' and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) ENERGY MANAGEMENT OFFICE.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management, energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

AMENDMENT NO. 3154

(Purpose: To provide for cleaner school buses)

On page 183, line 15, strike ''and'' and all that follows through line 19, and insert the following:

(2) the term ''idling'' means not turning off an engine while remaining stationary for more than approximately 3 minutes; and

(3) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

AMENDMENT NO. 3155

(Purpose: To direct the Secretary of Energy to establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas)

On page 123, after line 17, insert the following:

SEC. 514. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

AMENDMENT NO. 3156

(Purpose: To provide for certain clean coal funding)

On page 443, after line 8, insert the following:

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United

States Department of Energy cooperative agreement number DE–FC22–91PC99544 on such terms and conditions as the Secretary determines, including interest rates and up-front payments.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3140 through 3156) were agreed to.

Mr. BINGAMAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3152

Ms. LANDRIEU. Mr. President, last week I joined with Senator KERRY in offering an amendment dealing with small business energy efficiency. That particular amendment dealt with the Energy Star Program, which is an important program in helping small businesses become more energy efficient. The amendment I offer today, which was developed with the help of Senators KERRY, ENSIGN, CANTWELL, LIEBERMAN, and CARNAHAN, complements that language.

First I would like to take a moment to thank Senators BINGAMAN and MURKOWSKI and their staffs for helping us to address this issue given relatively short notice. Despite the fact that they have been very busy with many other aspects of this bill, they took the time to help us work out some language that everyone could accept. I would also like to echo Senator KERRY's remarks last week thanking Byron Kennard at the Center for Small Business and the Environment and Carol Werner at the Environmental and Energy Study Institute for their role in bringing this important issue to the forefront.

Simply put, this amendment addresses the need for Federal agencies to help small businesses become more energy efficient. I just want to take a minute to explain why I believe this language is necessary. Small businesses are often the hardest hit by energy unreliability and big price hikes. Many operate on slim profit margins, so the threat of big increases in electric bills can force small businesses to lay off workers or even to close their doors.

Restaurants, for example, are highly energy intensive and they tend to use energy inefficiently. As my colleagues know, restaurants were some of the hardest-hit businesses following the slump in tourism after the September 11 attacks. Restaurants are also unique because they also operate on narrow margins of profit, so money saved on energy bills can easily equal a big boost in revenue. According to EPA, saving 20 percent on energy operating costs—something that's easily achievable—can increase a restaurant's profit as much as one-third.

Small firms, however, often lack access to capital and the know-how to purchase and install new energy efficient products, and to fund the research and development stage of such innovations. As Senator KERRY expressed in his remarks yesterday, Federal agencies, the Small Business Administration in particular, have the resources, contacts and personnel necessary to give a real helping hand to small businesses in these situations.

The SBA, for instance, deals with thousands of small businesses across the country on a regular basis, serving as a clearinghouse for information, a counselor, and a guarantor of loans for these businesses. It would be quite simple for the SBA to expand its role to provide assistance in the area of energy efficiency. The Environmental Protection Agency, the Department of Energy, the Federal Emergency Management Agency, and the Department of Agriculture also have roles to play in these efforts.

Let me share a success story from a small business in my own State of Louisiana. There is a law firm in Baton Rouge, Jerry F. Pepper, APLC. The firm recently remodeled its offices to make them more energy efficient. Thermostats, air filters, and lights were all replaced with newer, more efficient models.

The firm believes that, in addition to a savings of $6,100 annually—let me repeat that amount, $6,100 per year—the upgrades will improve employee morale and productivity, reduce indoor pollution, and improve safety. Additionally, the upgrade for this firm—for one law firm in Baton Rouge—is estimated to reduce over 100,000 pounds of carbon dioxide annually.

I want my colleagues to imagine for a moment that every small business in America upgraded its energy efficiency with similar results. The savings in energy, pollution, and money would be incredible. But these businesses cannot do it on their own. Their profit margins are too tight; their resources are too limited. But Federal agencies like the SBA have the resources and know-how to assist these businesses in these efforts.

That is why I am proud to join other members of the Small Business Committee to offer this important language to help our Nation's small businesses become more energy efficient.

Mr. KERRY. Mr. President, as chairman of the Committee on Small Business and Entrepreneurship, I am pleased to join my colleague, Senator LANDRIEU, in introducing an amendment regarding the need to assist more small businesses become energy efficient.

This legislation reinforces a small business amendment that Senator LANDRIEU and I put forth last week regarding the Energy Star Program. It was successfully adopted as part of the Energy Policy Act of 2002, and I thank Senators BINGAMAN and MURKOWSKI for that.

There is an obvious missing player in our efforts to increase the number of small businesses that are using or developing products and processes that save energy, and it is the Small Business Administration. This amendment directs the Administration to develop and coordinate a government-wide program that educates small firms about the cost-benefits and business advantages of energy efficiency.

I was astounded to learn last year, during a hearing I held on the business of environmental technologies, that SBA is not actively working with DoE and the EPA to advertise their joint program for promoting energy efficiency of small business. This is particularly hard to understand given that there is so much work to be done. There are an estimated 25 million small businesses in this country, and they account for more than half of all the commercial energy used in North America. However, according to Paul Stolpman, who testified on behalf of the EPA, only 3,000 small businesses have partnered with EPA in committing to improve their energy performance.

I am not criticizing the EPA or the Department of Energy; they have a good initiative, and I support their efforts. I am simply pointing out that there are millions of small businesses left to reach, millions of opportunities to reduce energy consumption in this country. It is basic common sense that SBA could help significantly in that effort. After all the financial hardships small businesses suffered over the last couple of years because of price spikes and unreliability, energy isn't even a prominent issue on SBA's website.

To illustrate the power of education and the need to coordinate outreach efforts through the SBA, I would like to share a story about one of the small businesses in my home State of Massachusetts that benefitted greatly from making energy modifications. Carl Faulkner is the owner of the Williams Inn in Williamstown. Years ago, he was approached by his energy company to receive a free energy audit and rebates to off-set the cost of upgrading his lighting systems. It seemed like a good idea, so he went ahead and took them up on their offer. After all was said and done, between the rebates and his new energy savings, he recovered his expenses in just 1 month. But that is not the end of the story. The results of those simple changes were so positive that he was inspired to learn even more about energy savings and to investigate where else his business was losing money on unnecessary energy usage. Since then he has put on special roofing, replaced air conditioner units, put insulation around pipes, and installed meters to determine when and where his business uses the most energy. With this information, Mr. Faulkner can bring down usage, saving even more energy and money.

These simple changes have yielded vast results. In January and February, he saved more than $10,000. Mr. Faulkner now considers energy efficiency a never-ending process. He says if it weren't for outreach, he never would have made these important changes to

his business. He changed his business from one that was consuming energy at an unmonitored level to one that has an energy management system that allows him to identify other savings.

In addition to increasing energy efficiency of small businesses in order to reduce consumption, to reduce pollution, and to reduce reliance on foreign oil, there is a need for Federal agencies to increase their work with small business to research and develop new technologies and processes that are more energy efficient. In 1999, the SBA investigated the role of small business in technological innovation and found that when a market demands progress, change, and evolution, small firms play a key role. Just looking back to 1997, there were more than 33,000 small firms operating in the environmental industry, with combined revenues of $52 billion. That is billion. In Massachusetts alone, environmental technology businesses employ more than 30,000. No matter how you cut it, revenues, jobs, pollution reduction, energy supply, national security, there is a very good reason to encourage the innovation of efficient technology. And the Federal Government needs to make a serious effort to use small businesses to do that research and development as much as possible. At the very least, I would like to see a focus on these topics through the small business research and development projects through the Small Business Innovation Research and Small Business Technology Transfer initiatives. We have got the finest research universities in the world and certainly the most dynamic small business sector. I want a coordinated and heightened effort to use these resources for national energy policy.

As I said yesterday when we were debating the proposal to drill in the Arctic National Wildlife Refuge, we cannot drill our way out of our energy problem. We must innovate our way out of our energy problem. Not just innovation in more fuel efficient cars, but also appliances. If the Bush administration would fully implement efficiency standards for appliances that were issued in 1997 and last year, the Department of Energy estimates the total savings to business and consumers to be $27 billion by 2030. Why? Simply because of less energy use and generally less demand when using more efficient appliances. We can go further with more innovation. And we need to use Federal agencies to increase the interplay between small businesses, innovation, and the Nation's environmental and energy goals.

I thank Senator LANDRIEU for offering this amendment. And again I thank Senators BINGAMAN and MURKOWSKI, and their staffs, for their help in passing this small business amendment.

AMENDMENT NO. 3153

Mr. CORZINE. Mr. President, I would like to thank my colleagues Senators BINGAMAN and MURKOWSKI for their support of and efforts to pass my amendment to improve energy efficiency in public housing, which cleared the Senate Floor earlier today. I would also like to thank my colleagues on the Banking Committee, Chairman SARBANES and Ranking Member GRAMM for their assistance in passing this amendment.

My amendment will help reduce our Nation's energy consumption and reduce long-term energy costs in public housing. The amendment accomplishes this by giving the Department of Housing and Urban Development, HUD, and the public housing authorities, PHAs, it oversees the tools they need to increase energy efficiency in public housing developments.

HUD and public housing authorities oversee approximately 1.3 million units of residential low-income public housing across the country. The Federal Government spends approximately $1.4 billion each year just to cool, heat, light, and supply water to these units. Utility costs make up anywhere from 25 to 40 percent of a typical housing authority's operating budget.

Despite the large amount of Federal dollars spent on energy usage in public housing, there are virtually no resources to help public housing authorities manage their utility expenditures. Furthermore, there are few incentives for them to utilize energy efficient technologies.

My amendment addresses these issues, first, by establishing an Office of Energy Management at HUD. This office will coordinate energy management activities throughout the public housing system so that energy management is less fragmented and technical expertise is made available to all public housing authorities.

The amendment will also improve financial incentives available to public housing authorities to implement energy saving strategies, such as window replacements, heating system retrofits, and other efficiency and renewable measures. The amendment also encourages public housing authorities to purchase Energy Star appliances and equipment when replacing outdated building systems and equipment.

Finally, my amendment requires that all new public housing construction meet current energy codes where cost effective. Most States have not adopted the most recent codes and, in some cases, do not require adherence to any code. Meeting these updated codes will save public housing authorities as much as 15 percent in annual energy costs.

The bottom line is that this legislation would expand the resources available to provide low-income housing without increasing Federal spending. HUD has conservatively estimated that improved energy management processes throughout all of its public housing programs could save about $200 million annually. These savings could be used to build more affordable housing and improve the quality of life of public housing residents. Improving energy efficiency in public housing units will also decrease utility costs for low-income residents, who often pay a portion of their utility expenses.

At a time of skyrocketing utility costs and decreased public housing funds, my amendment offers commonsense solutions that will reduce public housing's reliance on fossil fuels and free up resources to improve housing for low-income families.

AMENDMENTS NOS. 3028 AND 3070, WITHDRAWN

Mr. BINGAMAN. Finally, I ask unanimous consent amendment No. 3028 and amendment No. 3070 be withdrawn.

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

Mr. BINGAMAN. Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DAYTON. Madam President, like most of my colleagues, I have lived through a number of the energy crises which have afflicted our country. I was living and working on the East Coast during the first oil crisis in 1973 and 1974. People lined up at gas stations, starting at 3 or 4 in the morning to purchase a few gallons before the day's scarce supplies ran out.

In January 1977, during one of the coldest winters ever recorded in Minnesota, I serve as the Energy Policy Adviser to our State's Governor, when he declared Minnesota's first official energy emergency.

From 1983 to 1987, I served as commissioner of the Minnesota Department of Energy and Economic Development, where I was constantly monitoring the State's energy supplies. I will never forget one Christmas Eve, which I spent trying to locate a refinery that would reopen and provide desperately needed home heating oil to people in northern Minnesota who had run out of their own supplies.

From these experiences, I have become a hard-headed realist and a pragmatist about energy policy. I am well aware of the fragility of our country's energy supplies, pipelines, transmission lines, and refineries, where even a small disruption can trigger major dislocations which quickly create a crisis. In a cold-weather State like Minnesota, the consequences of a disruption in energy supplies can be very serious and even fatal.

I have viewed ''renewable'' or ''alternative'' forms of energy with hope but also reservations. While sometimes viable on a small scale, most of them are not capable of supplying the large-scale energy needs of our vast and complex society and our economy. That is why the percentage of U.S. energy consumption from renewable sources has remained essentially the same for the last 40 years. In 1960, renewable provided 6.6 percent; and in the year 2000, renewable energy provided 6.9 percent of our country's total energy consumption. Why, despite their promise, despite the encouragement and the financial assistance they have received, has the usage of renewable energy sources

in this country not increased in 40 years?

It is because none of them can compete in price, supply, or public acceptance with the traditional energy sources of oil, natural gas, coal, and nuclear energy. As long as sufficient supplies of these fuels remain reliably available at current, stable prices, they will be preferred over the alternatives. They cost less per BTU; they can be supplied in the quantities necessary for our large and diverse economy; and their production, transportation, and distribution systems are all well established.

Thus, our Nation's de facto energy policy has been for many years and continues to be to maintain the status quo. Despite all the warnings and dire predictions, despite the occasional, but so far short-lived crises, the status quo has been the right short-term policy during the last 30 years. However, the question before us now is: Will these primary fuels continue to be as less expensive, as available, and as reliable during the next 10 years, 20 years, or 30 years? If there is sufficient doubt, are we willing to design and implement a transition willing to design and implement a transition over the next 10 or 20 years to include a viable alternative? That is what a national energy policy should do.

From my personal and professional experience, I know that the so-called ''bio-fuels'' or ''renewable fuels,'' such as ethanol, soy-diesel, and other fuels derived from agricultural commodities could be used in this country today to replace 10 percent, 20 percent, or soon 50 percent or more of the gasoline used on our Nation's roads and highways.

Presently, the United States consumers 25 percent of the world's entire oil production. About 44 percent of it is produced domestically, and 56 percent is imported from other countries.

Although the United States is currently the second largest producer of oil, our domestic production, either with or without ANWR, will not be able to supply even half the amount we consume. Since most of our remaining oil supplies are more costly to extract, it will be less expensive for us to buy more of our oil from other countries. That equation means we will continue to become more dependent upon imported oil. The only way to reduce significantly the amount of foreign oil we need is to reduce the amount of oil we consume.

Seventy percent of the oil we produce or import is used in our transportation and most of that goes into our cars, SUVs, trucks, and other motor vehicles. In fact, about 1 of every 7 barrels of oil produced in the entire world goes into an American gas tank. So, if we are ever going to reduce the amount of oil we consume, motor fuel consumption is the place to start.

Unfortunately, as I said earlier, we are going in the other direction. As a Nation, we are using more gasoline, not less. More people are driving more vehicles greater distances than even before. And more of their vehicles are less fuel efficient. In fact, last year the total fleet fuel efficiency in this country dropped below that in 1980.

What are we doing about it? Nothing. Government-mandated fuel efficiency standards have not changed since 1985, and an amendment to increase them in this bill was defeated by a two-thirds majority. Then light trucks were removed entirely from future mileage standards review. Light trucks and SUVs, are the fastest growing segments of the U.S. market, and they are among the least fuel efficient vehicles.

Some people advocate a significant increase in Federal or State gasoline taxes, to reduce fuel consumption to encourage the purchase of more fuel-efficient vehicles, and to increase the amount of money going into the Highway Trust Fund. How many Members of Congress who voted for a 10 cent per gallon, of 20 or 30 cent per gallon tax increase, would survive their next election?

So, barring a severe jolt to the world market, barring a large and lasting jump in gasoline prices, everything points toward increased gasoline consumption, which means increased oil consumption above the 25 percent of all the world's oil supply production that we now consume.

Everything points in that direction except for ethanol and other biofuels. Ethanol is now made mostly from corn, although other commodities such as sugar beets, sugar cane, wheat, and even wood chips have been converted into ethanol. Ethanol has been around for many years. Many Minnesota farmers have distilled some of their grains, drank the best of it, and refined the rest into ethanol, which they put in their trucks, tractors, and even cars. With a few adjustments to the carburetors, they worked just fine. Until recently, however, ethanol could not be used in most conventional American engines, because it burned too cleanly and acted as a solvent which dislodged the grime attached to the walls of engines.

Finally, the combustion process in modern engines improved so that ethanol could be blended with gasoline. That is how it has been used, and that is how it is viewed in the debates this week and last week—as an additive to gasoline.

In fact, ethanol's potential goes far beyond that. It is not just an additive to gasoline; it is an alternative to gasoline. An alternative which today could be substituted for 20 percent of all the gasoline consumed in the United States, and with the near-term potential to substitute for over 50 percent of the oil-based gasoline used in this country. Imagine reducing the motor consumption of gasoline in this country by more than half, with no change in the types of cars, SUV's, and light trucks on the road. It would require only slight engine modifications which have been made to 2 million vehicles already sold in the United States.

How do I know this? I know it because 5 years ago, the Minnesota Legislature passed a law which mandated that every gallon of gasoline sold in our state be comprised of at least 10 percent ethanol. It was very controversial then, and opponents used the same scare tactics we have witnessed in this debate: Prices would increase; supplies would be inadequate and unreliable; engines would be damaged; lives would be disrupted. Today, in Minnesota, it is a total non-issue. Most people have forgotten it is even in every gallon of gas they buy. Last week, the price of a gallon of regular, unleaded gasoline in Minnesota was 20 cents less than in California, a penny more than in New York, two cents less than in Wisconsin, and almost a nickel less than in Illinois.

We have heard of a study, referred to here, which is misunderstood and has been presented as predicting that this legislation would cause a 4-cent to 9-cent increase in the cost of a gallon of gasoline. That study by the Energy Information Administration, isolating the effect of ethanol, the ethanol mandate in the legislation, actually found the price of a gallon of gasoline would go up by less than 1 cent.

But let us set aside the study and conflicting opinions about what that study says because that is projecting into the future. I am talking about current reality. What I am talking about is the price of 10 percent blended ethanol in today's gasoline in Minnesota compared to other parts of the country. Again, that is just 10 percent ethanol blended with 90 percent gasoline.

I lease a Chrysler Town & Country, which has the ''flexible fuel'' modification to the regular engine, and it travels throughout most of Minnesota on E85 fuel. E85 is a blend of 85 percent ethanol and 15 percent gasoline. It has now been driven over 20,000 miles, in all kinds of weather, through all four seasons, and we have had no trouble with it whatsoever.

The price of a gallon of E85 in Minnesota last week was $1.24, 21 cents less than a gallon of regular unleaded in Minnesota—forty-two cents less than a gallon of regular unleaded gasoline in California; 20 cents less than in New York; and 26 cents less than in Illinois.

That price differential is not as good as it seems. First, a gallon of ethanol contains fewer BTUs than a gallon of gasoline. Second, ethanol benefits from a federal subsidy. As I said earlier, no alternative fuel is less expensive per equivalent BTU as our traditional energy supplies. But ethanol is already close. And at higher levels of production, the price will go down. As car and truck manufacturers better adapt their engine to ethanol, fuel efficiency will improve. And, trust me, we have plenty of corn, beets, and sugar cane, and other agricultural commodities suitable for ethanol conversion all across this country.

However, for ethanol production and consumption to increase enough to

cause a significant reduction in the amount of gasoline consumed in this country, it needs what Minnesota provided—a mandate; a mandate such as this bill contains; a gradual, graduated, achievable increase over a decade. With that mandate, ethanol providers and would-be providers will know there is a reliable and growing market nationwide for ethanol.

Opponents have made much of the fact that one company—Archer Daniels Midland—produces 41 percent of this country's ethanol. What they don't tell you is that 25 years ago ADM produced almost 100 percent of this country's ethanol. ADM's market share has gone down every year for the last 25 years, and it will continue to go down as more companies, and farm Coops, make it possible and profitable to produce ethanol. For unlike gasoline, ethanol's raw products are available all over this country. They can be grown in most parts of this country. Where there are large markets, like California or New York, refineries will locate there. Just as California, as it population grew, declined to depend on milk and cheese from Minnesota and Wisconsin, and developed its own instate industry which supplies, actually oversupplies, its State's entire need.

If ethanol must be transported by truck, or tanker, or rail from one part of this country to another, it is far shorter and thus less expensive than importing oil, gasoline, and MTBE from all over the world. Seventy-five percent of California MTBE currently arrives by barge, the majority of it from Saudi Arabia. That is why the price per gallon increases which have been used on this floor defy common sense. And they are wrong.

The alternative to doing nothing with ethanol is doing nothing at all—nothing except increasing our national consumption of gasoline and oil. If world prices remain the same as today, and if world and domestic supplies can reliably satisfy our nation's ever-growing demand, then that ''continue the status quo'' strategy will continue to be less expensive than a transition to 10 percent or 20 percent or 50 percent ethanol.

But those who live by the sword, die by the sword. Those who want to bet this Nation's entire transportation sector on the status quo continuing indefinitely are taking a big gamble. Anyone who believes the United States can continue to get 25 percent of the world's entire oil production at today's prices are making a hugely optimistic assumption.

Yes. There will likely be an incremental cost to a transition to ethanol nationwide. There is always a short-term cost to diversification. A business that has one produce line incurs a cost to developing a second or a third product. As long as the first product continues to sell, overall profits will be slightly down. But when that product falters, and the others come on line, the company will prosper and grow, rather than decline.

Someone who owns only one stock incurs a short-term cost diversification. But someone who is betting their entire future on that one stock is a foolish person to do so. For the United States to bet our country's entire energy future on uninterrupted consumption of our ever more traditional energy sources is to make a very unwise bet.

We can afford the small incremental costs of transition if they lead to really substantial alternatives. That is what ethanol and biodiesel would do—replace 20 percent of today's diesel fuel over this entire country.

I am a Senator from a corn- and soybean-producing State. Is ethanol production an economic boon to many Minnesota farmers? Yes; it is. I hope it will continue to raise market prices for these agricultural commodities, which will reduce the need for and the amount of taxpayer subsidies. However, I would not stand on the floor of the Senate today and advocate ethanol as an alternative fuel for the entire country if I did not believe—if I were not certain—that it would be good for the entire country.

It will take the decade which this bill uses to increase ethanol production to an amount where it can be used as a consistent 10 percent blend nationwide. That is what Minnesota uses today. That would be 10 percent less oil-based gasoline. And that is twice as much oil alternative as ANWR would produce at that point in time.

It will take another decade to increase ethanol production to replace up to 50 percent of our current gasoline consumption. We should hope we have that long as a nation before a significant increase in the price of gasoline or a lack of supply causes a serious disruption in our economy and in our lives. If, however, at that point in time we are using 50 percent less gasoline, we will have a real alternative fuel at a lower cost and a more reliable supply based right here in the United States.

If we don't undertake this transition, then we will have nothing—nothing that we can do. That is what the amendment that strips this bill of any fuel alternative will leave this country in the future—nothing, no alternative. That is a very bleak future.

Thank you. I yield the floor.

(The remarks of Mr. MCCONNELL and Mrs. FEINSTEIN pertaining to the introduction of S. 2194 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mrs. FEINSTEIN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. NELSON of Florida. Mr. President, may I be recognized as in morning business?

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

DRILLING IN ANWR

Mr. NELSON of Florida. Mr. President, I congratulate the Senate for the tremendous vote we had today on basically dispensing with the attempt to amend the bill of the Senator from New Mexico to drill in the Arctic National Wildlife Refuge. The vote ended up being a lot stronger than a lot of people expected. For us just to talk about the sensitive environment and the drilling is certainly a very important component of the question. But the question is so much more comprehensive. It is a question of when is America going to be energy reliant, and are we going to ween ourselves from our dependence on foreign oil, and how are we going to produce that energy?

As the chairman of the Energy Committee has reminded us many times, the biggest part of our energy consumption is in the transportation sector. And if we don't ever address the enormous consumption of energy in the cars that we drive, then we will remain dependent on all that foreign oil. There is an easy way to do that, and that is to use this beneficence of American ingenuity called technology and apply it to the problem and increase the miles per gallon in our automobiles and SUVs and light trucks, which we can do so well.

Already we have hybrid vehicles that, because of a computer, go back and forth between an electric generation and gasoline generation, and you cannot tell the difference as the driver and the passenger, with all the creature comforts that we enjoy in our automobiles.

So I congratulate the Senate and I congratulate the chairman of the Energy Committee—who now graciously has offered to take the Chair so that I might make these few remarks—for an extraordinary effort. I hope that now he is able to proceed with the energy bill and finally get it passed out of this body.

I also want to take a moment to state, with a sober and heavy heart, what we are facing in the Middle East. From the standpoint of the United States, it is very clear what is in our interest, and that is peace in the Middle East, a cessation of firing, a creation of an environment where the parties can come together.

A week and a half ago I was in Damascus, Syria, and met with the new young President who took over after his father died, President Assad. We said: President Assad, now is the time for leaders outside of the Palestinians and the Israelis to emerge in the area and to realize that it is in your interest that there be peace in the Middle East.

We thanked him for his help and his intelligence network with regard to

our efforts in going after the al-Qaida terrorists.

We said: President Assad, you have to go after the groups, such as Hezbollah, that you are offering facilities to, which are also fostering terrorism.

Of course, he rejected that. His point of view was that they were freedom fighters. There is a lot of politics in it.

It will take leaders such as Assad and the leader of Lebanon, with whom I met yesterday, the Prime Minister of Lebanon, Rafiq Hariri, to emerge as leaders in the Arab world and say: We have to change the old ways; we have to do it differently, and violence and killing is not in our interest.

Those Arab leaders are going to have to say vigorously to their colleagues that it is in their interest that they create an environment where they can solve this violent situation in the Middle East and bring the Palestinians and Israelis together. As the Good Book says, ''Come let us reason together.''

I am very grateful that the Senator took the Chair so I could come to my desk and make these remarks.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

The Senator from Nevada.

Mr. REID. Mr. President, we are waiting, as I have indicated, for Senator MURKOWSKI. As I indicated an hour or so ago, he had to go to a funeral in Arlington. We are going to hopefully agree on bringing up an amendment he has dealing with Iraq. That will probably take about 45 minutes, and then we will move to the border security matter. So those Senators wishing to speak in morning business, the time may be limited today.

We certainly have time for Senator CORZINE to speak for up to 10 minutes. I ask unanimous consent that Senator CORZINE be allowed to speak for up to 10 minutes as in morning business.

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

The Senator from New Jersey.

SOCIAL SECURITY TRUST FUND, THE SECURITY AMERICANS NEED

Mr. CORZINE. Mr. President, today I rise to speak out on a subject that is both timely and extremely important to the American people. A few hours ago, the House of Representatives, showing an unimaginable indifference to the retirement security of American families, and further undermining the integrity of the Social Security trust fund, made permanent the tax cuts that were enacted last year.

The bill they passed really frames a stark choice for the American people: Do we take payroll tax revenues that working people, working Americans, thought were being dedicated to the Social Security trust fund and use them instead to pay for this huge new tax cut, a tax cut that really goes to the wealthiest of Americans or should we be using Social Security revenues, payroll taxes, for their intended use, securing the Social Security trust fund for this and future generations?

It is a pretty fundamental choice. It is pretty starkly laid out by the nature of the tax cut that was endorsed by the House Republicans today. It is a choice that will impact all Americans.

I believe if Americans were asked, they might come up with a different answer. I think they would choose security, Social Security, not tax breaks that would take the security out of Social Security.

I want to give one perspective. The tax cut that was implemented today in the House is about $400 billion more in the next decade, and 60 percent of that upcoming tax cut goes to those with incomes over $500,000. That is hard to believe. Of the additional $400 billion, 60 percent is going to people with incomes over $500,000. I have a hard time understanding why we are taking payroll taxes and the Social Security trust fund to fund that kind of tax cut.

The effort to make that tax cut permanent is not only misallocating resources, but in my view it is draining the resources that are badly needed to protect Social Security in the years ahead for those millions of baby boomers who will be retiring in the coming decades. It is really quite substantial.

Right now, Social Security has about 46 million folks retired. In another 20 years, that will be 72 million. So it is a big change in the population. That is what the demographic bubble is all about. How are we going to pay for it if we are going to implement tax cuts that are going to take as much as $4 trillion away from the ability of the American public to have revenues to pay for Social Security in the years ahead in the second 10 years? It is hard for me to understand.

More importantly, I want to consider two numbers. The 75-year cost of the tax cut is $8.7 trillion. That is a lot of money. It will take awhile to count that far. By contrast, the shortfall in the funding to maintain the currently guaranteed benefits for Social Security beneficiaries, of all generations over the next 75 years, is only $3.7 trillion. So we have more than two times coverage by the tax cut that was implemented. If it were to be followed in the way the House did it, we would be giving up those revenues to cover the needs of Social Security. I do not get it. We have the resources, if we have the will, to make sure that Social Security is there for each and every generation.

So that is part of the trouble. Unfortunately, these drains on Social Security revenues that are caused by this tax cut are step 1 in the administration's plan to undermine the security of Social Security. Step 2 is to privatize that program; that is, taking $1 trillion out of the trust fund—it is actually a little more than $1 trillion, but for round numbers, and it is a big number—in the next decade so we can provide funding for these private accounts. That is going to lead to a dramatic cut in benefits which are absolutely necessary.

If one has any doubt about it, they just have to look at the report released by the President's Commission on Social Security. They talk about it themselves. That, when it gets translated into individual lives, as we move to the next chart, will reduce benefits for a 30-year-old about 20 percent when they retire in about 2032.

For those who are a little younger than that, it will be almost 45 percent by 2075, a cut in Social Security benefits, 20 percent for 30-year-olds, 25 percent for people who are starting in the workplace, and about 45 percent for younger Americans.

If one thinks Social Security benefits are lavish, I think we all have another review to go through. That 25- to 45-percent cut, that goes against benefits that average about $10,000 a year for most Social Security beneficiaries. For most seniors, Social Security is their only source of income, about two-thirds of them. I do not know what happens in Florida, but in my State of New Jersey $10,000 is not a princely sum. It is not going to allow our seniors to have a tremendously flush lifestyle.

To the President's commission, that $10,000 looks like too much because they are instituting a program that, in fact, will undermine the ability to maintain those guaranteed benefits at that level. I think that is hard to believe as well. That is step 2.

They do not want us to have the ability to maintain those guaranteed benefits. What they want to do is have that tax cut that I talked about before.

So I have to say that both for myself and for my colleagues, most of us on this side of the aisle, we have a different view about protecting Social Security. We think protecting the security of working American families must be our top priority. We are going to fight long and hard and steady to make sure Social Security is not undermined—not today, as was done through the passage of this tax bill in the House, not tomorrow, or in the years ahead, not ever.

Today's choice that was put in front of us is whether Social Security is really about the security of all Americans in their retirement years. I do not think we should be taking the term ''security'' out of Social Security. We ought to stand firm with it. That is what this debate will be about as we go forward day after day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the Senator from Nebraska be recognized for 10 minutes as in morning business.

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

The Senator from Nebraska.

RENEWABLE FUELS STANDARD

Mr. NELSON. Mr. President, perhaps no issue related to the energy debate in the Senate has suffered more as a result of misinformation than the renewable fuels standard agreement. This historic agreement was arrived at after years of careful and considerate negotiation from all sectors of interest; environmentalists, fanners, oil industry representatives, and politicians included.

Simply stated, it directs the gradual increased production and integration of ethanol and other biofuels—renewable fuel sources—into the U.S. fuel supply. The increase in available alternative fuels such as ethanol and biodiesel are sure to result in a cleaner environment, an ease on supply, and a reduction on the U.S. dependence on foreign oil—a national security imperative.

Opponents of the renewable fuels standard have raised the specter of an increase in gas prices as a result of increased ethanol production. Some claim that motorists could pay as much as 4 to 9 cents extra per gallon. However, in parts of the Nation where ethanol constitutes a significant share of the market, over the past 10 years, there has been essentially no difference in price between ethanol and nonethanol gasoline.

According to a consulting firm working for the Oxygenated Fuels Association, whose members produce and market MTBE, 70 percent of which is imported—the defeat of the RFS will keep the MTBE market alive—it is 4 to 9.75 cents per gallon. According to the Department of Energy's Energy Information Administration it is 5 to less than 1 cent per gallon. The marketplace reality is: 20 years' experience in Nebraska—$.01 less than ethanol-free gasoline at the pump; 10 years' experience in Minnesota—$.08 less than gasoline at the wholesale level; 1.5 years' experience in California—no essential difference to the public; and 10 years' experience nationwide—no essential difference to the public.

The question is which numbers do you believe. Furthermore, the availability of ethanol blends has been shown to drive down the price of all gasoline as a result of market forces.

Another false argument against ethanol's we've heard is that producing ethanol consumes nearly as much nonrenewable oil as the ethanol replaces. The latest U.S. Department of Agriculture report demonstrates that ethanol production has a positive energy balance of 1:1.34 and only 17 percent of that energy comes from fossil oil. The bulk of the energy used in fertilizing the crops and to power ethanol production plants comes from natural gas or coal. Additionally, with farmers using more ethanol and biodiesel in their vehicles, and the advance of biorefineries using cellulosic biomass including agricultural and forestry crops and residues, as well as other biomass and animal waste with disposal problems, the use of fossil fuels to produce biofuels could approach zero.

Where opponents really miss the point is in their failure to recognize the threat posed to America's national, energy, and economic security by our dangerous dependence on oil imports. In 1999, America was importing over 55 percent of its oil and petroleum products. Just 2 years later, our dependency increased to over 59 percent—and part of those supplies are in jeopardy because of the unpredictability of Saddam Hussien and political instability in other oil-producing nations.

Failure to provide an adequate market for ethanol is a major factor in preventing the emergence of biofuels made from cellulosic biomass. The renewable fuels standard is critical to advance biorefinery technology that will produce urgently needed refined, domestic, renewable, and clean burning biofuels. The biorefineries, very small compared to oil refineries, will be well disbursed throughout the country and much less prone to terrorists' attacks.

Opponents wail about a monopoly in the ethanol industry and that only a small group of producers will benefit from the renewable fuels standard. This is inaccurate on two fronts.

Essentially all the ethanol and biodiesel plants under construction and in planning phases are smaller plants owned by cooperatives and community enterprises. More importantly, the RFS will provide the impetus to launch the construction of biorefineries across the Nation.

Some perceive the RFS as a targeted massive Federal Government subsidy to benefit only farm belt States. In fact, the renewable fuels standard will encourage technology advancements that could be located and employed in any region of the United States, not just the ''corn states.'' It will enhance the Nation's economy, surely in agriculture-based economies, but also through support industries, new jobs, research and development, and opening new markets for agriculture products.

This may displays existing ethanol plants, plants under construction and ethanol, biodiesel, and other biofuels plants under consideration. As you can see, with the renewable fuels standard, biorefineries will soon be operating in most State of the Nation.

There is no question that the renewable fuels standard will reduce our dependence on foreign oil. It will slow the deterioration of the environment through the reduction of fossil fuel emission and spills, enhance national, energy and economic security, create a new industrial base with tens of thousands of new, high quality jobs, and strengthen homeland security by providing hundreds, perhaps thousands, of community-oriented biorefineries producing biofuels, biochemicals, and bioelectricity.

There are those who believe that ethanol's current tax incentives are sufficient, and obviate the need for the renewable fuels standard calling for an expanding market for biofuels. For the past 10 years the price of ethanol was generally below the price of 87 octane at both the wholesale and the retail levels. At current capacity, there is a surplus of ethanol driving wholesale price of ethanol well below the wholesale price of gasoline.

On April 11 of this year, the wholesale price of gasoline in New York was 84 cents while the national average cost of wholesale ethanol was 55 cents. If ethanol was available in New York City gasoline today, the price to the consumer should be considerably less than ethanol-free gasoline. I say should because the ethanol industry is always at the pricing mercy of the gasoline marketers. Routinely, the octane value of the ethanol accrues to the gasoline industry not to the ethanol producers. Again, historically, the availability of ethanol in the marketplace drives down the cost of all gasoline because of market forces.

According to the Society of Independent Gasoline Marketers of America,

> The federal benefits afforded ethanol-blended fuels have been an important, procompetitive influence on the nation's gasoline markets. By enhancing the ability of independent marketers to price compete with their integrated oil company competitors, this program has increased independent marketers' economic viability and reduced consumers' costs of gasoline.

Then there is the issue of the overall cost of the ethanol industry. Opponents claim that the cost of the program exceeds the benefits. This is refuted by a recent study: the Economic Analysis of Legislation for a Renewable Fuels Requirement for Highway Motor Fuels, conducted by AUS Consultants.

It will displace 1.6 billion barrels of oil over the next decade; reduce our trade deficit by $34.1 billion; increase new investment in rural communities by more than $5.3 billion; boost the demand for feed grains and soybeans by more than 1.5 billion bushels over the next decade; create more than 214,000 new jobs throughout the U.S. economy; and expand household income by an additional $51.7 billion over the next decade.

The RFS in this bill represents a continuation of sound public policy supporting the biofuels industry that has brought benefits to the Nation over the past quarter a century.

Two States are showing us the way—Minnesota and Nebraska. We can also look to the major advances being made in Europe and Brazil.

I am unabashedly proud of what my home State has accomplished. The formation of the National Governors' Ethanol Coalition was one of the important steps. Nebraska and several other Midwestern States created this coalition that now consists of 26 States and one U.S. territory, as well as Brazil, Canada, Mexico, and Sweden. Since its formation in 1991, the Governors' Ethanol Coalition has worked to expand national and international markets for biofuels. American firms are working with India, Thailand, Colombia, and other countries to help them establish biofuels industries.

Within the State of Nebraska, during the period from 1991–2001, seven ethanol plants were constructed and several of these facilities were expanded more than once during the decade. Specific benefits of the ethanol program in Nebraska include:

$1.15 billion in new capital investment in ethanol processing plants.

1,005 permanent jobs at the ethanol facilities and 5,115 induced jobs directly related to plant construction, operation, and maintenance. Average salaries at the ethanol processing facilities range from $38,000–$56,000 depending on geographic location. The permanent jobs generate an annual payroll of $44 million.

More than 210 million bushels of corn and grain sorghum is processed at the plants annually. Economists at Purdue University and the USDA estimate that the price of corn increases from 9.9 cents–10 cents per bushel for every 100 million bushels of new demand. Local price basis increases in Nebraska range from 5–15 cents.

The trend of marketing wet distillers grains for cattle feeding generates at least $41 million in increased economic activity annually according to a 1999 report by the University of Nebraska. Of the $41 million increase, 85 percent accrues to cattle feeders in the form of reduced costs and increased gains, and 15 percent accrues to the plants.

Local tax bases are more diversified in areas where plants are located. Several smaller communities have experienced increases in housing construction and new business start-ups associated with services related to plant operations.

Jobs among the skilled trades have increased. Pipe fitters, steamfitters, steel workers, and construction engineering trades are involved in plant construction.

Value is added to grain processed at ethanol plants. Today, a $2.00 bushel of corn is processed into products worth at least $5.00. Gasoline purchased from refineries outside Nebraska is displaced by ethanol produced in the State, thereby retaining energy dollars in the local economy.

These economic benefits have increased each year during the past decade due to plant expansion, employment increases, and additional capital investment.

If each State followed the Minnesota and Nebraska models, which are different in several respects, and produced 10 percent of its own domestic, renewable fuels, America will have turned the corner and that noose of oil-import dependency and climate change will begin to loosen.

I know there is doubt among my colleagues from States without farm crops about the ability to provide the needed starch, sugar, or oil seed crops to produce biofuels and other biorefinery products. There are more than adequate supplies of cellulosic biomass in each State to meet the 10 percent goal: agricultural and forestry crops and residues; rights-of-way, parks, yard and garden trimmings; and the clean portion of the biomass fraction of our municipal waste.

A major resource commitment is needed in this country to ensure that, 10 years from now, we have established the commercial technology base to produce many billions of gallons per year of renewable fuels, in dispersed and decentralized installations around the nation. The feedstocks must be diversified with the end uses ranging from gasoline to diesel to aviation fuels. We also need to quantify the ''externality costs'' of our current imported oil dependence, in order to ensure we are not paying those costs 10 years form now.

Over the past few days, we have learned that we cannot drill our way out of our dangerous oil dependency. We have decided to support a renewable energy portfolio standard that will increase our use of renewable resources like solar, wind, geothermal, hydro, and biomass to produce electricity.

We sue very little oil to produce electricity. We use oil to power our transportation sector. That is where we are most vulnerable.

The renewable fuels standard is absolutely necessary in order to expand the biofuels industry into the use of cellulosic biomass, which is in great abundance throughout the United States.

The PRESIDING OFFICER. The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, Senator MURKOWSKI is present. As I indicated, he was obligated to attend a funeral this afternoon. We have a unanimous consent request we would like to offer. I want to make sure it is cleared on the other side. Until we get that done, what I ask is Senator STABENOW be recognized as in morning business for 10 minutes, and then the Senator from Missouri, Mrs. CARNAHAN, be recognized as in morning business for 6 minutes. Then we will proceed to offering the unanimous consent agreement with Senator MURKOWSKI.

As I indicated earlier, what we will do is ask that there be 60 minutes equally divided and a vote, so there will be a vote at about 5:15 today.

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

The Senator from Michigan.

PRESCRIPTION DRUG COSTS

Ms. STABENOW. Mr. President, I appreciate the opportunity to speak to my colleagues today about an incredibly important issue, and that is the question of the rising costs of health care, particularly as it relates to the cost of prescription drugs. I think the headline in this week's Washington Post column by David Broder said it all: Our health care system is in a ''death cycle.''

The greatest country in the world, the most extensive health care system in the world, most sophisticated system, and we have a respected columnist saying it is in a death cycle. I suggest one of the major reasons for this is the uncontrollable cost of prescription drugs in this country.

There is something wrong when we are involved as taxpayers, as Americans, in funding research for prescription drugs—which I support—providing tax credits for research and development for the companies to be able to do incredibly important, lifesaving research. Yet we in the United States of America pay the highest prices of anyone in the world. That is not an exaggeration—higher than anyone in the world.

If you are uninsured—and particularly for our seniors who may use 18 different medications in a year; that is the average—if you are uninsured, if you are someone walking in and paying retail, you pay the most of anyone anywhere in the United States and the world.

This is extremely troubling. We are not talking about buying something that is optional; we are talking about lifesaving medications. Whether I am talking to my hospital administrators or the Big Three auto companies or small businesses or senior citizens or a family with a disabled child or anyone who is involved in purchasing prescription drugs, I hear the same thing over and over: We have a system that is broken. It is broken. We have to fix it.

I am here today asking my colleagues on the other side of the aisle to join with us in that sense of urgency about fixing this problem.

Whenever we talk about costs, we hear from the companies that in order to lower costs we will lose valuable research. None of us wants to lose research. We support that. We support funding research. We will do that again this year. But the facts do not show us that we have to suffer and lose research in order to lower costs.

We know that among the largest companies, on average, they spend twice as much on advertising and promotion as they do on research. We also know in an average year there will be about 88,000 people working to promote and to advertise prescription drugs and on average 48,000 people involved in research. There are 88,000 people involved in promoting and advertising, 48,000 involved in research.

I think every American knows, just by turning on the television set, that

we have seen an explosion in advertising. Unfortunately, what has happened is we have seen that explosion in advertising causing an explosion in our costs of 18 percent to 20 percent a year.

Something is wrong when there are almost twice as many people involved in promoting a drug and advertising a drug as there are people researching new medications. There is also something wrong when we can go across the bridge or through the tunnel to Canada—Mr. President, that is 5 minutes in Michigan. We can go across the bridge and we can cut our costs in half for American-made, FDA-approved medications.

I have twice taken a group of seniors across the border, going through the Canadian medical society, and then going into the Canadian pharmacies. We have seen dramatic results. I will just share a couple.

In Michigan, Zocor, a drug to reduce cholesterol, costs $109.73 for 50 5-milligram tablets. In Canada, the exact same prescription costs $46.17—$109.73 and $46.17. Since we as taxpayers in the United States have helped to subsidize the research—which I support doing—I also want to see us get a price break for the tax dollars that are helping to do this.

I also know that tamoxifen, a breast-cancer-treating drug, is available for about $136 in Michigan. When we went to Canada, with breast cancer patients, they got it for $15. There is something wrong with the laws that say our people cannot freely go back and forth—our hospitals, our businesses—and get those lower costs.

There is something wrong with a system where small businesses are seeing 25, 30, 35 percent or more increases in their health care premiums. I have had small business people come to me saying they will have to drop their insurance because they cannot afford the premium increases. The majority of that is the cost of prescription drugs.

We have a lot of work to do. There is something wrong in a country as blessed and as wealthy as the United States when there are seniors who got up this morning, sat at the kitchen table, and said: Do I eat today or do I take my medicine? Do I pay the electric bill or do I take my medicine?

We can do better than that. We have an obligation to do better than that. I believe one piece of that is Medicare coverage and updating our Medicare system to cover prescription drugs. But I believe it is also much more than that. I believe it is making generics available once the patent has run its course and finding ways to make sure those laws are enforced and not undermined. It is making sure that research is done, and we reward and help fund that, and invest in that more than we are investing in advertising. It is making sure our business community can afford premiums, that we have competition across the border, making sure we are able to provide prescriptions at the lowest possible cost while still allowing important research to happen and our pharmaceutical industry to thrive.

I believe we can do all of that if we have a focus on the right values and priorities when it comes to this debate.

I simply say it is now time for a sense of urgency. If a child in our family is sick or if we have a parent who needs lifesaving medication and can't afford it, if we have someone in our family who needs an operation, we feel a sense of urgency. We feel a sense of urgency if someone needs nursing home care or if someone needs some other kind of health care.

We need that same kind of sense of urgency when it comes to public policy on health care.

I urge my colleagues on both sides of the aisle to join with us in the coming weeks to lower the fastest growing part of that health care dollar; that is, the cost of prescription drugs and lifesaving medication.

We can do better than we are doing for our seniors and our families. We can do better than we are doing for the business community. We can do better than we are doing for everybody in our country if we are willing to get to work. I hope we are going to do that.

I yield the floor.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that when the Senator from Missouri completes her statement, Senator MURKOWSKI be recognized to offer his Iraqi oil import amendment; that there be 60 minutes for debate prior to the vote in relation to the amendment with the time equally divided and controlled in the usual form; that there be no intervening amendment in order prior to the vote in relationship to the Murkowski amendment; that upon the use or yielding back of the time without further intervening action or debate the Senate proceed to vote in relation to the amendment.

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

Mr. REID. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the amendment.

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

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Missouri.

LEAVE NO CHILD BEHIND ACT

Mrs. CARNAHAN. Mr. President, last year, Democrats and Republicans joined together with President Bush to enact a monumental and far-reaching education bill.

This new law, the Leave No Child Behind Act, will bring new resources and meaningful reform to our Nation's schools.

It establishes new academic standards for students, increases teacher training, and demands new levels of accountability, while increasing flexibility with Federal funds at the State and local level.

I am hopeful that this law will help close the achievement gaps that separate many poor and minority students from their peers.

Indeed, I am optimistic that it will improve education for all students.

But Congress has, as Harry Truman once said, some ''unfinished business' when it comes to our schools.

We have left out a critical component when it comes to ensuring that our schools and our teachers and, most importantly, our students will succeed.

Today, one in five schools fails to meet building or safety codes or needs extensive repairs, renovations, and maintenance.

Across the country, run-down, overcrowded, dilapidated schools jeopardize the health and safety of our students.

Across the country, deteriorating schools inhibit the ability of our children to learn.

And yet, with the exception of the Impact Aid program, which I strongly support, the new education reform law did not include funds for school renovation and repair.

Nor were any funds for renovation and repair made available through the appropriations process.

The administration's most recent budget even eliminates the Emergency School Repair Program.

And yet, data from the National Center for Education Statistics tells us that nearly $127 billion in renovations and repairs are needed to upgrade existing schools to good physical condition.

Furthermore, this figure does not include the funding needed for construction to accommodate increasing enrollments in districts across the country.

We have these pressing needs at a time when resources are scarce. Our States and local governments are still feeling the effects of the recession.

And for too many years, Congress has failed to provide States and localities the funding it promised long ago to share the cost of special education.

The Federal Government cannot ask States and localities to shoulder the burden of school renovation and repair costs alone.

If the Federal Government stands on the sidelines, it will be at the expense of our children.

But neither should Washington attempt to single-handedly solve this problem. Congress should not be in the business of giving direct grants to communities to build schools.

I strongly believe that education is a national priority but a local responsibility.

The legislation being introduced today, the ''Investing for Tomorrow's

Schools Act,'' answers this call for partnership.

Our bill provides initial funding for the creation of State and regional infrastructure banks. These banks will make loans to districts for school construction or modernization needs.

This mechanism helps to alleviate the financial burden for States and localities but provides sufficient flexibility to meet local needs.

The structure of the bill ensures that states and localities have the requisite flexibility to tailor programs to meet their unique needs.

The bill requires a 25 percent State match, which ensures the commitment of State government to the program while allowing States to leverage their dollars four-to-one.

It is a voluntary program—only for those states who choose to participate.

To those who have argued that the Federal Government should have no role in school facilities, and likewise to those who call for overly intrusive Federal programs, this bill offers a common-sense compromise.

I remember visiting a school in Nixa, MO, where every fourth-grader in the district attends class in trailers behind the school.

I have subsequently learned from teachers and administrators in other districts that the kids in trailers often have the best deal because conditions in the actual school buildings are often far worse than they are in the trailers.

Every State in this country has districts in need, in both urban and rural and suburban communities. The needs span the social economic strata of our Nation.

Disadvantaged and minority students are most likely to attend school in decrepit and obsolete buildings.

I would imagine that we have all seen schools that are either freezing cold or unbearably hot, that have poor lighting or inadequate bathroom facilities.

But students in more affluent suburbs—where there is often explosive growth in the community—also suffer from overcrowding.

Most parents would agree that they would like their children to attend schools where the student to teacher ratio is low, where class size is small.

Yet, without enough space, small class size is an impossibility.

And despite these conditions, we are asking our children for more than ever before.

A fellow Missourian, Mark Twain, once told the following story:

> When I was a boy on the Mississippi River there was a proposition in a township there to discontinue public schools because they were too expensive. An old farmer spoke up and said, ''If they stopped building the schools they would not save anything, because every time a school was closed a jail had to be built.''

I have great faith in America's children. The time to invest in them is now. The investments we make in them will be returned to us many times over.

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, for the interest of Senators, I have been in consultation with the distinguished Republican leader throughout the day. We are momentarily going to propound a unanimous consent request which would do several things.

First of all, it would accommodate Senator MURKOWSKI and his desire to bring up an amendment on the energy bill relating to Iraq.

We would then move to complete our work on the border security bill. There would be a number of amendments offered by Senator BYRD. Once those amendments have been disposed of, it would be our intention to then go to final passage. Then, prior to the end of the day, we would also take up a judicial nomination that has been on the calendar.

We would, throughout this period, have further discussions about our schedule for the remainder of the week—tomorrow—and early next week, as we attempt to bring some final closure to the energy bill.

So that is the current schedule. It is my expectation we will get this request which would allow us to complete our work on border security today. Senators should be forewarned there will be additional votes, probably several additional votes, yet today on the border security bill, I assume on the Murkowski amendment, as well as on the judicial nomination.

So that is the current plan. Just as soon as we have cleared it a final time with our Republican colleagues, I will propound this unanimous consent request. Until that time, 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. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 3525

Mr. DASCHLE. Mr. President, I ask unanimous consent that upon disposition of the Murkowski amendment relating to Iraqi oil, the Senate resume consideration of H.R. 3525, the border security bill, and that it be considered under the following limitations: that there be 30 minutes of debate on the bill, with the time equally divided and controlled between Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL, or their designees; that the amendments listed in this agreement be the only amendments in order; that any debate time be equally divided and controlled in the usual form; that upon disposition of all amendments, the bill be read a third time and the Senate proceed to vote on final passage of the bill, without further intervening action or debate: Kennedy-Brownback-Feinstein-Kyl managers' amendment, 20 minutes for debate; that debate on the following Byrd relevant amendments be limited to 20 minutes each: Byrd amendment regarding review of educational institutions' compliance provisions, Byrd amendment regarding penalty increase for manifest noncompliance, Byrd amendment with regard to change of deadlines for implementation of biometrics, and Byrd amendment regarding tightening requirements for participation in the visa waiver program.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I thank my colleagues for their cooperation.

Under this order, the Murkowski amendment relating to Iraqi oil is now the pending order of business. I encourage Senators, if they want to be heard on the amendment, to come to the Chamber.

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

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENT NO. 3159 TO AMENDMENT NO. 2917

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 3159 to amendment No. 2917.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make the United States' energy policy toward Iraq consistent with the national security policies of the United States)

At the appropriate place, insert the following:

TITLE—IRAQ OIL IMPORT RESTRICTION

SECTION 1. SHORT TITLE AND FINDINGS.

(a) This Title can be cited as the 'Iraq Petroleum Import Restriction Act of 2001.'

(b) FINDINGS.—Congress finds that—

(1) the government of the Republic of Iraq:

(A) has failed to comply with the terms of United Nations Security Council Resolution 686 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research,

development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 661 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people.

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced ''No-Fly Zones'' in effect in the Republic of Iraq.

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians.

(2) Further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. 2. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. 3. TERMINATION/PRESIDENTIAL CERTIFICATION.

This Title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that:

(a) (1) Iraq is in substantial compliance with the terms of

(A) UNSC Resolution 687 and

(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the ''Oil-for-Food'' program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that

(b) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. 4. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.

SEC. 5. DEFINITIONS.

(A) ''661 committee.'' The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) ''UNSC Resolution 661.'' The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) ''UNSC Resolution 687.'' The term UNSC Resolution 986 means United Nations Security Council Resolution 687, adopted April 3, 1991.

(d) ''UNSC Resolution 986.'' The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.

SEC. 6. EFFECTIVE DATE.

The prohibition on importation of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

Mr. MURKOWSKI. Mr. President, earlier this month Saddam Hussein indicated that he was terminating oil production for 30 days. That would terminate oil from Iraq to the United States.

I have a chart in the Chamber that shows currently the oil that we are receiving from Iraq. This chart shows the historic trend of crude oil imports from Iraq to the United States. In January, it was about 294,000 barrels. In June, it went up to 973,000 barrels.

One of the extraordinary things occurred in September. In September, it was at a high of almost 1.2 million barrels. Lest we forget, during September we had a terrorist attack in New York, in Washington, DC, and the downing of the aircraft in Pennsylvania.

What does this have to do with Iraq? Well, we have known for some time that Saddam Hussein has been fostering and supporting terrorist activities. And to give you some idea, let me show you this little replica of an acknowledged statement from his Government relative to providing funding to the Palestinian suicide bombers. There is a check for $25,000. Previous to this, he was providing payments of up to $10,000. With an incentive of $25,000, God only knows to what extent terrorist activities will continue.

Yet as we look at the United States and the trends we have seen in oil imports, as the Mideast crisis worsens, we see the price of oil rise.

We also have another chart. We have seen this oil come into the United States. People probably don't really know from where their oil comes. Probably most of them don't care. It comes in to identified areas of New Jersey, Ohio, Indiana, Illinois, Minnesota, Missouri, Arkansas, Mississippi, Louisiana, Texas, California, and Washington.

The irony here is obvious, if we go back to 1992 and look at the desolation associated with the burning of the oilfields in Kuwait. Recognize that we are now importing or have been importing about 1 million barrels of oil a day from Iraq. Then with the notice by the Government of Iraq that they are going to terminate production, clearly one has to wonder if it is in the principal interest of the United States to rely on this source.

Earlier in the day, we voted on the issue of ANWR. It was a cloture motion. We did not obtain 60 votes. So far on the energy bill, it is fair to say that the only increase in domestic production identified was associated with ANWR. Perhaps it is ironic that Saddam Hussein should terminate production. But I think it is appropriate, from a principle point of view, that the United States, by formal action, end our imports from Iraq until a couple of things happen.

One is that the United Nations certifies that Iraq has complied with the Security Council resolution No. 687 and has dismantled their programs to develop and construct weapons of mass destruction; and that Iraq cease to smuggle oil in contravention of Security Council resolution No. 986; and finally, Iraq no longer pays bounties to the families of suicide bombers wreaking havoc in Israel.

I recognize the Iraqi oil program is intended to be used for the benefit of the Iraqi people. But that is not the case. My amendment also seeks to ensure that the President use every means available to support humanitarian needs of the Iraqi people, notwithstanding the ban on oil imports.

Most Members consider themselves internationalists. I believe firmly in the importance of engagement with other countries, particularly economic engagement. I am a strong believer in free trade and have worked with many of my colleagues to reform economic sanctions and policies. However, it is time to draw the line on economic engagement when national security is compromised.

Our increasing dependence on unstable overseas sources of oil is compromising our national security. We have seen Saddam Hussein last week urge fellow Arab OPEC members to use oil as a weapon. We have seen what an aircraft can do as a weapon. Saddam Hussein did that by imposing this 30-day embargo of oil exports to the United States until the United States forced Israel to cave in to the demands of the Palestinian extremists.

In 1973, the Arab League used oil as a weapon during a time of similar crisis in the Mideast. At that time, the United States was 37-percent dependent on imported oil. Still the Arab oil embargo demonstrates how powerful a weapon oil can be. And the United States was brought to its knees. Several of us remember during that time of the Yom Kippur War, there were gas lines around the block. The public was

blaming everybody for the inconvenience, including Government.

During that particular timeframe, however, the TransAlaska Pipeline was completed. Oil began to flow. And within a few years, 25 percent of our domestic oil production came from Prudhoe Bay. As a consequence, imports dropped dramatically. But that was then and this is now. Times change. On the other hand, how much they stay the same.

Nearly 30 years after the Arab oil embargo, we are faced with a similar threat that we faced in 1973, but there is a difference. The difference is now we are 58-percent dependent on imported oil. Back in 1973, we were 37 percent. The stakes are higher. The national security implications are more evident. One wonders what we have learned. From the vote earlier today, I wonder that, too.

Before us is the reality that Saddam Hussein has called on his Arab neighbors to use oil as a weapon and begin a 30-day moratorium on exports. The United States was importing over 1 million barrels of oil from Iraq.

As we look at the situation in the Mideast today, our Secretary of State, having made every effort to bring the parties together, understanding withdrawal, whatever it took, and the appearance at least that Egypt has refused to meet with our Secretary of State, Mubarak, what that means, I guess one could look between the pages of history and come up with some kind of an evaluation. Things certainly are better but they might get worse.

Reality dictates if you filled up your tank, chances are at least a half a gallon of the gasoline in your tank originally came from Iraq. Think about that. This is the same guy who pays bounties on suicide bombers of $25,000, who fires at our sons and daughters flying missions in the no-fly zones in Iraq, who has used chemical weapons on his own people, who has boasted that he has the weapons to scorch half of Israel.

But when you innocently filled up your tank, you paid Saddam Hussein perhaps a nickel of every dollar you spent at the pump that day. You contributed to some extent to the suicide bombings. You bought shells targeted at American forces. You paid for chemical and biological weapons being developed in Iraq which are targeted at Israel and those Iraqis who would challenge Saddam Hussein.

Haven't we learned our lesson before? I was looking around the house the other night. I ran across a Life magazine from March 1991. In a profile of the gulf war, they wrote of Saddam:

> When he finally fought his way to power in 1979, after an apprenticeship of a few years as a torturer, his first order was the execution of some 20 of his highest-ranking government officials, including one of his best friends. He likes to say ''He who is closest to me is farthest from when he does wrong.'' He grew up in dirt to live in splendor. . . . He is cheerless. And he currently possesses Kuwait.

This article can be used as a reminder of the costly mistakes of not dealing with him. It is more or less a play-by-play review of the gulf war that we are in now but new names and a new era from 2002 could just as easily be inserted into the article. These lessons must not be lost. We recognize he is our enemy. The world must isolate him, cut him off and coax his regime to an early death.

But we haven't learned our lesson, have we? He is still there because we are still buying his oil. Sure, these purchases are masked in the Oil for Food Program, but is it really working? He is still there.

I know the Oil for Food Program isn't supposed to work this way. Saddam is supposed to use the money from Oil for Food to feed the Iraqi people and buy medicine. But we know he cheats on the program, buying all kinds of questionable materials, and that he smuggles billions of dollars of oil out of Iraq, which directly funds his armies, his weapons programs, and his palaces.

I had an opportunity to be in Baghdad several years ago with a number of Senators. We met with Saddam Hussein. This was just before the gulf war. Regarding the circumstances of that meeting, I won't go into any detail, but they are very interesting. He invited us to lunch and never brought lunch. What we got out of the meeting was the recognition that this was a force to be dealt with.

No matter how you look at it, Mr. President, our purchase of Iraqi oil is absolutely contrary to our national security interests. It is indefensible and must end.

My amendment would do just that; it would end new imports of Iraqi oil until Iraq is proven a responsible member of the international community and complies with the relevant Security Council resolutions.

I began the statement by affirming my support for economic engagement. I believe deeply in the principle of free trade. I do not, however, believe in economic disarmament. When, as is the case with oil, a commodity is not only important to our own economic health but also important to our military's ability to defend the Nation, self-sufficiency is a crucial matter. No country or group of countries should have the ability to ground our aircraft, shut down our tanks, or keep our ships from leaving port. Yet allowing ourselves to become dependent on imports of this nature threatens to do just that.

In the case of Saddam Hussein, we are dependent for some 5 percent of our imports from a sworn and defiant enemy. There he is on that chart. But our reliance on other foreign sources of oil is not risk-free. We have a very uneasy relationship with our friends in the gulf. September 11 clearly demonstrated that our enemies in such staunch allies as Saudi Arabia may outnumber our friends.

We already have some form of economic sanction on every single member of OPEC—a reflection of the uneasy relationship that we have with these nations. So this is risky business relying on countries such as these for our national security.

Some Members have long recognized the folly of importing oil from our enemies—some more than others. But on July 25, we extended sanctions on importing oil from Iran and Libya. We have not imported any oil from those countries for some time because the sanctions were in existence. We didn't initiate sanctions against Iraq. Well, it is time we did.

Does relying on Iraq make more sense than relying on Iran and Libya? I don't think so. I know that many of my colleagues advocate production in less risky parts of the globe, including here in the United States. The trouble is, we have to drill for oil where we are likely to find it. The fact is, the ground under which most of the oil is buried is controlled by unstable, unfriendly, or at-risk governments.

Look at Colombia and the oilfields being developed in the pristine rain forests down there. We get some 350,000 barrels a day from Colombia.

The 408-mile-long Cano Limo pipeline is at the heart of the Colombian oil trade, and it frequently is attacked by FARC rebels. They have declared the pipeline to be a ''military target.'' They are anticapitalist, anti-United States, anti-Colombian Government rebels.

The trouble is, the half of the country these rebels control has the Cano Limo pipeline running through it—a convenient target to cripple the economy, get America's attention, and rally their troops for their cause. Countless attacks have cost some 24 barrels in lost crude production last year and untold environmental damage to the rain forest ecosystem.

Last year, rebels bombed the Cano Limo 170 times, putting it out of commission for 266 days, costing Colombia roughly $500 million in lost revenue.

Our administration wants to spend $98 million to train a brigade of 2,000 Colombian soldiers to protect the pipeline. Now, last week, another rebel faction called American oil companies running the pipeline ''military targets.''

I wonder if we are truly unfazed about the close connection between oil, money, and national security. Are we willing to turn our heads on the Mideast crisis to finance the schemes of Saddam Hussein? Are we willing to allow our policy choices in the Middle East to be dictated by our thirst for imported oil from this particular source? Are we willing to let our oil be used as a weapon against us?

We should not allow our national security to be compromised. I know some today have dismissed ANWR as a solution. But the relevance here is principle. Our military cannot conduct a campaign associated with dependence on such unreliable sources.

I sympathize with the desire to eliminate the use of fossil fuels. I believe we

will get there with continued research and new technologies. I understand the urge to deny the importance of oil in the national security equation. But all of my colleagues will eventually have to look in the mirror after this debate and ask themselves, again, to what extent we are willing to sacrifice our national security in order to appeal to the fantasies associated with the desires of Saddam Hussein.

One of the things I think is testimony to the severity of how we deal with Iraq is the responsibility of the President and Joint Chiefs of Staff, his Cabinet, and others, as we have observed the reality that he is developing weapons of mass destruction. He has a delivery system capable of sending a missile to Israel. But he has been working on a nuclear capability. When is the world going to deal with that? Had we known what was about to occur relative to the tragic events associated with September 11, we would have taken action against Osama bin Laden. Had we only known.

In the case of Saddam Hussein, the exposure is there. The question is, When and how? Buying oil and increasing our dependence on that country is certainly not the answer because we are funding whatever mischief Saddam Hussein is up to. So that is the purpose of this amendment, Mr. President.

I urge my colleagues to think a little bit about the principle involved and join me in support of the amendment. Again, the irony is that he has cut us off for 30 days. The ramifications of that, the future will tell. Will the OPEC nations increase production and make up for the shortfall? They have indicated they might. Will the price of oil likely go up because of the shortage of supply? It is already going up.

Clearly, by an action taken by the Senate to formally terminate imports from that country, we will send him a message, but will somebody else simply take our place and buy Saddam Hussein's oil?

In any event, I think it is appropriate, from a principle point of view, for the United States to terminate its relationship with Iraq, as the amendment proposes, until such time as he commits to abide by the U.N. agreement, which requires that we have inspectors in Iraq to ensure that he is not a threat to the world; further, that he commits to halt any further funding of suicide bombers associated with the terrible activities occurring in Israel and Palestine.

I have no further comments. Seeing no other Senator seeking the floor, I yield back the remaining time on this side, and defer to Senator BINGAMAN.

I believe the yeas and nays have been ordered, Mr. President.

The PRESIDING OFFICER. Yes, they have.

Mr. BINGAMAN. Mr. President, how much time remains in opposition?

The PRESIDING OFFICER. Thirty minutes.

Mr. BINGAMAN. Mr. President, let me make a few comments with regard to the amendment, and I do not know that I will be in opposition, but I have some concerns I wish to express—and perhaps ask a few questions—I have the amendment in front of me—my understanding of what the amendment is that first of all, it does not in any way prohibit Iraq from exporting oil. I think that is clear. Iraq has made a decision just recently to suspend its exports of oil for 30 days. So that is in place, as I understand it. But this amendment does not prohibit Iraq from exporting oil or does not commit us to any action which would in any way prohibit Iraq from exporting oil.

Second, it does not prohibit us from importing oil from other sources. What it basically says is, we can continue to import whatever the percentage is—50 percent, 56 percent—of our oil needs from the world market. We just cannot import from this source.

Also, it does not really by its language impose a legal prohibition against importing from Iraq. What it says is, as I read it and this is on page 3 of the amendment. It says:

> This Act prohibits imports until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

Basically, it takes the decision, which has been our national policy, that we would import legally exported Iraqi oil, just as we would import other oil. It says that in order for us to continue with that activity, the President has to give us a certification that it is not inconsistent with our national security or foreign policy interests to do so.

Obviously, our relations with Iraq are a very serious foreign policy issue for our country at this time, and I am persuaded that most Members of the Senate would be very anxious to work in cooperation with the administration and with the President in formulating our policy toward Iraq.

I do not know where the administration stands on this amendment. I do not know if there has been any request for their views on it. I would be anxious to hear from the sponsor of the amendment if he has had a reaction from the administration. We have made some informal inquiries, and we have been unable to get a response from the administration.

I, frankly, think the responsible course would be for us to give the administration a chance to tell us its views. If the President wants this legislation enacted, then obviously that would carry great weight with many Senators. If the President believes this puts him in an awkward position, in that it requires him to issue a certificate to permit continued imports of Iraqi oil, then I think we should know. Obviously, there are many Members of this body who do not want to put the President in an awkward position relative to our relations with Iraq.

I also have concerns about how an amendment such as this could be interpreted in world oil markets. We are very concerned that the price of gasoline has been going up in recent weeks, and we heard a lot about that during the ANWR debate that just concluded. Of course, that is a reflection, to some extent at least, of the rising price of oil on world markets. The price is up around $26 a barrel today, which is substantially higher than it was a few months ago. People are concerned about that.

However, the information I have is that one reason why we import oil from Iraq is that we are able to do so at a discount. Why is Iraq forced to sell its oil at a discount in the world market? Because it is considered by the market to be a somewhat unreliable source for oil, so they are not able to get the premium price that some other producers are able to get. U.S. refiners benefit from that, and U.S. consumers benefit from the fact that we are buying that oil at a discount.

I have an article that I will ask be printed in the CONGRESSIONAL RECORD after my statement, from the April 15 edition of the Dallas Morning News. The title of it is: ''In Oil, Profit Often Beats Politics.'' I ask unanimous consent the article be printed in the RECORD after my statement.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, the key part of this is some comment on the amendment my colleague, Senator MURKOWSKI, is now offering. It says:

> Mr. MURKOWSKI wants to ban Iraqi oil imports. We have done this before. Libyan oil was banned. Iranian oil was banned. But oil is a commodity, and import bans make little difference in the global market. Unless all importers join the boycott, the oil will find a buyer.

The main point is pretty clear: If Iraq is going to decide at the end of this 30 days to commence exports again, it will find a buyer for that oil. It will likely continue to sell at a discount in the world market. If we prohibit the importation of that oil into the United States, that is not going to hurt Saddam Hussein. That is not going to hurt Iraq. Iraq will find a buyer for that oil. We will be buying the oil we need from another source, but we will be buying on the world market just as we are today.

As I say, I think there is less here than meets the eye as far as actually trying to impact or strike a blow against Saddam Hussein. I do not see that this amendment does that. I think, if anything, it puts our President in the awkward position of having to send a certificate to the Congress saying that, in his view, we should go ahead and continue to import Iraqi oil.

Maybe that is what the President would like. Maybe that is what the Secretary of State would like. Maybe that is what the Secretary of Energy would like. I have not heard that from

any of them, and I think the appropriate course would be for us to solicit their opinion on an important amendment such as this before we adopt it.

My initial reaction to this kind of amendment, and I am sure the initial reaction of most Senators, is: Fine, this is an anti-Saddam Hussein vote. How do you go wrong, how do you lose support in your home State by voting against Saddam Hussein? I would venture to say nobody does.

However, this is a sensitive area of foreign policy and I do not know whether the Foreign Relations Committee has considered anything like this. It might be something they would be interested in looking at. I do not know if Senator BIDEN, who is chairman of that committee, has had a chance to look at this and formulate a position on it.

I do not know that many Senators would want to vote against an amendment of this type, but if it is going to be pushed to a vote, I hope before the vote occurs—and I know it is expected to occur very soon under the unanimous consent agreement—I hope we can get some communication from the White House as to whether or not they support the amendment.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Dallas Morning News, Apr. 15, 2002]

IN OIL, PROFIT OFTEN BEATS POLITICS

WASHINGTON.—Gasoline prices climbed 31 cents a gallon in the last eight weeks. Israelis and Palestinians are at war again. Saddam Hussein says Iraq will halt oil production for 30 days to protest. None of this is encouraging, but neither is it a description of an oil crisis. When one spigot closes, another opens. There's 7 million barrels a day of spare production capacity available to make up for Iraq's 1.7 million barrels a day of exports. The 11 members of the Organization of the Petroleum Exporting Countries hold 90 percent of that spare capacity. OPEC has tried since the 1973 Arab oil embargo to convince the world that it is an economic club rather than a political weapon. Saudi Arabia, with 3 million barrels a day of spare capacity, is expected to cover any Iraqi-induced shortage, as it has before.

Gasoline prices have risen rapidly in recent weeks but remain about 10 cents a gallon below last year's levels. Dallas experienced its highest price for unleaded regular on May 12, when the average was $1.66 a gallon. Oil is the most political commodity. It was largely Saudi Arabia's political will to produce more that sent oil prices down after Sept. 11, and Saudi curbs on oil that sent them back up again. The oil workers in Venezuela and Nigeria flexed their political muscles last week in showdowns with their governments that coincided with the agonies of the Middle East.

Nigeria's unrest centered on unpaid oil workers, and quieted quickly.

Venezuelan oil deliveries were disrupted, and the strikers persuaded the military to join them in an abortive coup Friday against Venezuelan President Hugo Chavez. Mr. Chavez returned to office Sunday, 48 hours after being ousted.

Iraq and Venezuela supply a major portion of oil refined in the United States. Venezuela sends half its 2.4 million barrels a day of exports to the United States, both as gasoline and crude oil. More than half of Iraq's exports also land in the United States. Given the enmity between our countries, that seems crazy. But economics beats politics with Iraqi oil, whose price discounts seem irresistible to U.S. refiners.

Republican Sens. Frank Murkowski of Alaska and Larry Craig of Idaho are incensed by Iraq's presence in the market. They say that every time a U.S. motorist fills up, he or she is putting money in the pockets of suicide terrorists. (Iraq has offered $25,000 to their families.)

Mr. Murkowski wants to ban Iraqi oil imports. We have done this before. Libyan oil was banned. Iranian oil was banned. But oil is a commodity, and import bans make little difference in the global market. Unless all the importers join the boycott, the oil will find a buyer.

The same logic applies to export bans. Iraq can quit producing, and Saudi Arabia covers the deficit. Iraq and Venezuela can stumble together, and if the Saudis don't cover it all, prices will rise around the world and tempt other nations to increase their production.

OPEC, in fact, can ill afford to see its oil production used as a political weapon. The U.S. Energy Information Administration expects OPEC production to be down 1.9 million barrels a day this year as the cartel tries to defend a price band. This lures others, particularly the Russians, to fill the gap. Non-OPEC production is expected to increase this year by 1.1 million barrels a day. Because profit has more pull than political kinship, rival producers will rush to capitalize upon a slowdown in Iraqi and Venezuelan oil exports. That logic founders if something happens to disrupt Saudi oil production. No one can take Saudi Arabia's place in the market. Today's regime in Saudi Arabia shows no sign of repeating the 1973 oil embargo. Tomorrow's regime? Who knows?

Mr. BIDEN. Mr. President, I oppose the amendment of the Senator from Alaska. I do not disagree with most of the findings in his amendment. Saddam Hussein is clearly in violation of his obligations under United Nations Security Council resolutions. He has repeatedly demonstrated his callous disregard for the plight of the Iraqi people. Humanitarian aid under the oil for food program has been diverted, languished in warehouses, or simply not purchased at all. As much of the Iraqi population goes without adequate health care and nutrition, Saddam lavishes luxury goods on his cronies and builds palaces.

While the Senator may be correct in his diagnosis of the illness, it is not clear to me that his amendment is the cure.

I have just spoken to a senior official at the State Department, who believes this amendment is a serious mistake. I believe that this amendment puts the President in a very difficult position at a difficult time.

I have concluded that we need a regime change in Iraq. In my view, that effort will require us to lay the groundwork by making a solid case and building as broad a coalition as possible. I am concerned that this amendment may make the President's task more difficult. At the very least, we should provide him the opportunity to make his views known on this amendment.

While the potential impact of this amendment is great, it has not been scrutinized sufficiently. The Foreign Relations Committee has certainly discussed the issue of Iraq policy, but we have not examined this specific proposal. I also understand that the Energy Committee has held no hearings on this proposal.

As I stated at the outset, I do not see how this amendment will address the legitimate issues that the Senator cites. The proceeds for the legal purchase of Iraqi oil made by American companies are deposited in an escrow account controlled by the United Nations. Money in that account is then released for purchases of civilian goods. Before any money is spent, the sanctions committee, on which the United States sits, must approve every contract. In other words, we have a veto on how the money gets spent.

To be sure, the oil for food program has flaws. Saddam gets illegal revenues by selling oil outside the program and by collecting illegal surcharges from shady middlemen. It is these revenues that are used by Saddam to prop up his regime, pursue weapons of mass destruction, and pay the families of Palestinian suicide bombers. The Senator's amendment does not address the problem of illegal surcharges or smuggling.

I am also concerned that by effectively pulling the United States out of the oil for food program, we may be sending the signal that we are not interested in the welfare of the Iraqi people. I know that is not the Senator's intention, but it may be an unintended effect of his amendment. This could have an impact on the ability to pull together an effective coalition to confront Saddam.

This is just one example of the potential unintended impact of this amendment. I think it is important that we understand all of the ramifications of this proposal before proceeding.

Mr. MURKOWSKI. Mr. President, recognizing I have yielded back my time, I wonder if the majority would allow me to respond for a few minutes to the Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have no objection. Following that, I expect to yield back most of my time. I gather we are ready for a vote.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I thank my friend, Senator BINGAMAN.

It is the intention of the prohibition on Iraqi-origin petroleum imports to terminate the imports, and they could then be addressed by the President and the President, after consultation with relative committees of Congress, can certify to the Congress that Iraq is substantially in compliance with the U.N.S.C. Resolution 687 and Resolution 986.

Resolution 986 prohibits smuggling of oil in circumvention of the Oil for Food Program, and 687 mandates inspections by U.N. inspectors. So the intent is clear. It is to terminate oil exports in the United States.

The Senator from New Mexico suggested we contemplate and be somewhat sensitive to the attitude of the

White House. I think during our extended debate on ANWR we had an extended discussion about the attitude of the White House that did not prevail in this body.

I think what is germane, however, is the attitude of the White House with regard to the sanctions on Iran and Libya. They are quite clear, and I think there is a notable similarity. Those sanctions were initiated in retaliation to terrorist activities associated with Libya. What was it? The downing of Pan American flight 103 over Scotland. That is why we took that action. It was most appropriate. In Iran, in 1979, it was the Embassy takeover and the terrorist activities associated with that.

So we have a parallel. I do not think there is any question about it. We terminated a relationship in the sanction action against Libya and Iran for fostering terrorism.

If what is going on with Saddam Hussein is not an act of terrorism, I do not know what is. I indicated in my statement pretty much throughout, this is a matter of principle for the United States. I do not think there is any question about the justification. It is the same justification. Saddam Hussein is fostering terrorism, and I think we would all acknowledge that. So I think, with all due respect, that is the justification for this action.

Today, who is more of a threat to the world? Is it Iran, is it Libya, or is it Iraq? Well, no question in my mind.

I am happy to respond to any questions.

I yield back the remainder of my time.

Mr. BINGAMAN. Mr. President, I yield back the remainder of our time as well.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3159. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES), is necessarily absent.

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

The result was announced—yeas 88, nays 10, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—88

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

NAYS—10

Biden	Chafee	Lugar
Bingaman	Fitzgerald	Nelson (NE)
Byrd	Gramm	
Carper	Hagel	

NOT VOTING—2

Inouye	Nickles

The amendment No. 3159 was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table. The motion to lay on the table as agreed to.

CAPACITY-BASED STANDARDS

Mr. DOMENICI. Mr. President, I have discussed with Senator BINGAMAN a concern with his amendment No. 3016. In particular, I question whether we should structure the renewable portfolio standard to refer to the ''capacity'' of a renewable system or, as done in Senator BINGAMAN's amendment, to the ''energy generated.'' I think we would simplify compliance by staying with a ''capacity-based'' standard, but I realize that this is a complex issue. I strongly recommend that we return to this issue in conference and carefully evaluate the pros and cons of these two approaches.

Mr. BINGAMAN. I concur with my colleague that this issue deserves more discussion. I look forward to further analysis and discussion of this in conference in order to arrive at a final position.

ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3525, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3525) to enhance the border security of the United States, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I understand that we have a time limit on both the bill and the particular amendments. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. And the time on the overall bill is?

The PRESIDING OFFICER. Thirty minutes equally divided.

Mr. KENNEDY. And 40 minutes on each amendment equally divided. Am I correct?

The PRESIDING OFFICER. That is correct.

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

Mr. President, I am very pleased that we are enacting the Enhanced Border Security and Visa Entry Reform Act of 2002.

I would like at the outset to thank my colleagues and fellow sponsors, Senators BROWNBACK, FEINSTEIN, and KYL, as well as their dedicated staff, David Neal, LaVita Strickland, and Elizabeth Maier. We began working together on this legislation in November and have moved through every stage of this process as a united team.

I would also like to thank Senator HOLLINGS and Senator GREGG for their invaluable contributions to the bill. I thank Senator BYRD for steadfastly working with us to make important improvements to the legislation.

Finally, I thank all of our colleagues in the Senate for withdrawing their unrelated amendments to assure the swift passage of this vital legislation, the Enhanced Border Security and Visa Entry Reform Act, which will strengthen the security of our borders. It will improve our ability to screen visitors, monitor foreign nationals, and enhance our capacity to deter potential terrorists.

Our bill provides real solutions to real problems. It closes loopholes in our immigration system. Our solutions include expanding intelligence and law enforcement capabilities, upgrading 21st century technology, and establishing an electronic interoperable data system. Vital information will be shared in real time among our front line agencies.

Our legislation sets realistic deadlines for the Attorney General and the Secretary of State to issue to all foreign nationals machine-readable, tamper-resistant travel documents with biometric identifiers. It also sets a realistic deadline for our ports of entry to be used with biometric data readers and scanners.

It also recognizes the valuable role of our border security and INS personnel by ensuring that these offices receive adequate pay and training and have the technology they need to secure our borders without obstructing the efficient flow of persons and commerce.

It also recognizes the demands on our consular offices, and provides them with the additional training and resources to screen for security threats.

In this legislation, we preserve the visa waiver program but require a stringent reporting requirement on passport theft and more frequent evaluation of participating countries' compliance with the programs' conditions.

Our bill honors our proud immigration tradition. It safeguards the entry of the more than 31 million persons who enter the United States legally each year as visitor students, temporary workers, and the 550 million who legally cross our borders each year to visit family and friends.

We recognize that immigration is not the problem—terrorism is. We must identify and isolate potential terrorists—not isolate the United States. ''Fortress America'' is not a solution that we would consider.

In defending America, we are defending the fundamental constitutional principles of diversity, cultural exchange, and civil rights that have made America strong in the past and which will make us even prouder in the future.

This legislation strikes the appropriate balance. I hope we will receive overwhelming support for it.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I join my colleague, Senator KENNEDY, as ranking member on the Immigration Subcommittee to support this bill.

This bill cleared the House of Representatives twice on a unanimous consent calendar. It is important. We still have problems at our borders. This bill deals with trying to get at the terrorists who seek to enter our land and not the legitimate people who are seeking to come here for reasons that are positive to the United States.

This bill is a testament to the dedication of this body and in Congress. It is bipartisan. It has had the input of many Members. The bill reflects how truly united we as Americans stand before the threat of terrorism.

The bill is the product of a lot of dedicated people, too many to name—elected officials from both sides of the aisle, from both Houses, and experts from both inside and outside of Government. The entire community in and around Washington and the country came together for this common goal of defending America.

The bill is endorsed by the entire immigration spectrum. The groups that are the most impacted by it endorse it. They appreciate the hard decisions that have to be made after September 11 and see the wisdom in this legislation.

We have legislation here that protects our borders without compromising our values or our economy. This legislation is a measured, intelligent response to an evil that we will defeat. I am proud to be a part of this bill.

I will describe quickly, what we are trying to do—and we will get it done—is to get information sharing from the various governmental agencies—the INS, the State Department, but also the CIA, the FBI, the DIA, and, hopefully, even other intelligence sources—so that we will have information sharing so we can catch before they enter this country people who seek to do harm. That information sharing is not taking place to the degree it needs to be today. Senator KENNEDY noted how many people yearly enter this country legally—over 300 million entries—and we are looking for those few who seek to come in here to do us harm. We are looking for a needle in a haystack, so we have to have that information sharing.

We are trying to expand the perimeter around the United States. This would include working with Canada and Mexico to get our perimeter broader and more secure.

I visited the El Paso INS detention facility 1 year ago. There at the detention center were people who had tried to enter our country illegally from 59 different countries, coming in through Central America, going up by land through Central America, through Mexico. We need to get the Mexican Government's support and help in protecting our perimeter.

We require manifests from other countries before the flights leave so we can check those when they come in. We provide more monitoring of foreign students in this country once they come here.

On September 11, unfortunately, some of those terrorists were here under student visas. We have to monitor the foreign students better in this country.

This bill provides biometrics. It provides more information we can use in checking people at the border. We have a number of other provisions that are in the bill. It provides for more border security officials to be able to check to make sure we are getting our job done.

In short, Mr. President, this bill has received a lot of work. We need to pass this legislation. I believe we will get it passed today.

Mr. President, I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Will the Senator yield for a question from the Senator from New Mexico?

Mr. BROWNBACK. I would be happy to yield for a question. I have yielded back the floor.

If I could secure the floor, Mr. President, I would be happy to yield for a question from the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOMENICI. I say to the Senator, I would just like to eliminate a little bit of confusion. This bill is going to pass unanimously—or almost—today. And stories are going to say we provided 1,000 new agents for the INS and all the other things you provide in this bill.

I wonder if you might tell me, is any of this money appropriated by this bill?

Mr. BROWNBACK. If I could respond to that question, within the President's budget is allocated $742 million in the first year for the implementation of this bill. It is within the President's budget. It is believed that the budget needs for the first year are $1.3 billion total. We have over half of that in the President's budget, and we are going to be seeking the approval for additional resources. We think we can compete for the necessary funding with the homeland security issues within it. It is going to take authority, and this is the authority it is going to take appropriations to be able to get this implemented. The Senator from West Virginia has been raising in hearings and in this Chamber this issue about the implementation.

Mr. DOMENICI. I say to the Senator, as I indicated, I do not doubt it has wonderful provisions in it. I have read them. I come from the border, and I confirm that they are all good; our border people would like to have them.

I just want to make sure we understand that there is no money provided in this bill. So the public will get the story today or tomorrow that we passed this bill, but 3 or 4 months from now, when the appropriations bill comes that funds these kinds of activities, the Appropriations Committee has to have the money or we will just have another bill that expresses, in beautiful words, what we would like to have happen for our country. Is that about right?

Mr. BROWNBACK. No. I would disagree, if I could, with my colleague. The appropriate way to proceed is authorization language, then appropriations, of course. What we are doing here is the authorization language. The President has built into his budget request over half of the funding for this already. Now we will have to appropriate it. But to get there, first we are supposed to authorize. This is authorizing language.

Mr. DOMENICI. Sure. There is nothing tricky about my question. I am not trying to put anyone on the spot. I am just trying to establish that unless the money is appropriated later on by another act of Congress, and signed in another act by the President, we do not have 200 new agents this year in each of the Departments, we don't have the research money that is in this bill for new technology, because this bill does not provide for any money to be spent. If that is not a correct statement, then I withdraw it.

Mr. BROWNBACK. That is correct. This is authorizing language.

Mr. DOMENICI. I thank the Senator very much.

Mr. BROWNBACK. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield myself a half a minute.

I want to add to what my colleague said. There is also $100 million in fees here. We have raised the fee part of it, which will be self-funding, making the total $843 million. This agency has a budget of $6 billion. It is our intention to try to work within that $6 billion to find the additional money and to work with the Appropriations Committee.

But I think that the point the Senator from New Mexico makes about the difference between authorization and appropriations is always worthwhile to point out so people have a very full understanding of the process.

Mr. DOMENICI. I thank the Senators.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. Mr. President, before the distinguished Senator from New Mexico leaves the floor, I say to the Senator from New Mexico, he has made a very important observation.

I am going to vote for this bill. But we do not have a CBO estimate of the cost. We have no estimate of the cost. There is an estimate by the Immigration and Naturalization Service. Now, that may be off a great deal or it may not be off a great deal.

I think it is important to keep in mind what the distinguished Senator from New Mexico has pointed out. There is a great difference between authorizations and appropriations. And it is the money that counts. Cicero, that great Roman orator, said: ''There is no fortress so strong that money cannot take it.'' So it is the money that counts. And the Senator has made an important observation. I made that observation, too, early on. And I don't know what the estimate of the cost is going to be in here. We have certain estimates, the $1.1 billion for the first year, and the $3.2 billion—or something like that—$3.2 billion for 3 years. But those are estimates. They are by the Immigration and Naturalization Service. And, of course, that is not a great bank to put your money into when the INS estimates it. We have seen that agency fall on its face so many times in recent years.

But, in any event, I thank the Senator.

Mr. DOMENICI. Will the Senator yield for 1 minute?

Mr. BYRD. Yes. I would be glad to yield.

Mr. DOMENICI. A question along with this observation: I say to the Senator, it seems to me that what we do—and what we are doing in this crisis, which is a very big crisis, with the President putting large numbers of billions of dollars in homeland security and saying this is new money—we come along and pass bills that authorize the new programs that he is saying he wants new money for, but the truth of the matter is that very seldom are any existing programs that are being paid for eliminated.

So you are going to have a subcommittee of your Committee on Appropriations, maybe two, that are going to fund this authorization bill—or maybe not, or maybe part of it; who knows? But the President had in mind canceling a whole bunch of programs in order to pay for this. And the point I make is, nobody helps with that part of the burden. Nobody carries any weight on trying to make room within the Government. They just pass on to the appropriators a very good, wonderful, new set of authorizations that we have all passed, and we go home and tell our people it is going to help solve the crisis that is before us with reference to taking care of our borders, which are porous and should not even be called borders, they are so bad.

I thank the Senator.

Mr. BYRD. Well, the Senator is correct. There will be a lot of eyes looking toward the Senator from New Mexico and toward me, and the other 27 members of the Senate Appropriations Committee, when it comes time to put the money on the barrelhead.

But having said that, I am going to vote for this bill. I am still going to seek a CBO estimate of the cost because I think that would be helpful in the coming days as we proceed to the conference and then to the conference report, and so on.

AMENDMENT NO. 3161

(Purpose: To revise provisions relating to the compliance by institutions and other entities with recordkeeping and reporting requirements with respect to nonimmigrant students and exchange visitors)

Mr. BYRD. Mr. President, the opportunity to seek a quality higher education has long enticed men and women to leave their homelands to travel to America.

We are, by and large, a generous Nation when it comes to providing an education to foreign citizenry. Indeed, American colleges, universities, and technical schools have opened wide their doors to students from foreign lands. And all levels of schooling are available to foreign nationals of every age—from preschool to post-graduate work, from public grade schools to private technical-training institutions.

In fact, foreign students have proven to be a lucrative source of revenue for U.S. educational institutions. Private-sector analysts estimate that foreign students contribute between $9 billion and $13 billion to the U.S. economy every year. Any number of marketing efforts are made by colleges and universities to recruit foreign students, whose tuition fees serve to bulk up college budgets.

As a result, we have opened our borders to a stream of foreign students with precious little oversight of their movement through the American educational stream. According to the INS, there are currently 2 million foreign students admitted to study in this country—649,000 of whom were admitted just last year. These include nuclear engineering scholars, biochemistry students, and pilot-trainees, who have access to sensitive technology, training, and information.

Yet while our schools have been training would-be pilots in the art of flying airliners, we have been asleep at the switch! There has been too little accountability, and too few checks, largely because oversight has proven too burdensome and costly for the government and the U.S. educational industry.

The lax government oversight of these student visa beneficiaries was underscored by the fact that three of the September 11 hijackers were awarded student visas—not to mention the fact that the INS was still processing the student visa applications for two of them 6 months after they had crashed two planes into the World Trade Center towers and gone on to meet their eternal destiny.

Clearly INS has not been up to the job of monitoring foreign students, and, in its current condition, placing new burdens on that agency alone is no solution. Therefore, as we look at our Nation through the prism of the new realities of terrorism, we must reconsider ways to involve those who have the best opportunity to prevent attacks. We need the assistance of our educational institutions.

In recent years, efforts to impose more stringent reporting requirements on schools have faltered because educational institutions have been reluctant to get into the job of monitoring foreign students. In fact, colleges and universities have lobbied heavily against such requirements, and the current lack of a national program to monitor foreign students indicates the effectiveness of that lobbying effort.

The pending legislation takes some important steps toward closing many of the loopholes in our foreign student policies that could be exploited by a potential terrorist. If the student monitoring provisions in this bill are to be successful, however, we must ensure the participation of our schools. These institutions are best suited to inform the INS and the State Department as to which students have been accepted to attend a school, whether they actually show up for class once they enter the country on a student visa, and whether they continue their classes or merely drop out of sight after checking in with the admissions office.

Monitoring the student via program requires a partnership between the government and all colleges, and technical schools that accept foreigners.

The pending bill gives the INS and the Secretary of State too much discretion in determining whether or not these educational institutions should be penalized.

Section 502(c) of this bill reads:

EFFECT OF FAILURE TO COMPLY.—Failure of an institution or other entity to comply with the record keeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)) or Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), may, at the election of the Commissioner of Immigration and Naturalization or the Secretary of State, result in the termination, suspension, or limitation of the institution's approval to receive such students or the termination of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

What's more, in section 502 of this bill, the ''periodic reviews,'' which the INS Commissioner, Secretary of State, and Secretary of Education are required to make to determine whether institutions are complying with this legislation, are not defined. A ''periodic review'' could mean every 5 years or it could mean every 20 years or it could mean every 50 years.

That is very soft language.

My amendment would require reviews by the relevant agency heads at least once every two years. Further, if they found that U.S. educational institutions were materially not complying with the reporting requirements in this bill, my amendment would require the relevant agency heads to terminate or suspend, for at least one year, the right of those institutions to accept foreign students.

This amendment makes clear the serious concern about this Nation's ability to help foreign students while also protecting our homeland. Educational institutions are essential partners in our efforts to ensure that foreign students really are ''students'' with no other agenda but learning.

I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for their support of this amendment. I hope that the Senate will adopt it.

Mr. President, I have made my statement prior to calling up the amendment. I ask unanimous consent that the time I have consumed in reading my statement come out of my time on the amendment.

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

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3161:

On page 49, beginning on line 4, strike ''The'' and all that follows through ''reviews'' on line 7 and insert ''Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review''.

On page 49, lines 22 and 23, strike ''The Secretary of State shall conduct periodic reviews'' and insert ''Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review''.

On page 50, line 16, strike ''(c) EFFECT OF FAILURE TO COMPLY.—Failure'' and insert ''(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure''.

Beginning on page 50, line 24, strike ''may'' and all that follows through the period on line 5 of page 51 and insert the following: ''shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.''.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I will urge our colleagues to support this amendment for the excellent reasons that the sponsor gave in support and in justification of the amendment.

There are now 26,000 universities and schools that can effectively approve a foreign student to come and study. But the foreign student has to qualify for the visa project at the current time. We have included some very important requirements in this legislation because this has been one of the great loopholes in our monitoring of who comes into this country and who does not.

The State Department must first receive the electronic evidence of the acceptance from an approved U.S. institution prior to issuing a student visa. The State Department must inform the INS that a visa has been approved. The INS must inform the approved institution the student has been admitted into the country, and then the approved institution must notify INS when the student has registered and enrolled. If the student doesn't report for class, the school must notify the INS of this absence not later than 30 days after the deadline for the classes.

So the colleges and universities have to develop that kind of system in order to be qualified for these programs, which is enormously important and a very significant, dramatic change from the current situation.

Currently, there are sporadic inspections of the universities. So now the Byrd amendment comes along and says, well, what you have in here looks good on paper, but what we take note of is the fact that, even if it is good on paper, the INS, in its history, has been sporadic in inspecting and finding out whether the schools and colleges are doing what they said and what they are supposed to do. That has been true. This tightens that provision up in a very important way.

If there is a material breach, then there will be a suspension of that institution from being able to receive the foreign students. So I believe it is going to make a very important difference in terms of compliance with one of the most important aspects of this legislation, which is understanding the students who are coming here, monitoring the students when they are here, knowing when the students are leaving, and if the students are not attending the schools, having access to that kind of information as well.

I thank the Senator from West Virginia for the amendment. What it does is put real teeth into this provision which we had worked out in the committee to achieve the kind of oversight the INS has not had up to this time.

Mr. BYRD. Mr. President, I thank the Senator for his statement.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I urge my colleagues, as well, to support the Byrd amendment. The reasons have been stated by both Senators BYRD and KENNEDY. I think the important thing to look at and see here is that we have a number of foreign students in the United States, and this has been a very positive thing, overall, for the United States and for the rest of the world. I don't think anybody would disagree with that statement. Yet what we have had taking place is a system that, over time, has gotten far too loose, and we saw the effects of that on September 11, where a couple of these individuals who came into the United States and did this operation, this horrific thing that happened, came in under student visas because they were looking for weaknesses in the system to get into the United States in a less restrictive, reviewed area. So that is why this has been at the very heart of this bill.

Senator BYRD puts in a good provision. There have been sporadic reviews by the Government of the educational institutions to see that they are doing this right, that they are taking the program seriously and not just finding some way of being able to bump up their student account and the number of students coming to the United States. We will have a regular reporting requirement and we will be able to monitor this much more closely. It should not inhibit legitimate students from coming here, nor the institutions that are legitimate and serious about what their projects are. It will be a bit more of a hindrance to those looking to increase their foreign student accounts and, hopefully, it will help us to get at those students who are here to do us harm.

I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, this amendment actually came into the bill from the original parts of the bill, Senator KYL's and my investigations from the Terrorism and Technology Subcommittee. What we found is the student visa program was greatly in disarray. We found that we have about 660,000 students coming in a year, and there is no tracking of any of them. Nobody knows whether they are really at a school.

Up to this point, the schools have had no responsibility to report that a student has arrived, that a student is taking this or that course and, yes, that the student has stayed in school. So I think Senator BYRD's amendment strengthens what is already in the bill. I think it makes it a better bill. We intend to follow up on this. Senator KENNEDY and I have discussed it. We intend to see, in fact, that the schools do keep their word and do, in fact, do the reporting they are required to do under this legislation.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, Senator FEINSTEIN and I were upstairs a moment ago during the time allotted for discussion of the bill in general. Let me take a couple of minutes, if I could, to express my support also for the amendment pending that Senator BYRD offered. As Senator FEINSTEIN said, it will strengthen what we are trying to do with the student visa program.

Mr. President, the Judiciary Committee has a couple of subcommittees of jurisdiction. Senator KENNEDY and Senator BROWNBACK are the chairman

and ranking member of the Immigration Subcommittee, and I have the honor of serving on that committee, as does Senator FEINSTEIN. She chairs and I am ranking member of the Terrorism Subcommittee. So we have had the ability in both of these subcommittees to hold hearings and to discover after September 11 areas in which we can improve our immigration laws to make it much more difficult for terrorists to enter this country or to stay here illegally.

This legislation is designed to close as many of those so-called loopholes as we can. I think it is a good effort in that regard. Each of the amendments that will be offered by Senator BYRD, in one way or another, strengthens the bill we have already offered.

I wanted to make two quick comments. Eighteen of the terrorists who entered the country and flew airplanes into the World Trade Center, the Pentagon, and into the ground in Pennsylvania came in using B–1, B–2 tourist visas. According to the Department of State, 47 foreign-born individuals, including these 19, have been charged with, pled guilty to, or been convicted of involvement in terrorism over the past decade. All 47 of these people had contacts with an INS inspector. Yet, somehow, they were able to get into the country. The 19th of the 19 was Hani Hanjour. He entered the country on an F1 student visa, the subject of the specific amendment now before us. He supposedly came here to attend classes and study English. He never showed up for class. The school did not notify the authorities that he never attended classes. He overstayed his visa and just melted into our society.

Another example of one of the terrorists, Mohamed Atta, came in on a tourist visa. According to several sources, he was placed on the FBI watch list 6 weeks before the terrorist attacks. But his name was never entered into INS's system. Before his visa expired in December of 2000, Atta actually went to the INS to change his status to that of student. After December of 2000, even without the information that showed his placement on a watch list, he should not have been allowed to reenter the country.

Yet, on June 3, 2000, at Newark International Airport on a Czech Air flight from Prague, after being questioned by INS for an hour, he was admitted back into the United States.

My point of illustrating with these two examples is to point out that the INS had contact with all of these people. They clearly should have been caught, but they were not caught because the INS officials either did not have the information they should have had or for some other reason did not ask the right questions.

Mary Ryan, who is one of the people who testified before Senator FEINSTEIN's subcommittee—her title is Assistant Secretary for Consular Affairs, Department of State—actually said: we felt like the woman driving through the school zone at 15 miles an hour and the little girl runs out behind the parked cars. She gets hit, and we feel terrible, but what could we do about it? That is why we set about trying to figure out what we could do about it.

One provision is to tighten up the student visa requirements. Without going into anything further, I think it sets the stage for what we are trying to accomplish and trying to close some of these loopholes, how we hope it will have some good, positive effect—not the overall answer to terrorism, but it will help to some extent.

As I said, the amendments Senator BYRD offers strengthen the bill. I am supportive of them, and I hope we can get to final passage.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, if it is agreeable with Senator KENNEDY and the other cosponsors of the amendment, I will yield back the remainder of my time on the amendment. Some Senators have been promised that there will be no votes until about 7:15 p.m. If it is agreeable with all the cosponsors, I will be happy to ask unanimous consent that the vote on this amendment occur upon the expiration of all time on the amendments and further statements can be made in regard to the bill so that the votes would be stacked for beginning, say, around 7:15 p.m.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, stacking the votes is fine with me. I would rather have our colleagues available so that we can move along. It is just 6 o'clock now. Maybe my cosponsors want to spend time describing the amendments. I do not think so. I know Senator FEINSTEIN has not had a chance to address the whole issue as a prime sponsor. It seems to me we should be able to consider these amendments in a timely manner. I would like to see if we can move the votes to prior to 7:15 p.m. If the leader set that time, then that will be the time, but I hope we can make progress prior to that time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, if we stack these votes, I certainly think our colleagues will appreciate that. I believe there is going to be, if I understand the intention of the Senator from West Virginia and the amendments he is putting forward, broad agreement amongst the cosponsors of the amendments.

All of these are strengthening amendments. I see no reason why we cannot do all of the amendments together in an expedited fashion. What the Senator is doing is really making the bill better. I do not know if it is possible, but if we could do it, we could have a limited number of votes for which we would call our colleagues back.

These are good amendments. I do not anticipate anybody coming to the Chamber in opposition to them. Possibly we could adopt these together as one. Of the ones I have looked at, they appear to look quite good. My hope is to complete them quickly. If we need to do it at 7:15 p.m., fine, and we can do them possibly altogether.

Mr. BYRD. I think it will work out all right if we just proceed.

I ask unanimous consent, Mr. President, that the vote on this amendment occur at the expiration of the time on all the amendments with the yielding back of that time and yielding back or making final statements on the bill, if that is agreeable with the cosponsors.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3162

Mr. BYRD. Mr. President, I send to the desk the second amendment, and I ask that the clerk read the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3162.

(Purpose: To require as a condition of a country's designation or continued designation as a program country under the Visa Waiver Program that the country reports to the United States Government the theft of blank passports issued by that country)

Beginning on page 32, strike line 23 and all that follows through line 5 on page 33 and insert the following:

(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

''(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country.''; and

(2) in subsection (c)(5)(A)(i), by striking ''5 years'' and inserting ''2 years''; and

(3) by adding at the end of subsection (f) the following new paragraph:

''(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.''.

Mr. BYRD. Mr. President, I yield such time as I may consume from my time on the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, in my testimony before the Immigration Subcommittee last week, I spoke about the safety of the American people and how that safety within their own borders often takes a back seat to such issues as commerce and diplomacy.

The visa waiver program, I believe, is a clear example of what I was talking about.

The program allows 23 million citizens from 28 countries to enter the United States without first obtaining a visa from a U.S. consulate abroad. This program, by eliminating the visa requirement and the subsequent State Department background check, expedites travel and commerce, but waives the usual first step by which foreigners are screened for admissibility when seeking to enter the United States.

Consequently, in a 1999 study, the Justice Department's Office of the Inspector General found that terrorists, criminals, and alien smugglers have attempted to gain entry into the United States through the waiver program. The inspector general's office also commented on the danger of stolen passports from visa waiver countries being used by terrorists to enter the United States without a visa.

It has been noted that in 1992 one of the conspirators in the 1993 World Trade Center bombing tried to get into the United States through the visa waiver program with a fake Swedish passport. Fortunately, he was caught, and a search of his luggage revealed bomb-making instructions.

In recent years, tens of thousands of blank passports from visa waiver countries have been stolen. These passports are sold on the black market to terrorists, criminals, and anyone else who may wish to avoid a State Department background check before entering the United States.

While only countries deemed ''low-risk'' are allowed to participate in the visa waiver program, and they must meet certain qualifications, the Attorney General is only required to review these countries' participation once every 5 years. Moreover, the Attorney General is not required to consider the efforts to prevent theft when determining whether to accept the country into or allow the country to continue to participate in the visa waiver program.

My amendment would require the Attorney General to review the countries that participate in the visa waiver program at least once every 2 years to help ensure that those countries continue to meet the programs's standards, and it also requires the Attorney General to remove countries from the program that do not report stolen passports. I am hopeful that my amendment will foster the kind of review that will result in greater scrutiny of this program and of those who enter the country through it.

This is a commonsense amendment, and I hope that Senators will support it.

I have discussed it with Senator KENNEDY, and he in turn has discussed it with the other authors of the bill and I hope that all Senators will support the amendment. I believe it to be a good one, a very worthwhile amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I urge our colleagues to support this amendment as well. It strengthens an important provision in the legislation. The Senator has outlined what the visa waiver program is, available now to 28 different countries.

Why the visa waiver? It was the judgment and the determination that if 2 percent, or less than 2 percent, of the visa applications were going to be rejected, then it probably made sense in terms of the efficiency to grant a visa waiver to that particular country. These are generally our oldest allies and friends as nations. A country has to stay at 2½ percent in order to stay in the program. Six countries a year is the general rule.

So what the Senator's amendment does is it says, look, given the changed circumstances that exist in the world, at least every 2 years we want to see countries reviewed. This is certainly supportable.

One of the principal reasons, obviously, in reviewing a country in terms of a visa waiver, may be because there are national security issues that are different. There may be law enforcement issues that are different. If there are security issues that are different, then we would want to know it and know about it in a timely way.

We have seen in recent times, a month ago, Argentina was dropped from the visa waiver program because of the turmoil that exists there and the enormous numbers of people who were leaving with very little intention perhaps of returning. So the amendment of the Senator will ensure that the visa waiver program will carry forward its real intention, and it will be carefully reviewed every 2 years with the idea that the review, which will be by the State Department and the Attorney General, will look at the country and see if there are new issues of security that may pose a potential threat to the United States. If they do, they can take the action of removing the country, or make other recommendations.

The second feature of this amendment, which is enormously important, is the requirement that we are going to have the report of stolen passports. That has been a very slipshod process in the past. The Byrd amendment puts teeth into that provision. If the countries themselves are not going to be reporting these stolen passports, they will no longer be participating in this favored position in terms of the visa waiver.

Getting a handle on stolen passports is enormously important. It is going to be even more important as we move on into the future. This amendment makes sense. I hope our colleagues will support it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I urge my colleagues to support this second Byrd amendment. It is a strengthening amendment, for the reasons that have been articulated by the Senator from West Virginia and the Senator from Massachusetts.

I wish to focus on the final point that Senator KENNEDY put forward with an exclamation mark. This is an important program. The visa waiver program has certainly been a very valuable one for the countries that work closely with the United States. They like it. A number of people who travel really like and appreciate it, and yet in some places we are having thefts, losses of passports with which people can penetrate our borders. That has not been as forcefully enforced by other countries on this visa waiver provision.

Now, with the Byrd amendment requiring an every 2-year review, if they are not enforcing this provision when there is a loss or a theft of a passport, it is not being reported aggressively, there is a real hammer here: No more visa waiver.

I rather imagine there are a number of countries that are in this visa waiver program that do not like this amendment, but for us and for our security this is an excellent provision given the world of today. If this were 10, 20 years ago and we did not have quite the present threat on us of terrorist attacks in the United States and people trying to slip through our borders, one might say this is going to be an added burden that maybe we should not have. But given the situation we are in today, I think we would have been wise to have had it 10 or 20 years ago. It is clearly a needed provision, and it will cause people who are working closely with the United States, that have this visa waiver, they will scrutinize their practices more closely and report these passports if they have been stolen.

This is an excellent strengthening provision. I urge my colleagues to support it as well.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia.

Mr. BYRD. I yield back the remainder of my time. I ask unanimous consent that the vote on this amendment occur immediately after the vote on the student monitoring amendment.

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

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield back the remainder of his time?

Mr. KENNEDY. I yield back all of the time.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3163

Mr. BYRD. I now offer a third amendment. I anticipate we could have a voice vote on this amendment, unless enough Senators wish to have a rollcall vote.

I send the amendment to the desk.

The PRESIDING OFFICER. The pending amendment is laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3163.

The amendment is as follows:

(Purpose: To substitute October 26, 2004, for October 26, 2003, for the achievement of requirements with respect to machine-readable, tamper-resistant entry and exit documents)

On page 25, line 21, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 26, lines 12 and 13, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 26, lines 24 and 25, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 28, line 2, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 28, line 16, strike ''October 26, 2003'' and insert ''October 26, 2004''.

Mr. BYRD. Mr. President, I yield myself such time as I may consume of the time allotted to me on the amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, as we strive to respond to the new challenges of terrorism, we must be cognizant of the essential component of public trust. Without the confidence of the people, our efforts to improve domestic security, including our efforts to tighten our border defenses, cannot succeed.

To help ensure that we do not undermine the public's confidence in our efforts to secure our borders, we must set realistic mandates—that is, guidelines and time frames that are measurable and achievable.

This bill, in two separate instances, sets an October 26, 2003, deadline for the Attorney General and the Secretary of State to meet two separate mandates.

Section 303(b)(1):

Not later than October 26, 2003, the Attorney General and the Secretary of State shall issue to aliens only machine-readable, tamper-resistant visas and travel and entry documents that use biometric identifiers.

Section 303(b)(2):

Not later than October 26, 2003, the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software to allow biometric comparison of all United States visas and travel and entry documents issued to aliens, and passports issued pursuant to subsection (c)(1).

A third October 26, 2003, deadline applies to visa waiver countries issuing to their nationals machine-readable passports that are tamper-resistant and that incorporate biometric identifiers.

I question whether the Attorney General and the Secretary of State will be able to meet these deadlines. When I asked one of the authors of this bill, Senator KYL, about this deadline during the floor debate on Monday, Senator KYL said:

The Senator from West Virginia raises a good question with respect to those deadlines. Frankly, on two of the three, there is no good answer. The Senator is absolutely correct about that. . . . As to precisely how long it will take to get those [systems] online, there is not a good specific answer, nor is there an answer as to when we can have the interoperable system developed, which is one of the central features of the bill.

These dates are not based on the availability of technology, or even projections about the availability of technology. Nor are they based on any realistic expectation about the availability of funding. As far as I can tell, these deadlines are based solely on the fact that the USA PATRIOT Act was signed into law on that same day in 2001.

I appreciate the notion that, without deadlines, it is difficult to press the agencies to act expeditiously. But, when this deadline comes and goes, and the Attorney General and the Secretary of State have not met these goals, the public will have reason to become disillusioned with our efforts to tighten our border defenses. Considering the public's current skepticism regarding the INS and its ability to safeguard our borders, I suggest that we be careful about committing our border defense agencies to deadlines that they cannot meet.

Under the regular appropriations process, Congress cannot make the necessary funding available to the agencies before October 1, 2002, and that assumes that all 13 appropriations bills are completed on time, by the end of the fiscal year. Even if the bills are completed on time, it could still take months before funds are released to the agencies to meet these mandates.

With the support of Senator KENNEDY, I am offering an amendment that would move the October 26, 2003, deadlines back by one year to October 26, 2004. This amendment allows the Congress more time to appropriate the necessary funds, and help to ensure adequate time for the State and Justice Departments to meet these deadlines.

Our efforts to tighten our border defenses will require the long-term support of the American people. It is an effort that will require the trust and confidence of the American people. We should not place that trust at risk by setting deadlines we know to be unrealistic. So it is for that reason Senator KENNEDY and I and the other authors of this amendment have worked together to fashion this amendment. I urge adoption of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I rise in support of the Byrd amendment. This is a positive amendment in the overall bill, it is appropriate, and it was the topic of a great deal of discussion previously as we were putting together this bill overall. The bill, in its design, had a number of people working together to try to figure it out. One of the most contentious issues was this issue about the time deadline in which we would be able to accomplish these biometric identifiers.

The administration had a great deal of concern about meeting the very aggressive dates set in the overall bill. A number of our colleagues involved in the negotiation said: We realize this may be aggressive, but we need to push it because this is such an important issue. A lot of people within the executive branch were saying: I don't know that we can meet this deadline.

This amendment will be well received by a number of people who believed the time deadlines put forward in the original bill were just too aggressive to be accomplished. This will set a far more realistic date as to when we accomplish it. I know people in the executive branch will try to do this as quickly as possible. They are clearly going to be far more comfortable with this date as being more realistic, one that can be accomplished.

For those reasons, I urge my colleagues to support this Byrd amendment to the bill.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I have a different take on it. I urge my colleagues to support this amendment, but I think we need to send a message to the INS that it can't be business as usual any longer and that instead of a ''can't do'' attitude, they have to have a ''can do'' attitude.

I personally spoke with Governor Ridge about this deadline and asked him what he thought. He said: Let me get back to you. When he did get back to me, he said: We have to move forward as quickly as possible. I support the date that Senators KENNEDY, BROWNBACK, and FEINSTEIN and I agreed upon. We have to show the American people we will get on with this and the delay will no longer be acceptable.

Senator BROWNBACK is correct when he says that this will make some people a lot happier. There were people who were saying: We are not sure we can meet this deadline in the bill. To that extent, the amendment of the Senator from West Virginia will be well received.

I want to make it clear, we are not sending a signal by agreeing with the Senator from West Virginia tonight—and I know he doesn't mean to, either, as I understand this amendment—because we have decided it is OK to sit back and relax because we have extra time. It is simply a reflection of the fact that it will not be easy. It will take time. Nobody knows for sure exactly how much. However, all five of us, I am sure I can say, are strongly of the view that we have to get on with this. Business as usual is not going to cut it.

The good news is that while technology may be a little more difficult to implement in the very beginning, and a little costly, in the long run it will be both cheaper and much more efficient in enabling analysis of the data in this huge country of ours with all of the millions of people who come into it by visas and other means. The technology will help enforce the provisions of this bill and other legislation on the books.

Technology will be the answer eventually. It will take time to get going. But by agreeing to the amendment of the Senator from West Virginia, I can speak for everyone by saying to those folks who have to implement it, we do not mean for you to relax; we mean for you to get on with it. We have to do our part by giving you the resources to do it.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I, too, hope our colleagues will support the amendment. There really is not any difference in the views that are being shared on the Senate floor this evening. That is, we want to get the best technology, and we want to then get a process so that it can be utilized effectively in order to protect our security.

I want to give assurances to those who favor the earlier date that our committee will be meeting with the Commissioner, with Mr. Ziglar, and we welcome other colleagues, to try to monitor this as aggressively as we possibly can. This is the final date, but it is certainly the sense here for the INS to understand we want it done as early as possible. But we want to make sure it is complete, and we are going to have the best technology. Then we are going to have the best technology in terms of the implementation of the legislation.

We give assurance to our colleagues that our committee will monitor this very carefully and periodically give reports back to the Senate because this is enormously important.

What we are basically saying is with 550 million people moving in and out of the United States, there is a limited number who pose a security threat. The immigrants are not the danger, terrorists are the danger. We have to be able to use that knowledge to detect them. We have great opportunities to do it. We want to get the right technology and implement it and we want to do it in the shortest possible time.

This legislation will establish sending that message. I agree with those who say we want to get started, we want to get it done right, but we have altered the date to take into consideration those who believe we would not have done the right job if we had the earlier date. We think this makes sense, and we hope colleagues will support the amendment.

Mrs. FEINSTEIN. Mr. President, I rise to join my colleagues supporting this amendment. There is one thing I would like to point out. I have serious concerns about the visa waiver program. I have concerns about its wisdom in the first place.

When you have 23 million people coming in without visas, from 29 different countries, it becomes so easy for passports to be misplaced and for people who are threats to get into this program. I think we have to watch it very carefully. We have to depend on the fact that the strictures in this bill are meant to be carried out.

I, for one, would not have a problem with doing away with the program if we find any more irregularities in it. We have actual instances where terrorists have used this visa waiver program. We know 100,000 passports were missing. We know they were not reported in a timely way. This bill requires, first of all, the thefts of passports, or that passports are missing, be reported immediately. Then the INS, within 72 hours, would have to enter them into an interoperable database, assuming we get to that interoperable database. Until that system is established, the INS would enter the information into an existing data system.

I, for one, am going to ask my staff to watch very carefully as to how these passport numbers get entered, and I will try to do my level best to see it is carried out. If it is not, I think we will have to go back and assess the wisdom of this entire program.

I yield the floor.

Mr. BYRD. Mr. President, I am happy to yield the remainder of my time.

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

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 3163) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3164

(Purpose: To increase the penalty for noncompliance with the requirements to provide manifest information)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3164:

On page 39, line 25, strike ''$300'' and insert ''$1,000''.

Mr. BYRD. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BYRD. Mr. President, the border security bill before the Senate requires ships and aircraft entering the United States to provide to our immigration officials a manifest of all passengers and crew on the vessel before they arrive in U.S. ports. If a commercial carrier fails to do so, this bill imposes on the carreer a $300 fine for each person not mentioned, or for each person incorrectly identified, in the manifest.

This penalty is wholly inadequate in my judgment. It is really a slap on the wrist for an airline or sea carrier that fails to provide important information to our immigration officials. This amendment would increase this penalty to $1,000 for each person that a commercial carriers fails to list accurately on the passenger manifest.

Airlines and sea carries must be more than a passive conduit for information between ticket agents and our border defense agencies. We need the commercial carriers that bring people to this country to be partners in identifying persons who might have suspicious travel documents or travel plans.

Increasing the fine for noncompliance is one way to emphasize to commercial carriers that they have an important role in border security.

This amendment has the support of the managers of the bill and I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

I support the amendment. I think it demonstrates support for a very important provision in the legislation, and that is for the INS to receive the manifests of those who are coming into the United States in a timely fashion. It demonstrates, by increasing the penalty, that we are serious about this issue.

The American carriers, as I understand it, do this regularly, routinely. In any event, there are a number of carriers that do not. What the amendment does is underline the importance of this function and establishes the seriousness with which we take this function of information by increasing the penalty. I think it helps the legislation and I support it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, this is another strengthening amendment. We have teeth in this provision. They get bigger with the Byrd amendment. I think that is a good provision for us on the prearrival of aircraft coming into this country. For whatever reason, we have had some difficulty with airlines providing this manifest ahead of time. This is going to make this a more significant penalty.

We need to have this information. We should have this information ahead of time. This is a key security issue. It is part of this extension to try to deal with terrorists trying to enter our land.

This is a good strengthening amendment. I urge my colleagues to support it.

I congratulate and thank the Senator from West Virginia once again for helping to make what I think is a good bill better.

I yield the floor.

Mr. BYRD. Mr. President, I yield the remainder of my time on this amendment.

Mr. KENNEDY. Mr. President, I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3164) was agreed to.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia for the study that he has given to this issue, and for the recommendations that he has made on this legislation. We are urging our colleagues to support this.

I thank him for his cooperation and for the seriousness which he has given to this legislation. I thank him.

Mr. President, under the consent agreement we still have the additional item; that is, the managers' amendment. I ask that we now proceed to the consideration of the managers' amendment.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question prior to proceeding?

Mr. KENNEDY. Yes.

Mr. BYRD. Mr. President, I move to reconsider the vote on the previous amendment.

Mr. BROWNBACK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3160

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL, proposes an amendment numbered 3160.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KENNEDY. Mr. President, I hope we will approve the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3160) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I understand that two rollcalls have been ordered. I ask unanimous consent that it be in order to ask for the yeas and nays on final passage of H.R. 3525, the underlying measure.

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

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Madam President, I am very pleased that the Senate is considering H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act. This bill mirrors S. 1749, which Senator KENNEDY introduced with Senators FEINSTEIN, BROWNBACK, KYL, and others. I am one of 58 cosponsors of S. 1749, which has commanded extraordinary bipartisan support and the sponsorship of most of the members of the Judiciary Committee, from which H.R. 3525 was discharged. Indeed, this bill reflects the results of sustained bipartisan negotiation, and represents the consensus view of Senators across the ideological spectrum. In other words, this is legislation the Senate should pass without delay.

As a Senator from Vermont, I know what a serious issue border security is. For too long, Congress has taken a haphazard approach to border security, meeting many of the needs of our southwest border but neglecting our border with Canada. Since the terrorist attacks of September 11, we have taken a far more comprehensive approach. Congress took its first steps to strengthen our borders in the USA PATRIOT Act, which authorized tripling the number of Border Patrol personnel, INS Inspectors, and Customs Service agents serving along our northern border, and $100 million in funding for improved technology for the INS and Customs Service's use in monitoring the border. As the author of those provisions, I am pleased that the administration has requested substantial increases in funding for border security personnel. I urge the Congress not only to fund this priority, but to ensure that the northern border receives at least half of any new supply of border security enforcement officers.

The legislation before us today builds on the first steps taken in the USA PATRIOT Act to strengthen substantially the security of our borders. It will further increase the number of INS Inspectors and INS investigative personnel, and authorize raises for Border Patrol agents and inspectors so that we can retain our experienced border security officers, who have been so overworked over the past 7 months. The bill also authorizes funding for training of INS personnel for more effective border management, and for improving the State Department's review of visa applicants abroad. In addition, it authorizes $150 million for the INS to improve technology for border security, another important follow-up to the USA PATRIOT Act.

Beyond authorizing badly needed funding for our borders, this legislation includes a number of important security provisions, a few of which I would like to highlight today. First, it requires the Attorney General and Secretary of State to issue only machine-readable and tamper-resistant visas, and travel and entry documents using biometric identifiers, by October 26, 2003. They must also have machines that can read the documents at all ports of entry by that date.

Second, the bill requires the Secretary of State to establish terrorist lookout committees within each U.S. mission abroad, to ensure that consular officials receive updated information on known or potential terrorists in the Nation where they are stationed.

Third, the bill will foster information sharing between other Government agencies and the State Department and INS, and shorten the deadline established in the USA PATRIOT Act to develop a technology standard to identify visa applicants.

Fourth, the legislation requires all commercial vessels or aircraft entering or departing from the United States to provide complete passenger manifests.

Fifth, this bill would substantially strengthen existing law for the monitoring of foreign students. The Government would be required to collect additional information about student visa applicants, and educational institutions would be obligated to report visa holders who did not appear for classes. In addition, the INS Commissioner would perform periodic audits of educational institutions entitled to accept foreign students.

I will vote for this bill because it will help protect our Nation and our borders. More than ever since September 11, those issues are fundamental priorities for this Congress. I urge my colleagues to join me in supporting this bill, and look forward to its becoming law.

Ms. CANTWELL. Madam President, today we are considering legislation on one of the most important issues in our fight against terrorism—how we can effectively secure our borders.

For me and for my State, one of the most critical things this bill does is to build on our efforts last year to increase staffing at the border by authorizing annual staffing increases on the borders for each of the next 5 years.

Those of us who represent States along the northern border knew before September 11 that the northern border was woefully understaffed. While we were able to double staffing across the border last year, the northern border will need a yearly infusion of staff to guarantee our security for the future.

This bill also incorporates many of the ideas of our colleague from California, Senator FEINSTEIN, to create a workable entry and exit system and better tracking of those in this country on student visas, and I would like to thank her for her many years of work on these issues.

Finally, this bill is about better use of technology to provide the enhanced security and border efficiency we need. But with every technological solution, comes the very real risk that the technology could be misused to invade personal privacy.

I have worked hard to make sure that provisions of this bill preserve the right to privacy. As we come to rely more on technology, including voluntary programs that require our citizens to provide personal information to government agencies, we will need to make very sure that we have sufficient

safeguards in place to protect how that information is stored and used.

Many of the provisions of this bill are based on and cross-reference a provision I was able to include in the USA PATRIOT Act. That provision requires the State Department and the Department of Justice to develop a technology standard for the purpose of exchanging law enforcement and intelligence information necessary to screen applicants for U.S. visas and individual's using visas to enter the country.

Within that standard, there are specific privacy safeguards to limit the application of the standard of aliens; limit the purposes the date collected could be used to background checks and border verification; limit the distribution of the data to consular officers and border inspectors; require that any changes to expand access to the data has to be done by regulation so that the public can have input; finally, we require Congressional oversight of the implementation of the technology standard.

I am pleased that this legislation incorporates these safeguards and adds others specific to the ''interoperable database system'' that facilitates the sharing of law enforcement and intelligence information with the State Department and INS.

The bill before us today limits re-dissemination of information accessed through the system; ensures that the information is used solely to determine the admissibility or deportability of an alien to the United States; requires accuracy, security and confidentiality; requires protection of any privacy rights of individuals who are subject of the information in the system; and requires the timely removal and destruction of obsolete or inaccurate information.

Even with these provisions, Congress must keep a watchful eye on the implementation of the provisions of this legislation. We need to be vigilant to make certain we are achieving the proper balance between the need for national security and the need to protect the privacy of our citizens.

I am concerned about protecting the privacy of my constituents and citizens across our country, and I thank the authors of this bill for working with me to address these concerns.

I support this legislation because I believe that the security measures are well balanced against privacy concerns—and both security and privacy must be served.

Mr. WELLSTONE. Madam President, I rise today to support H.R. 3525, the Enhanced Border Security and Visa Entry Reform Act of 2001. This bill includes important provisions that will enhance our overall security. As a member from a border State, I am especially supportive of provisions that improve our ability to provide security on the Northern border.

H.R. 3525 authorizes the addition of 200 Immigration and Naturalization Service agents on the border, raises their pay and improves their retirement benefits, increases funding for their training, and authorizes money for them to improve and buy new technology. In Minnesota, some of our borders crossings, such as the crossing at Crane Lake, are staffed only part-time in the summer and even then are not staffed around the clock. Some parts of the border are staffed via telephone and video. For example, a person wanting to cross into the United States from Canada arrives at a border station, picks up a telephone or videophone, and calls Border Patrol personnel located elsewhere to announce his arrival. We must address this security risk. We must address the vulnerability of our borders.

The situation on our northern border demands immediate attention but simply putting new staff there is not enough. We must retain experienced officials and provide adequate training to identify and intercept would-be terrorists. By raising the pay grade of INS border personnel and improving their retirement benefits, we can ensure the retention of dedicated, experienced officials. By providing them adequate training and improving their ability to share information, we can prevent the entry of people who intend to do this country harm.

The Enhanced Border Security and Visa Entry Reform Act of 2001 also has provisions to help us determine who is coming to the US before they arrive. It requires our consulates to transmit to INS officials electronic versions of the visas they issue so that information is available on the person prior to this arrival. It requires commercial flights and ships to provide manifests about each passenger prior to their arrival and it fills the gaps in the foreign student monitoring program to ensure we know who is coming to the United States to study at our universities before they get here. The more we can do to know who is coming to the United States before they actually arrive, the more secure we will be.

I would like to take a moment to address the issue of civil liberties. Many of us have concerns about the changes taking place in regard to our Federal agencies sharing intelligence information. Today, more than ever, we must ensure that Federal law enforcement and other agencies have the ability to share information in a timely and effective manner. Nothing is more distressing than to think that the horrible events of September 11 may have been prevented through better interagency communication and organization. Yet, we must ensure that we vigorously monitor the effects structural changes now underway will have on our civil liberties. We must continue to monitor implementation of laws that question the fundamental balance between our security and liberty.

We are doing that here today. The USA PATRIOT Act which we passed last October required the FBI to provide the State Department and INS with access to certain FBI databases. During the debate on that bill there were serious concerns over how to determine what information those agencies needed and how to protect that information. The bill before us requires the President to report to Congress on exactly what information the State Department and INS need, and to develop a comprehensive information-sharing plan with adequate privacy protections. I support this important provision and believe it is a good example of what needs to be done in the future. We must review, and improve legislation if necessary, to ensure protection of our fundamental freedoms.

Colleagues, H.R. 3525 is a comprehensive bill which will strengthen the security of our borders, secure our visa entry system and enhance our ability to deter potential terrorists. It is another important step towards ensuring that we will never again witness the tragic event of September 11. I urge my colleagues to support it.

Ms. SNOWE. Madam President, I am pleased to rise today in support of the Enhanced Border Security and Visa Reform Act of 2001.

I have worked with Senators KYL and FEINSTEIN, first on their Visa Entry Reform Act of 2001, and subsequently with them and Senators KENNEDY and BROWNBACK on this legislation. These sponsors have worked feverishly to bring this bipartisan bill to fruition and I have very much appreciated the opportunity to work with them in assembling a strong and meaningful package to help secure our homeland.

The bottom line is, at this extraordinary time, in the wake of horrific attacks from without against innocent lives within our borders, we must take every conceivable step with regard to those variables we can control in securing our Nation. How can we do anything less when it has become so abundantly and tragically apparent that admittance into this country cannot and must not be the ''X-Factor'' in protecting our homeland?

Entry into this country is a privilege, not a right, and it is a privilege that has clearly been violated by perpetrators of evil who were well aware of inherent weaknesses in the system. Just look at the story of Mohamed Atta, coming into Miami, he told the INS that he was returning to the U.S. to continue flight training, despite the fact that he presented them with a tourist visa, not the student required visa for his purposes, and they let him in. INS has since said that Atta had filed months earlier to change his status from tourist to student so they let him in, despite long-standing policy that once you leave the country, you're considered to have abandoned your change of status request.

What this bill is about is stopping dangerous aliens from entering our country at their point-of-origin and their point of entry by giving those Federal agencies charged with that responsibility the tools necessary to do

the job. Now, some say the tools we need are better technologies, some say better information, some say better coordination. The beauty of this bill is that it stands on all three legs, because I can tell you if there is one thing I learned from my experience in working on these issues on the House Foreign Affairs International Operations Subcommittee is that we are only going to get to the root of the problem with a comprehensive approach.

This was clear from the aftermath of our investigation of the comings and goings of the mastermind of the 1993 World Trade Center bombing, the radical Egyptian cleric Sheikh Rahman. We found that the Sheikh had entered and exited the country five times totally unimpeded, even after the State Department formally revoked his visa and even after the INS granted him permanent resident status. In fact, in March of 1992, the INS rescinded that status which was granted in Newark, NJ about a year before.

But then, unbelievably, the Sheikh requested asylum in a hearing before an immigration judge in the very same city, got a second hearing, and continued to remain in the country even after the bombing, with the Justice Department rejecting holding Rahman in custody pending the outcome of deportation proceedings and the asylum application, stating that ''in the absence of concrete evidence that Rahman is participating in or involved in planning acts of terrorism, the assumption of that burden, upon the U.S. government, is considered unwarranted.''

To address the trail of errors, I introduced legislation to modernize the State Department's antiquated Microfiche lookout system, but as we have painfully learned in the interim, such a system is only as good as the information it can access. That is why we fought tooth and nail to require information sharing between the FBI and the State Department. In 1994 Congress passed my legislation to give State Department officials access to FBI criminal records for every visa application, whether for immigrant or non-immigrant purposes. Addressing non-immigrants who enter the U.S. using student visas was particularly important, as was demonstrated by the inexplicable errors by INS, and in the case of the bomber who entered the U.S. on a student visa before dropping out of school, remaining undetected for two years on the expired visa, and driving a truckload of explosives into the World Trade Center in 1993. Unfortunately a revised provision limited this access only for purposes of immigrant visas, dropping my requirement for the non-immigrant visas initially used by all 19 of the September 11 hijackers.

So I am pleased that the USA PATRIOT counterterrorism bill we passed last year does require information sharing between the State Department and the FBI, but we can and must do more, we must also require information sharing among all agencies like the CIA, DEA, INS, and Customs.

And that is what this bill does, along with my measure that is included to establish ''Terrorist Lookout Committees'' at every embassy, which are required to meet on a monthly basis and report on their knowledge of anyone who should be excluded from the U.S.

I am also pleased to have worked further with Senators KENNEDY and KYL to include in the managers' amendment a provision increasing accountability by requiring the Terrorist Lookout Committees to report to the Secretary of State after each monthly meeting and with reports from the Secretary to Congress on a quarterly basis.

We ought to ensure that the person standing in front of the INS agent at the border is the same person who applied for that visa. It does no good to do every background check in the world overseas, only to have someone else actually show up at our doorstep. The fact is, we have the so-called ''biometric technology'' available to close this gap, and I am pleased that my measure requiring the use of this biometric technology such as fingerprinting for visa applicants both abroad and at the border has been included, although not exclusively limited to fingerprinting. The information collected by the consular officer issuing the visa must then be electronically transmitted to the INS so that the file is available to immigration inspectors at U.S. ports of entry before the alien's arrival.

In addition to these protections, the bill provides funding for an increase in border patrol personnel and for training of those agents and other agency staffs at U.S. ports of entry and in our consular offices to improve the ability of these officers, our first line of defense on our borders, to more easily identify and intercept would-be terrorists.

As the President has said, ''We're going to start asking a lot of questions that heretofore have not been asked.'' By giving the Director of Homeland Security the responsibility of developing a centralized ''lookout'' database for all of this information, along with instituting tighter application and screening procedures and increased oversight for student visas, we will close the loopholes and help bring all our Nation's resources to bear in securing our Nation.

This is a crucial bill in our war on terrorism and I urge my colleagues to support this bill. I yield the floor.

Mr. LEVIN. Madam President, I first want to commend the chairman of the Immigration Subcommittee, Senator KENNEDY, my colleague from Massachusetts, for his leadership on this bill. The Enhanced Border Security and Visa Entry Reform Act gives law enforcement and immigration authorities greater access to the tools they need to improve border security. The legislation enhances our ability to identify terrorists and other individuals who should not be allowed to enter the United States and establishes new programs to ensure that people whom we welcome as visitors live up to their responsibilities under our immigration laws.

I am particularly pleased that the bill contains two amendments that I authored: one extending training opportunities to Border Patrol agents and another requiring the Department of Justice to provide Congress information on aliens who fail to appear at removal hearings.

It is critical that every law enforcement agent who works on the border understands and correctly applies our immigration laws. The Enhanced Border Security and Visa Entry Reform Act authorizes appropriations for such training for various law enforcement and immigration personnel at the border. My first amendment ensures that these training opportunities are extended to Border Patrol agents.

My second amendment requires the Department of Justice to report to the Congress how many aliens arrested while entering the country outside ports of entry fail to show up for their removal hearings. The amendment is the result of a hearing I held last November at the Permanent Subcommittee on Investigations.

At that hearing, members of the subcommittee heard from current and past employees of the U.S. Border Patrol who came forward to express their concerns with INS practices involving the release on recognizance, that is on their promise to return, of people arrested while trying to gain illegal entry into the United States outside ports of entry. While the problems raised by the Border Patrol agents at the hearing would have been serious in normal circumstances, they carried particular weight following the attacks of September 11.

What the agents told my subcommittee is that when people are arrested by the Border Patrol, at places other than ports of entry, most who don't voluntarily return to their country of origin, usually Mexico or Canada, are given a notice to appear at a removal hearing. The Border Patrol initially decides whether the person should be detained, released on bond or released on his or her own recognizance while awaiting the hearing. The removal hearing can take several months to occur.

But detention decisions are not made by the Border Patrol alone. If the Border Patrol decides to detain a person or set a bond to help assure that a person shows up at the hearing, the INS deportation office can revise that decision and order the person released on a lower bond or on his or her own recognizance. It was revealed at the hearing that the Border Patrol and the INS simply release on recognizance a large percentage of people who are arrested for illegal entry. That means people who get caught and are arrested at the border while attempting to enter the country illegally are nonetheless allowed to move at will in this country

with no constraints other than a written instruction to appear at a hearing, the purpose of which is to remove them from the country.

This practice is absurd. And statistics from the Detroit Sector illustrate the extent of the absurdity. In fiscal year 2001, the Detroit Sector of the Border Patrol arrested slightly more than 2100 people. A significant percentage of these people were arrested while actually attempting to enter the country illegally. Of those 2100 or so, slightly less than two-thirds were voluntarily returned to their country of origin and 773 were issued notices to appear at a removal hearing. Pending their removal hearing, 595 or more than 75 percent of those issued notices to appear were released on their own recognizance. Many of these people were released without a criminal background check and some were not even able, or perhaps willing, to provide the Border Patrol with an address. We learned that people released on their own recognizance who don't have an address are simply given a form to mail to the INS when they get an address so the agency can mail them a notice of their hearing date. That is the extent of the follow-through by the INS.

So, how many of these 575 people actually showed up for their hearings? One former INS District Director and Border Patrol Chief has said that in one of his sectors he thought the percentage of persons arrested outside a port of entry and released on their own recognizance who don't show up for their hearing was 90 percent. When I asked the INS what the actual number was, the agency couldn't tell me. The INS doesn't even keep this statistic.

Moreover, we learned at November's hearing that there was no requirement that, before releasing them, the Border Patrol complete a criminal background on people arrested for crossing the border illegally. I found that situation unjustifiable, and apparently so did the INS when they were made aware of it. As a result of my November hearing, the INS issued a memorandum requiring that a criminal background check be conducted on all aliens arrested and released on bond or recognizance. That change is important but additional improvements in both policy and practice are necessary.

The manner in which the Border Patrol and INS process aliens arrested between ports of entry remains unacceptable. That is why my second amendment to the Enhanced Border Security and Visa Entry Reform Act requires the Department of Justice to provide the Congress an annual report containing the number of aliens arrested outside ports of entry who were served a notice to appear for a removal hearing and released on recognizance and who failed to attend their removal hearing. It is my hope that once the INS and the Congress comprehend the extent of the problem, we will change the way we process aliens who are arrested at the border while attempting to enter the country illegally.

We are an open and generous country and we welcome people from around the world who share our commitment to hard work, common decency and egalitarian values. But we are also a Nation of laws. And with the privilege of living in America comes an obligation to follow the law. The hearing I held at the Permanent Subcommittee on Investigations highlighted a situation where our immigration laws were simply not being followed. My amendment ensures that Congress is able to track whether or not this situation improves.

Mr. KYL. Madam President, this is a good day for the security of the United States. The terrorist attacks that so changed our nation occurred over seven months ago. Seven months is too long to wait to pass a measure as important, as potentially life-saving, as this one is.

After months of meetings about these issues, it is time to do what is right—to fix our immigration and via processing systems so that terrorists cannot enter or remain in the United States in violation of our laws.

Congress took an important first step shortly after the terrorist attacks. The USCA PATRIOT Act, signed into law on October 26, 2001, provided us with better tools to fight terrorism. Among other provisions, that bill changed the definition of a terrorist—and, therefore, changed who is inadmissible to the United States. It clarified that the FBI can share information on its terrorist watch-list with other relevant Federal agencies. It provided the Attorney General with additional limited authority to detain would-be terrorists for a limited amount of time.

Our Nation, however, continues to face overwhelming infrastructure and personnel needs at our consular offices aboard, along both our southern and northern borders, in our immigration offices, and throughout other Federal law and intelligence offices throughout the United States.

The Border Security and Visa Entry Reform Act will provide for such resources, for such changes to existing law and infrastructure, the right way. As a result of this bill, resources will be efficiently targeted—funds, for example, will not be sent to the INS without a clear directive that explains to the agency exactly what it is responsible for producing. We have learned that it is only through direct instructions that we will see loopholes closed in our immigration system, our borders secured, intelligence shared appropriately and infrastructure modernized to achieve stated goals. If we do not provide this infrastructure and guidance, I fear that other unthinkable incidents will occur.

Sadly, the real-life terrorist incidents that we suffered gave us too many real-life reasons why this bill is so desperately needed.

In a hearing before the Senate Judiciary Committee's Subcommittee on Terrorism and Technology, Senator FEINSTEIN and I heard some very trenchant testimony from Mary Ryan, Assistant Secretary of State for Consular Affairs, about the gaping holes in the system. Secretary Ryan's statement points to the dire need for better intelligence-gathering and significantly improved intelligence-sharing among all relevant agencies. The Border Security Visa Reform Act will provide for better information-sharing among appropriate agencies.

Surprisingly to some, 18 of the 19 terrorists entered the country using B1/B2 tourist visas. According to State Department statistics, 47 foreign-born individuals, including the 19 terrorists, have been charged, have pled guilty, or have been convicted of involvement in terrorism over the past decade. All 47 had contact with an INS inspector. This, of course, points to the need for more inspectors, as the Border Security bill authorizes, and for better informed inspectors through the sharing of information, which the bill will facilitate as well.

Madam President, the Mohammed Atta case perhaps illustrates what is wrong with the system better than any other. Atta entered the country on a B1/B2 visa that expired at the end of 2000. According to several sources, he was placed on the FBI's watch list 6 weeks before the terrorist attacks but his name was not entered into INS's system. The border-security bill will help by facilitating the real-time sharing of this type of information to relevant Federal law-enforcement and intelligence agencies, including all Federal agents who are responsible for determining the admissibility of aliens to the U.S., and all officers investigating and identifying aliens.

An entry-exit system at our Nation's ports of entry, using biometric identifiers, linked to an interoperable data-sharing system, will go a long way toward ensuring that people like Mohammed Atta are never allowed to enter the country. This system, coupled with the significant increase in interior investigative personnel that this bill makes possible, will better enable authorities to find terrorists if they infiltrate our borders. Information about Atta would have been tapped at a port of entry's entry-exit system. And, three other terrorists among the 19 who overstayed their visas would have been identified at ports of entry as well.

Before his visa expired on December 2, 2000, Atta asked the INS to change his status to that of ''student.'' After that expiration, and even without the information that showed his placement on a watch list, he should not have been allowed to reenter the country. Yet, in January 2001, he arrived back in Miami and, after he was questioned by the INS for an hour, he was admitted back into the United States.

Another terrorist, Hani Hanjour, entered the country in December 2000 on an F1 student visa to study English but he never attended class. The school did

not notify authorities that Hanjour never attended class. He overstayed his visa and melted into obscurity in the United States. The Border Security and Visa Reform Act will address both of the loopholes that allowed Hanjour to stay in the country undetected by requiring strict reforms in our student-visa system and, again, by requiring that our entry-exit system employ biometric passports and other travel documents to protect against fraud and to find visa overstayers such as Hanjour.

Madam President, Senators KENNEDY, BROWNBACK, FEINSTEIN, and I have worked hard to craft this bill. The staff of each of those members, Esther Olavarria, Lavita Strickland, and David Neal, should also be personally commended. After Senators KENNEDY and BROWNBACK, and separately Senator FEINSTEIN and I, developed separate counter-terrorism bills, during a difficult time, while offices were closed on Capitol Hill, we all came together to produce the final product we now anticipate will be sent shortly to the President for signature.

This bipartisan, streamlined product, cosponsored by both the chairman and ranking Republican of the Senate Judiciary Committee, and the ranking Republican of the Senate Appropriations Committee, will significantly enhance our ability to keep terrorists out of the United States and find terrorists who are here.

Under the Border Security and Visa Entry Reform Act of 2001, at the direction of the President, all Federal law-enforcement and intelligence communities, the Departments of Transportation, State, Treasury, and all other relevant agencies will develop and implement a comprehensive, interoperable electronic data system for these governmental agencies to find and keep out terrorists. That system should be up and running by October 26, 2003, 2 years after the signing into law of the USA PATRIOT Act.

Under our bill, terrorists will be deprived of the ability to present fake or altered international documents in order to gain entrance, or stay here. Foreign nationals will be provided with new travel documents, using new technology that will include a person's fingerprint(s) or other form of ''biometric'' identification. These cards will be used by visitors upon entry into and exit from the United States, and will alert authorities immediately if a visa has expired or a red flag is raised by a Federal agency. Under our bill, any foreign passport or other travel document issued after October 26, 2004, will have to contain a biometric component. The deadline for providing a way to compare biometric information presented at the border is also October 26, 2004.

Another provision of the bill will further strengthen the ability of the U.S. Government to prevent terrorists from using our ''Visa Waiver Program'' to enter the country. Under our bill, the 29 participating Visa Waiver nations will, in addition to the USA PATRIOT Act Visa Waiver reforms, be required to report stolen passport numbers to the State Department; otherwise, a nation is prohibited from participating in the program. In addition, our bill clarifies that the Attorney General must enter stolen passport numbers into the interoperable data system within 72 hours of notification of loss or theft. Until that system is established, the Attorney General must enter that information into any existing data system.

Another section of our bill will make a significant difference in our efforts to stop terrorists from ever entering our country. Passenger manifests on all flights scheduled to come to the United States must be forwarded in real time, and then cleared, by the Immigration and Naturalization Service before the flight's arrival. Our bill also removes a current U.S. requirement that all passengers on flights to the United States be cleared by the INS within 45 minutes of arrival. Clearly, in some circumstances, the INS will need more time to clear all prospective entrants to the U.S. These simple steps will give appropriate officials advance notice of foreigners coming into the country, particularly visitors or immigrants who pose a security threat to the United States.

The Border Security and Visa Entry Reform Act will also improve our lax U.S. foreign student visa program, which has allowed numerous foreigners to enter the country without ever attending classes and, for those who do attend class, with little or no oversight of such students by the Federal Government. Our bill will change that, and will require that the State Department within 4 months, with the concurrence of the INS, maintain a computer database with all relevant information about foreign students.

America is a nation that welcomes international visitors—and should remain so. But terrorists have taken advantage of our system and its openness. Now that we face new threats to our homeland, it is time we restore some balance to our consular and immigration policies.

As former chairman and now ranking Republican of the Judiciary Committee's Terrorism Subcommittee, I have long suggested, and strongly supported, many of the antiterrorism and immigration initiatives now being advocated by Republicans and Democrats alike. In my sadness about the overwhelming and tragic events that took thousands of precious lives, I am resolved to push forward on all fronts to fight against terrorism. That means delivering justice to those who are responsible for the lives lost on September 11, and reorganizing the institutions of government so that the law-abiding can continue to live their lives in freedom.

Madam President, as I said, 7 months is too long a period of time for the American people to wait for action on legislation that will make it tougher for terrorists to infiltrate the United States. I, therefore, urge my colleagues to act quickly to pass this bill. It really could mean the difference between a secure nation and one that continues to be vulnerable to infiltration by those who mean us no good. Time is absolutely of the essence.

Mr. DASCHLE. Madam President, last September—5 days before the terrorist attacks on our Nation—President Vicente Fox delivered an historic address to this Congress on the importance of U.S.-Mexican relations.

On both sides of the political aisle, and on both sides of the U.S.-Mexican border, there was wide agreement that reforming our Nation's outdated immigration laws was an essential step in strengthening the relationship between our two countries.

Then came September 11.

One of the important lessons we learned on that horrific day is that border security is not simply a matter of immigration policy. It's a matter of urgent national security.

In the months since September 11, we have seen that the INS and the FBI lack the tools and resources to effectively track foreign nationals in our country. This includes even individuals with known links to terrorist networks. Not only are we unable to expel people who have violated their visas, very often we can't even find them.

Then last month, we were stunned to learn that the INS had just mailed confirmations of visa extensions to two of the terrorist hijackers responsible for the September 11 attacks.

I am proud to be one of the 61 sponsors of the bipartisan Enhanced Border Security and Visa Entry Reform Act, and I urge my colleagues to vote for it.

This act will strengthen America's border security and improve our ability to track visa holders—including foreign students.

It gives law enforcement agencies new tools and technology to share critical information, and to identify and intercept visitors who threaten our national security.

It also increases staffing and training for border security officers.

I want to thank Senator KENNEDY, the Chairman of the Subcommittee on Immigration, and Senator FEINSTEIN for their leadership. Without their hard work and determined persistence, we would not be here today.

I also thank Senator BYRD for his efforts to improve this bill—and for his invaluable leadership on the larger challenge of strengthening America's homeland security in general.

We all know that authorizing legislation is important. But it takes resources to turn policies into workable laws. No one in Washington has fought harder to protect America from future terrorist attacks than ROBERT C. BYRD. I look forward to working with him to ensure that this and other homeland security measures are given the resources they need to work.

We cannot strengthen America's homeland security on the cheap, and

we should not try. We need to do this right.

Just before President Fox's visit last September, Congressman GEPHARDT and I outlined principles for comprehensive immigration reform. Enhanced border security is one of those principles.

Unfortunately, another of our principles—extension of section 245(i) of the immigration code—is not included in this bill.

Section 245(i) would allow immigrants who are in this country, who have applied to become permanent residents and who are contributing to our society, to remain in this country while they wait for their ''green card.''

Many of these immigrants are married to Americans, and have children who were born in this country. Without Section 245(i), many of them face the impossible choice of leaving their families for up to 10 years, taking their families back with them to a country they may have fled to escape poverty or terror, or breaking the law, thus forgoing the chance to ever become a lawful permanent resident.

The Senate voted to extend section 245(i) last year, the same week President Fox spoke to Congress.

We had hoped and expected that the House would quickly do the same. Instead, it delayed for six months. By the time it finally acted, key deadlines contained in the bill had become unworkable.

I remain strongly committed to a meaningful 245(i) extension—one that gives long-time, tax-paying residents a genuine opportunity to remain in this country—with their families—while they wait to become permanent legal residents.

My colleagues and I look forward to working with Senators LOTT, HAGEL and BROWNBACK and others, on a bipartisan basis, to send President Bush a 245(i) extension bill with realistic deadlines.

America needs an immigration system that is pro-family, pro-business and fair. Together, we can create such a system—one that sacrifices neither our security nor our ideals.

The new border security bill on which we are about to vote, and a meaningful extension of 245(i), are essential parts of such a system.

We also look forward to working with our Republican colleagues, and with the administration, to restructure and strengthen the INS, end the backlogs, provide meaningful access to earned legalization, and reunite families. We look forward to creating a new and better temporary worker program that treats workers with the respect they deserve and provides businesses with the employees they need.

Within hours after the twin towers collapsed, we heard some people say that America should close its doors to immigrants. Some people even said we should force out immigrants who are already here, working and contributing to our society.

People who say such things need to understand that our enemy is not immigrants, it is intolerance and hatred. America is strong not in spite of our diversity, but because of our diversity.

By passing this bill today, we are strengthening not only our border security, but our basic American values. It is the right thing to do, and I thank all of our colleagues who helped get us to this point.

Mr. BROWNBACK. Mr. President, as we are getting this matter wrapped up, I wish to recognize four key staff members who really helped shepherd this bill through. This is important safety legislation.

I, first, recognize Senator KENNEDY's lead staff on this, Esther Olavarria, who is a humble, diligent servant of the State and who does a wonderful job on these sorts of issues. She worked closely with my staff member, David Neal, who is relatively new to the process but has diligently worked to shepherd this legislation on through.

Also, for Senator FEINSTEIN and for Senator KYL, two wonderful staff members who helped make the core nucleus in negotiating this through; Elizabeth Maier and LeVita Strickland are excellent people.

I think at the end of the day when we look to strengthen the borders of this country to protect our people, these four great citizens really dedicated a lot of time and a lot of soul to be able to get this through. I want to note their tremendous activity in this regard.

Mr. BYRD. Mr. President, before we proceed to this series of votes, I would like to make a few remarks concerning the bill.

I believe there is a certain amount of time on the bill. Is there?

The PRESIDING OFFICER. There is time under the control of Senators Kennedy and Brownback.

Mr. KENNEDY. Mr. President, I ask unanimous consent to give whatever time we have remaining to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, in my long career of serving in various and sundry legislative branches, I have from time to time been awarded the honor of being the ''legislator of the year'' in connection with something. Let me say that as one who has served now in my 50th year in Congress this year, and having served as majority leader in this body during the years 1977, 1978, 1979, and 1980, and again during the years 1987 and 1988, and also having served as minority leader over a period of 6 years, and having served in the leadership in the Senate for 22 years, including my stint as majority whip and my stint as secretary of the Democratic Conference, I have had occasion to note some very successful and outstanding legislators. I would include among the most outstanding of those legislators Senator KENNEDY.

The late Senator Henry Jackson was another one of the outstanding legislators with whom I served. He was responsible for bringing a great deal of legislation to the floor dealing with energy, with the environment, and on various and sundry other matters. He was an outstanding legislator.

Senator KENNEDY is one who has proved to be an outstanding chairman of the committee. I think Senators will agree with me in observing that when Senator KENNEDY comes to the floor with a bill, especially if it is a bill that has been reported by his committee, a committee which he chairs, or by a committee on which he sits, he is always prepared. He has done his homework, and he makes a very forceful expression. He makes a very forceful expression of support of the managers of the amendment thereon. He is a formidable opponent of one who opposes a bill. Senator KENNEDY brings to the floor a formidable opponent of any Senators who offer amendments in opposition thereto. He is a well-rounded legislator in that his experience, and his knowledge of the subject matter of the legislation which he promotes, is, indeed, remarkable. As far as I am concerned, he is an outstanding legislator in the 50 years in which I have served in Congress.

Senator KENNEDY and I have not always been together on matters. We have been opponents in some instances. We have not necessarily, in the early days, held each other in terms of endearment.

But we have passed through those years and in the subsequent years—especially in the years when I served as majority leader, and the first time I served as majority leader in 1977, during those years, and in subsequent years, Senator KENNEDY has been one of my most supportive friends and fellow Senators. And I have counted his support as invaluable, particularly when I was majority leader. As the majority leader or the majority whip, sometimes one looks around and wonders where the troops are. And there are times when we look back over our shoulders and find that the troops are not necessarily there.

But Senator KENNEDY was always very supportive of me. There were times when he perhaps could not vote with me or could not exactly support a particular amendment of mine, but he was always most courteous and most considerate to me.

As we close the debate on this bill, I want to say once more, as I have said before, that Senator KENNEDY is a Senator who could well have graced the Senate at any moment of the Senate's long history, dating back to March 4, 1789. He would have been a worthy protagonist or antagonist, whatever the case might have been. I have learned to respect him and appreciate him as the years have come and gone. I have learned to appreciate him and respect him more and more.

So, Mr. President, I take this occasion to thank Senator KENNEDY for his

courtesies during this debate. He invited me to testify before his Immigration Subcommittee last week. He visited my office several times over the last 4 months to listen to my concerns. He has always been very gracious to me, and I thank him for that.

I thank the other proponents of this legislation—Senator BROWNBACK, Senator KYL, and Senator FEINSTEIN. They have all been very fine authors of amendments. In particular, I think with respect to this bill, they have done an excellent job. They have been very kind to me, and they have been considerate. I want to take this occasion to thank them for their work on the bill. No one could be more patriotic than these Senators. No one could pay more attention to their duties in the Senate, their duties to their constituents whom they represent.

This is a bill that may still have some flaws in it. No piece of legislation, I would say, ever passes the Senate that is perfect, but they certainly have done their best in trying to improve it as we have gone along. I thank them all for the courtesies they have extended to me and the support they have expressed for these amendments I have offered.

So let me say, again, that with one of these Senators I have served since November 1962. And Senator KENNEDY well understands my interest in the institution of the Senate. To me, that is why I am here today, because of my interest in this institution and the Constitution. That is why I am here. I did not have to run last time to put bread and butter on my table. I could have retired and probably earned a bigger check in retirement. Since I have been paying into the retirement fund now for 50 years, this year, I could probably have earned a bigger check in retirement than I will have earned as a Senator.

But I am here to defend this institution. That is the only reason I am here. That is the only reason. I could have been better off if I had retired. Perhaps somebody would have had pity on me and asked me to serve on some board, and I could have raked in a little additional money. But that is neither here nor there.

I chose to serve here. This has been my career. I have loved this Senate from the first day I walked into it. And so I am proud to serve in it. The only reason I am here is that I believe in the Senate. I am not here because of any particular legislation. As a matter of fact, I am here because I love the Senate and want to do what I can to preserve the Senate prerogatives.

I believe there are three separate and distinct coordinate branches of Government. I believe that the legislative branch is the branch of the people. I think it is the people's branch. I believe that the Senate is the premier institution, the premier legislative institution—the U.S. Senate—in the world today. And there have been many senates. Perhaps the next greatest of all was the senate of the Roman people.

I am proud the people of West Virginia have seen fit to send me here, and send me back from time to time, and overlooked the warts and all in my makeup, politically and otherwise. But I reverence the Senate, honor it, and respect all Members of the body. It doesn't make a difference whether they are Republicans or Democrats or Independents; I respect them. We may not agree, but they are Senators. They are my equal any day. They are entitled to their viewpoint as much as I am entitled to mine.

So having said that, let me say, far too often Members of this body are willing to give up their right to debate and to amend legislation. I am pleased that at least some public debate has been generated on this bill and that the right of Senators to offer amendments was respected. I think the end product is a better piece of legislation than it was heretofore.

With regard to the amendment I offered on the importation of goods, especially Chinese goods, that are made using forced labor, I, of course, have determined not to press to include that amendment in this bill. But I continue to believe that the Congress needs to pass legislation to prevent goods made in foreign prisons and detention camps from crossing our borders. We also have a responsibility to protect our businesses from this unfair and reprehensible trade practice. I expect to raise the issue again at some point on some bill because much more needs to be done to discourage this blatant violation of our trade laws.

Senators should also be aware that we still do not have a cost estimate of this bill from the Congressional Budget Office. The INS estimates that the bill will cost $1 billion in the first year and $3.2 billion over 3 years, but those estimates likely underestimate the true costs. It is very well to authorize these funds—and I intend to vote for the bill—but this bill will require the appropriation of funds and the support of its proponents, and the support of the administration, for those appropriations if its provisions are to be implemented.

Again, I thank Senators KENNEDY, BROWNBACK, FEINSTEIN, and KYL for their interest in improving our Nation's border defenses. I thank them and I love them. I salute them for the work they have done in this respect. I hope we can maintain the bipartisan support we have seen on this bill when it comes time to appropriate the funds necessary to implement these provisions.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from West Virginia. He is my friend. I know I really can speak for all Members in saying he is the defender of all of the constitutional prerogatives of this great institution. We have heard him speak this evening. We have listened to that clear and compelling voice tonight, as we have heard it in defending the institution at other times.

I am wondering if I could ask a special favor of the Senator. He has been extremely kind. But what we have not heard tonight is the poem about the ambulance in the valley. I know it is late in the evening, but could the Senator—if we were to yield the Senator a few more minutes—recite that poem? Or would he prefer to wait for another time? If he would prefer not to, I would certainly understand.

Mr. BYRD. Mr. President, the distinguished Senator honors me by calling on me to repeat the lines of the poem by Joseph Malins titled ''A Fence or an Ambulance.'' I am not sure I am really up to it at this point in the day. I am not sure I can do it on this short notice, but I will certainly try. It will not be the first time I have failed on a poem. Occasionally I do fail.

Let me think for a minute. Perhaps I could do that.

''Twas a dangerous cliff, as they freely confessed,
Though to walk near its crest was so pleasant;
But over its terrible edge there had slipped
A duke and fall many a peasant.
So the people said something would have to be done,
But their projects did not at all tally;
Some said, ''Put a fence around the edge of the cliff,''
Some, ''An ambulance down in the valley.''
But the cry for the ambulance carried the day,
For it spread through the neighboring city;
A fence may be useful or not, it is true,
But each heart became brimful of pity
For those who slipped over that dangerous cliff;
And the dwellers in highway and alley
Gave pounds or gave pence, not to put up a fence,
But an ambulance down in the valley.
''For the cliff is all right, if you're careful,'' they said,
''And, if folks even slip and are dropping,
It isn't the slipping that hurts them so much,
As the shock down below when they're stopping.''
So day after day, as these mishaps occurred,
Quick forth would these rescuers sally
To pick up the victims who fell off the cliff,
With their ambulance down in the valley.
Then an old sage remarked: ''It's a marvel to me
That people give far more attention
To repairing results than to stopping the cause,
When they'd much better aim at prevention.
Let us stop at its source all this mischief,'' cried he,
''Come, neighbors and friends, let us rally;
If the cliff we will fence we might almost dispense
With the ambulance down in the valley.''
''Oh, he's a fanatic,'' the others rejoined,
''Dispense with the ambulance? Never!
He'd dispense with all charities, too, if he could;
No! No! We'll support them forever.
Aren't we picking up folks just as fast as they fall?
And shall this man dictate to us? Shall he?
Why should people of sense stop to put up a fence,

While the ambulance works down in the valley?''
But a sensible few, who are practical too,
Will not bear with such nonsense much longer;
They believe that prevention is better than cure,
And their party will soon be the stronger.
Encourage them then, with your purse, voice, and pen,
And while other philanthropists dally,
They will scorn all pretense and put up a stout fence
On the cliff that hangs over the valley.
Better guide well the young than reclaim them when old,
For the voice of true wisdom is calling,
''To rescue the fallen is good, but 'tis best
To prevent other people from falling.''
Better close up the source of temptation and crime
Than deliver from dungeon or galley;
Better put a strong fence round the top of the cliff
Than an ambulance down in the valley.''

Mr. KENNEDY. Hear. Hear. I thank the Senator.

Madam President, it is my understanding now that we will proceed to three votes.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator is correct.

Mr. KENNEDY. The order of the votes will be the two amendments of the Senator from West Virginia in the order in which they were offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent that there be no intervening business in between the votes.

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

Mr. KENNEDY. I further ask unanimous consent that after the first vote, the remaining two votes be 10 minutes in duration.

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

Mr. KENNEDY. So that would include final passage; am I correct?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Nevada.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Madam President, I ask unanimous consent that following final passage of H.R. 3525, the Senate then proceed to executive session to consider the following nomination: Calendar No. 761, Legrome D. Davis to be United States District Judge; that Senator SPECTER be recognized for up to 5 minutes, and the Senate then vote on the nomination; the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements thereon be printed at the appropriate place in the RECORD, and the Senate return to legislative session, without any intervening action or debate.

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

Mr. REID. Madam President, I ask unanimous consent to ask for the yeas and nays on that nomination.

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

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I ask unanimous consent to address the body for 1 minute.

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

Mr. BROWNBACK. Madam President, I note a word of thanks to Senator BYRD. He has dealt with many of us for some period of time on this particular issue in some contentious situations. He has dealt with us privately, publicly, and in other forums. At the end of the day, we do come out with a better piece of legislation. For that I thank the Senator. At the time, going through it, I was not quite as thankful for that.

He has done a service to the country. And at the end of the day, we will have a better piece of legislation. I thank my colleagues, Senators KENNEDY, KYL, and FEINSTEIN. Together we crafted a good piece of legislation. I am thankful to be a part of it. I think it will be a very positive move for our country.

I yield the floor.

VOTE ON AMENDMENT NO. 3161

The PRESIDING OFFICER. Under a previous order, the question is on agreeing to amendment No. 3161. The yeas and nays have been ordered. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 73 Leg.]

YEAS—97

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

NOT VOTING—3

Inouye	Nelson (NE)	Nickles

The amendment (No. 3161) was agreed to.

VOTE ON AMENDMENT NO. 3162

Ms. CANTWELL. The question is on agreeing to amendment No. 3162.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 74 Leg.]

YEAS—97

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

NOT VOTING—3

Inouye	Nelson (NE)	Nickles

The amendment (No. 3162) was agreed to.

Mr. REID. Madam President, on the previous vote, amendment No. 3161, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. On this vote, 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 question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator frm Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES) is necessarily absent.

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

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—97

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

NOT VOTING—3

Inouye	Nelson (NE)	Nickles

The bill (H.R. 3525), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

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

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

The motion to lay on the table was agreed to.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

NOMINATION OF LEGROME D. DAVIS, OF PENNSYLVANIA TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session.

The nomination will be stated.

The legislative clerk read the nomination of Legrome D. Davis, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Mr. LEAHY. Madam President, the confirmation of Judge Legrome Davis to the District Court for the Eastern District of Pennsylvania will be the 17th judge confirmed since the beginning of this session. Under Democratic leadership, in less than 4 months the Senate has confirmed as many judges as were confirmed in all 12 months of the 1996 session under Republican leadership. In fact, included among the 17 judges whom we will have confirmed since January this year are 2 judges to our Courts of Appeals. That stands in sharp contrast to the 1996 session in which the Republican majority did not allow even a single Court of Appeals nominee to be confirmed—not one. I submit that we have already done better in less than 4 months than our predecessors and critics did during the entire 12 months of the 1996 session.

The confirmation of Judge Davis today illustrates the progress being made under Democratic leadership and the fair and expeditious way in which we have considered nominees. Judge Legrome Davis was first nominated to the position of U.S. District Court Judge for the Eastern District of Pennsylvania by President Clinton on July 30, 1998. The Republican-controlled Senate took no action on his nomination and it was returned to the President at the end of 1998. On January 26, 1999, President Clinton renominated Judge Davis for the same vacancy. The Senate again failed to hold a hearing for Judge Davis and his nomination was returned to the President on December 15, 2000, after 2 more years of inaction in a second full Congress while the Senate was controlled by a Republican majority. Under Republican leadership, Judge Davis' nomination languished before the Committee for 868 days without a hearing. Unfortunately, Judge Davis was subjected to the kind of inappropriate partisan rancor that befell so many other nominees to the district courts in Pennsylvania and to the Third Circuit during the years Republicans controlled the Senate. I want to note emphatically, however, that I know personally that the senior Senator from Pennsylvania, Mr. SPECTER, supported Judge Davis's nomination and worked hard to get him a hearing and a vote. The lack of Senate action on Judge Davis's initial nominations are in no way attributable to a lack of support from the senior Senator from Pennsylvania. Far from it. In fact, I give Senator SPECTER credit for getting President Bush to renominate Judge Davis earlier this year and want to commend him publicly for all he has done to support this nomination from the outset.

This year we have moved expeditiously to consider Judge Davis. Judge Davis was nominated by President Bush in late January 2002, the Committee received his ABA peer review on March 12, he participated in a confirmation hearing the next week on March 19, and he received a unanimous vote by the Judiciary Committee on April 11—less than 3 months after his nomination, and less than 1 month after his paperwork was completed. The saga of Judge Davis recalls for us so many nominees from the period of January 1995 through July 10, 2001, who never received a hearing or a vote and who were the subject of secret anonymous holds by Republicans for reasons that were never explained.

At Judge Davis' recent confirmation hearing Senator SANTORUM testified that Judge Davis did not get a hearing after President Clinton nominated him because local Democrats objected. I was the ranking Democrat on the Judiciary Committee during those years and never heard that before. My understanding at the time, from July 1998 until the end of 2000, was that Judge Legrome Davis would have had the support of every Democrat on the Judiciary Committee and in the Senate. He was not included in the May 2000 hearing for a few other Pennsylvania nominees. His not being included was a part of the discussion on the record, a discussion about unwillingness of some to act on nominees in a presidential election year although Senator SPECTER emphasized his personal commitment to supporting Judge Davis. Senator HATCH never indicated to me that he thought Democratic opposition was the reason he could not include Judge Legrome Davis in a hearing over those 3 years.

Judge Davis has served as a Judge on the Court of Common Pleas in the First Judicial District in Pennsylvania for more than 13 years. Prior to serving as a judge, he had an extensive career litigating criminal cases in State courts. He has participated in numerous task forces and a variety of pro bono projects aimed to improve the judicial system. He is well-qualified and has broad bipartisan support. I know that Judge Davis and his family are glad that this day has finally arrived. I expect that the people served by the Eastern District of Pennsylvania will be happy with the Senate's action today.

Judge Davis will be the 45th judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Senate majority changed. With today's vote on Judge Davis, the Senate will confirm its 45th judicial nominee in the less

than 10 months since I became Chairman this past summer. The Senate has confirmed more judges in the last 10 months than were confirmed in 4 out of 6 full years under Republican leadership. The number of judicial confirmations over these past 10 months 45 exceeds the number confirmed during all 12 months of 2000, 1999, 1997 and 1996.

As our action today demonstrates, again, we are moving at a fast pace to fill judicial vacancies with nominees who have strong bipartisan support. Those partisan critics who assert that our rate of confirming President Bush's judicial nominees is bad are ignoring the facts. They willfully confuse the actual ''pace,'' or rate, of confirmation with the misleading percentages they like to construct. The facts are that looking at the number of confirmations in similar time periods shows that we are confirming President Bush's nominees at a faster pace than the nominees of prior presidents, including those who worked closely with a Senate majority of the same political party.

The rate of confirmation in the past 10 months actually exceeds the rates of confirmation in the past three presidencies. For example, in the first 15 months of the Clinton administration, 46 judicial nominees were confirmed, a pace on average of 3.1 per month. In the first 15 months of the first Bush administration, 27 judges were confirmed at a pace of 1.8 judges per month. Likewise, in President Reagan's first 15 months in office, 54 judges were confirmed, a pace of 3.6 per month. In less than 10 months since the shift to a Democratic majority in the Senate in less than two thirds of the time period—President George W. Bush's judicial nominees have been confirmed at a rate of more than 4.5 judges per month, a faster pace than for any of the past 3 Presidents.

During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year a pace of consideration and confirmation that we have already exceeded under Democratic leadership over these past 10 months in spite of all of the challenges facing Congress and the Nation during this period and all of the obstacles Republicans have placed in our path. At the end of today, we have confirmed 45 judicial nominees in just 10 months. This is almost twice as many confirmations as George W. Bush's father had over a longer period—27 nominees in 15—months than the period we have been in the majority in the Senate.

The Republican critics typically compare apples to oranges to mischaracterize the achievements of the last 10 months. They complain that we have not done 24 months of work in the less than 10 months we have been in the majority. That is an unfair complaint. A fair examination of the rate of confirmation shows that Democrats are working harder and faster on judicial nominees, confirming judges at a faster pace than the rates of the past 20 years. The double standards asserted by Republican critics are just plain wrong and unfair, but that does not seem to matter to Republicans intent on criticizing and belittling every achievement of the Senate under a Democratic majority. I would like to commend the members of the Judiciary Committee and our Majority Leader and Assistant Majority Leader for all of their hard work in getting us to this point. The confirmation of the 45th judge in less than 10 months, especially these last 10 months, in spite of the unfair and personal criticism to which they have each been subjected, is an extraordinary achievement and a real example of Senators acting in a bipartisan way even when the other side makes it as difficult as possible.

Republicans have been imposing a double standard on circuit court vacancies as well. The Republican attack is based on the unfounded notion that the Senate has not kept up with attrition on the Courts of Appeals. Well, the Democratic majority in the Senate has more than kept up with attrition, and we have been acting to close the vacancies gap on the Courts of Appeals that more than doubled under the Republican majority.

Just this week, the Senate confirmed Judge Terrence O'Brien to the United States Court of Appeals for the Tenth Circuit by a vote of 98 to zero. His confirmation was the eighth circuit court nominee to be confirmed in the almost 10 months since I became Chairman this past summer. Just today, the Senate Judiciary Committee voted on the 11th Court of Appeals nominee to come before the Committee in less than 10 months. Thus, another Court of Appeals nominee is already on the Senate Executive Calendar and being scheduled for floor action.

In a little less than 10 months since the change in majority, the Senate has confirmed 8 judges to the Courts of Appeals and held hearings on 3 others. In contrast, the Republican-controlled majority averaged only 7 confirmations to the Courts of Appeals per year. Seven. In the less than 10 months the Democrats have been in the majority, we have already exceeded the annual number of Court of Appeals judges confirmed by our predecessors. The Senate in the last 10 months has confirmed as many Court of Appeals judges as were confirmed in all of 2000 and more than were confirmed in 1997 or 1999, and 8 more than the zero from 1996. Another way to put it is that within the last 10 months, the Democratic majority in the Senate has confirmed as many Court of Appeals judges as were confirmed in the 2000 and 1996 sessions combined and confirmed more Court of Appeals judges than were confirmed in the 1999 and 1996 sessions combined or in the 1997 and 1996 sessions combined.

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

When I became chairman of a Committee to which Members were finally assigned on July 10, we began with 33 Courts of Appeals vacancies. That is what I inherited. Since the shift in majority last summer, 5 additional vacancies have arisen on the Courts of Appeals around the country. With this week's confirmation of Judge O'Brien, we have reduced the number of circuit court vacancies to 30. That is, we have kept up with attrition by confirming 5 Court of Appeals judges and then acted to lower the number of vacancies by already confirming 3 additional judges. Those are the facts.

Since our Republican critics are so fond of using percentages, I will say that we will have now reduced the vacancies on the Courts of Appeals by almost 10 percent in the last 10 months. In other words, by confirming 3 more nominees than the 5 required to keep up with the pace of attrition, we have not just matched the rate of attrition, but surpassed it by 60 percent. I add this facetiously to show how ridiculous their use of percentages is in this setting.

Rather than the 38 vacancies that would exist if we were making no progress, as some have asserted, there are now 30 vacancies—that is more than keeping up with the attrition on the Circuit Courts. Republican critics unfairly seek to attribute to the Democratic majority the lack of action by the Republican majority before the historic change last summer.

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

It is not possible to repair the damage caused by longstanding vacancies in several circuits overnight, but we are improving the conditions in the 5th, 10th and 8th Circuits, in particular. The confirmation of Judge O'Brien this week made the second judge confirmed to the 10th Circuit in the last 4 months. Next week we will proceed with a nominee to the 6th Circuit.

Overall, in little less than 10 months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. In contrast, one-sixth of President Clinton's judicial nominees—more than 50—never got a Committee hearing and Committee vote from the Republican majority, which perpetuated

longstanding vacancies into this year. Vacancies continue to exist on the Courts of Appeals in large part because a Republican majority was not willing to hold hearings or vote on more than half—56 percent—of President Clinton's Court of Appeals nominees in 1999 and 2000, and was not willing to confirm a single judge to the Courts of Appeals during the entire 1996 session.

Despite the new-found concern from across the aisle about the number of vacancies on the circuit courts, no nominations hearings were held while the Republicans controlled the Senate in the 107th Congress last year. No judges were confirmed during that time from among the many qualified circuit court nominees received by the Senate on January 3, 2001, or from among the nominations received by the Senate on May 9, 2001.

The Democratic leadership acted promptly to address the number of circuit and district vacancies that had been allowed to grow when the Senate was in Republican control. The Judiciary Committee noticed the first hearing on judicial nominations within 10 minutes of the reorganization of the Senate, and held that hearing on the day after the Committee was assigned new members.

That initial hearing included a Court of Appeals nominee on whom the Republican majority had refused to hold a hearing the year before. We held unprecedented hearings for judicial nominees during the August recess. Those hearings included a Court of Appeals nominee who had been a Republican staff member of the Senate. We proceeded with a hearing the day after the first anthrax letter arrived at the Senate. That hearing included a Court of Appeals nominee. In a little less than 10 tumultuous months, the Senate Judiciary Committee has held 16 hearings involving 55 judicial nominations—including 11 circuit court nominees—and we are planning to hold another hearing next week for half a dozen more nominees, including another Court of Appeals nominee. That is more hearings on judges than the Republican majority held in any year of its control of the Senate. The Republican majority never held 16 judicial confirmation hearings in 12 months and we have to do so in less than 10 months.

The Senate Judiciary Committee is holding regular hearings on judicial nominees and giving nominees a vote in Committee, in contrast to the practice of anonymous holds and other obstructionist tactics employed by some during the period of Republican control. The Democratic majority has reformed the process and practices used in the past to deny Committee consideration of judicial nominees. We have moved away from the anonymous holds that so dominated the process from 1996 through 2000. We have made home State Senators' blue slips public for the first time.

I do not mean by my comments to appear critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that, were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

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

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

The Committee continues to try to accommodate Senators from both sides of the aisle. The Court of Appeals nominees included at hearings so far this year have been at the request of Senator GRASSLEY, Senator LOTT, Senator SPECTER, Senator ENZI and Senator SMITH from New Hampshire—five Republican Senators who each sought a prompt hearing on a Court of Appeals nominee who was not among those initially sent to the Senate in May 2001. Next week's hearing will continue that effort and include a Court of Appeals nominee from Tennessee at the request of Senator THOMPSON.

Each of the 45 nominees confirmed by the Senate has received the unanimous, bipartisan backing of the Committee. Only Judge Roger Gregory has had a single vote cast against his confirmation in all of the Senate votes on all of these nominees. The confirmation of Judge Davis is the 45th judicial nominee to be confirmed since I became Chairman last July. Like Judge Roger Gregory, this is the confirmation of a qualified nominee who could not get a hearing when the Republican majority controlled the Senate. I had hoped that at the end of the day, justice would be done. I am glad that this is that day, and that at the end of today Judge Davis will also have been considered and confirmed. These consensus nominees could and should have been acted upon before this year. I thank Judge Davis for his commitment and patience, and congratulate him and his family on this important day.

Mr. HATCH. Madam President, I rise in support of the confirmation of Judge Legrome Davis to the U.S. District Court for the Eastern District of Pennsylvania.

Judge Davis' nomination is yet another example of President Bush's bipartisan approach to judicial nominations. This is the second time, Judge Roger Gregory being the first, that this administration has renominated a candidate who was originally nominated by the previous adminstraiton. It is a rarity for a new adminstration to renominate a previous administration's judicial nominees, especially when the two administrations are of different parties. Clearly, the President is leading by example when he calls upon the Senate to rise above petty partisanship and provide fair hearings and prompt votes to every judicial nominee regardless of what party controls the White House or the Senate.

I have had the pleasure of reviewing Judge Davis' distinguished legal career, and I have come to the conclusion that he is a fine Pennsylvania State judge who will only add to the distinguished Federal bench in the Eastern District of Pennsylvania.

Judge Davis graduated from Princeton University and Rutgers-Camden School of Law. After graduation, he joined the Office of the District Attorney of Philadelphia as an Assistant District Attorney in the Law and Trial Divisions. Eventually, he rose to become Assistant Chief of Narcotics and then Chief of the Rape Unit.

One of the many examples of his fine character revolves around a defendant's rape conviction before Judge Davis led the D.A.'s Rape Unit. Upon examination of new evidence, it became clear that the alleged victim, in the case, suffered from paranoid schizophrenia and had hallucinated the criminal episode. The investigation that freed the defendant was conducted by Davis.

His record of rulings before the appellate courts is equally as impressive. Judge Davis has filed approximately 150 cases, of which only 3 were overturned on appeal—and the Pennsylvania Supreme Court reinstated his decision in one of those cases.

Judge Davis has been a champion in reforming the Philadelphia court system. He helped author and was an early proponent of Philadelphia's differentiated case management system. This system, which groups defendants with similar case dispositions into one of four ''tracks,'' has resulted in a 47 percent reduction in the Felony-Waiver Unit's pending inventory.

I am very pleased that we will confirm Judge Davis today.

Mr. SPECTER. Madam President, in January 2002, Judge Legrome Davis was nominated by President Bush to serve on the United States District Court, Eastern District of Pennsylvania.

The American Bar Association rated Judge Davis as well-qualified for a judgeship on the United States District Court for the Eastern District of Pennsylvania.

Judge Davis presently serves on the Court of the Common Pleas of Philadelphia County, a position he has held since 1987.

From 1992 until January 2001, Judge Davis served as the Supervising Judge of the Criminal Division, with principal responsibility for all issues of policy, planning and administration involving criminal case processing.

During his tenure as Supervising Judge, numerous city, state and federal funding authorities awarded the First Judicial District more than nineteen million dollars to support supervisory endeavors for defendants developed by Judge Davis and administered under his direction.

He is the Coordinator of the Female Offenders' Criminal Justice Treatment Network, a collaborative project linking the criminal justice and treatment communities in addressing the complex and special challenges of women in the criminal justice system.

Judge Davis was integral in conceptualizing and implementing the court reforms which were integral to the suspension of the federal prison cap in 1995.

Previously he worked for Ballard, Spahr, Ingersoll & Andrews, and the Office of the General Counsel of the University of Pennsylvania. He was also an Assistant District Attorney for nine years, serving in the Homicide, Narcotics, and Career Criminal Units, and was the Chief of the Rape Prosecution Unit when he left office to seek a state court judgeship.

He has been honored by the Pennsylvania Trial Judges Association ''Golden Crowbar Award, the Philadelphia Common Pleas Court Board of Judges Exceptional Service Award, the Philadelphia Bar Association; Thurgood Marshall Award, the Philadelphia Coalition for Victim Advocacy; Victim Advocacy Award and the Fraternal Order of Police Honorary Lifetime Membership—Lodge 92.

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

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

Mr. DASCHLE. Madam President, if I could announce to colleagues, this is the last vote tonight. There will not be any votes tomorrow. The Senate will not be in session tomorrow, and there will be no rollcall votes on Monday. The next rollcall vote will occur sometime Tuesday morning.

I thank my colleagues. Have a good evening and a good weekend.

I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Legrome D. Davis, to be United States District Judge for the Eastern District of Pennsylvania? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. INOUYE), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

Mr. LOTT. I announce that the Senator from Oklahoma (Mr. NICKLES), the Senator from Missouri (Mr. BOND), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 76 Ex.]

YEAS—94

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

NOT VOTING—6

Bond	Inouye	Nickles
Boxer	Nelson (NE)	Roberts

The nomination was confirmed.

LEGISLATIVE SESSION

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

The majority leader.

WISHING MARY JANE OGILVIE A FULL RECOVERY

Mr. DASCHLE. Madam President, I wanted to come to the floor before the end of the day to alert our colleagues on a matter about which I know they would all be concerned. Mary Jane Ogilvie, wife of our Chaplain, a very treasured member of our Senate family, is battling bacterial pneumonia this week. She is in an area hospital and in serious but stable condition.

Dr. Ogilvie and his children are, of course, with her as they have been throughout this ordeal. Dr. Ogilvie has been our Chaplain now for 7 years, since 1995, and over the years he has been the source of real strength for many of us in times of sorrow, in times of difficulty. Especially these last difficult months, we have relied on his wise and compassionate counsel over and over again. Now it is our turn to be the source of strength for him, for Mrs. Ogilvie, and for their family.

The Chaplain's Office asked that we not send flowers because they are not permitted in intensive care, but if you believe in prayer, they say, please pray for Mrs. Ogilvie. We will certainly do so.

We want to extend—I know on behalf of all Senators, Republican and Democratic—our sincere best wishes for a complete and full recovery. We wish her strength, and we want her to know that our thoughts and prayers are with her tonight and will continue to be with her until she returns to good health.

I just talked to Dr. Ogilvie this afternoon. He has informed me that the prognosis is improving. We hope that that will be the case throughout the weekend. We wanted to make note of this at this time.

I know my colleague, the distinguished Republican leader, has also had a conversation with Dr. Ogilvie, and to accommodate his words at this time, I yield the floor.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. I thank Senator DASCHLE for making our colleagues and those who follow the situation in the Senate aware of the struggle our Chaplain is going through now. He has been a chaplain and a minister for all of us.

As Senator DASCHLE said, each one of us has had moments of difficulty over the past 7 years. He is always there. Just recently, when my wife lost her father, she didn't get to talk to Dr. Ogilvie, but he left a message on the recorder. It was like a message from heaven, just magnificent; so meaningful, my wife saved it and listened to it more than once.

So at this time when our Chaplain is facing difficulty, certainly we need him to know of our thoughts and our prayers. When I spoke to him, I told him that I believe in miracles and that his wife can pull through this and rejoin the Senate family.

Mary Jane is very much a part of the family. She attends events; she goes with our Chaplain so many places. She is his helpmate. As I spoke with him a few minutes ago, I could just feel it in his voice; he is just really so worried.

I join Senator DASCHLE and all of the Senate in extending to them our love and our thoughts and prayers. We look forward to continuing to follow her improvements. We have the Senate physician, Dr. Frist, on the job. He is keeping us posted of how she is doing. We will be thinking about them over the next weekend and look forward to them being back in full form and with

us on all these many occasions at which we enjoy their presence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. BAUCUS. What is the business of the Senate?

The PRESIDING OFFICER. S. 517 is the pending business.

Mr. BAUCUS. Madam President, I ask unanimous consent that there be a time limitation of 1 hour equally divided between myself and Senator GRASSLEY for debate on the Finance Committee energy tax amendment; that no amendments be in order to my amendment except a second-degree amendment by Senator GRASSLEY; that at the conclusion or yielding back of the time, the Senate vote in relation to Senator GRASSLEY's second-degree amendment and to my Finance Committee amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, I supported this tax section that Senator BAUCUS is trying to add to the energy bill at this time when we had it in the Finance Committee. Obviously, there are some things in there that I would prefer not be in there. But we had an overwhelming vote out of the Finance Committee in support of this package.

An energy policy that does not include a tax section is not a complete policy. We have to have some incentives for these hybrid cell vehicles and to try to get marginal wells back in production, to encourage biomass, to do everything we can, along with the policy that is included in this bill, to also encourage more energy production and more energy conservation through the Tax Code.

I support this. I will be glad to work with Senator BAUCUS to see that we get it included in the Senate package or certainly in the conference when a conference is completed. We have to do that.

But at this time, we do have an objection from our side of the aisle. And on behalf of a Senator who has a tax provision in which he is very interested, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. BAUCUS. Madam President, I hear the distinguished Senator from Mississippi. I very much understand the reasons for his objection. I deeply appreciate his statement in support of the Finance Committee title that we hope to offer to this bill.

The provisions in the Finance Committee title total roughly $15 to $16 billion over 10 years. The Senate hopefully will pass the Senate-passed version of tax incentives. It will be incentives for production, conventional production, renewables, unconventional production, for conservation. The House passed a tax title to their energy bill which totals about $30 billion.

I fully agree with the distinguished Senator that the Finance Committee provisions, which will help wean us away from OPEC by providing incentives on matters that I suggested, are vitally important. And I hope—in fact, I expect—that the Senate, before it passes an energy bill, will also include these provisions because they are such an integral and vital part of the bill.

I thank all concerned, particularly my good friend from Mississippi.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Nevada is recognized.

CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. 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, hereby move to bring to a close the debate on the Daschle/Bingaman substitute amendment No. 2917 for Calendar No. 65, S. 517, a bill to authorize funding for the Department of Energy and for other purposes:

Jeff Bingaman, Jean Carnahan, Edward Kennedy, Pattie Murray, Mary Landrieu, Byron L. Dorgan, Robert Torricelli, Bill Nelson, John Breaux, Tom Carper, Tim Johnson, Hillary R. Clinton, Jon Corzine, John Rockefeller, Daniel Inouye, Max Baucus, Harry Reid, and Maria Cantwell.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period for morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

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

DEPARTMENT OF LABOR'S ERGONOMICS ANNOUNCEMENT

Mr. DASCHLE. Madam President, since President Bush signed into law a provision to overturn the ergonomics rule, over 1.8 million workers have suffered ergonomic injuries. At that time Secretary Chao promised ''to pursue a comprehensive approach to ergonomics.'' However, now more than a year later, the Department of Labor has unveiled a plan that ultimately falls short of the substantive protections needed to protect America's workers.

In response, Senator JOHN BREAUX and others have introduced a bill that would require that the Department of Labor promulgate a new rule on ergonomics within 2 years.

I am deeply concerned that the administration continues to build on its record of putting special interests above working Americans. I believe that Senator BREAUX's bill is an important measure that clarifies that workers deserve real protections, not more studies and voluntary guidelines.

Unfortunately, the administration's late announcement fails to provide workers adequate protections. The administration's plan states an ''intent'' to develop voluntary guidelines for selected industries. Senator BREAUX's bill will ensure that the administration provides real protections and not hollow promises.

STATUS OF JUDICIAL CONFIRMATIONS

Mr. HATCH. Madam President, I would like to respond to some comments made yesterday on the topic of judicial confirmations. I had no intention of bringing up this topic today, but now I find myself with no choice but to again set the record straight with respect to the comments my colleague made earlier yesterday.

First, I would like to put my remarks in context. I began this Session of the 107th Congress by praising the way that Chairman LEAHY and the Senate's Democratic leader had begun to handle judicial nominations. One of the reasons I did so was that I had detected the possibility that the Judiciary Committee may be headed in a new direction as we began a new Session. I sensed a chance that, after more than eight months of Democratic control, the leaders might stop steering their course by staring at the rear-view mirror, and would begin to look forward through the windshield at the work ahead. I thought that they might begin to sense the American people's frustration at the Senate's stonewalling of President Bush's priorities—especially his selections for the judiciary. Obviously, now that we are in the eleventh month of Democratic control, my optimism has become tarnished not only by the continuing extremely slow pace of confirmations and the blatant mistreatment of Judge Pickering, but also by the kind of comments we heard this morning that actually attempt to persuade the American people that the Senate's record is acceptable.

I want to correct a couple distortions of the record and explain what is really going on in the Judiciary Committee.

My colleague began his comments with the assertion that the Democrats have only been in charge of the Judiciary Committee since the end of July rather than the beginning of June—

which somehow adds up to 9 months. This particular exercise in make believe is apparently very important for some of my colleagues to repeat over and over. But the fact is—as everyone in the Senate knows—that Democrats took charge of the Senate on June 5, not at the end of July. Considering that it is now the middle of April, we are now in the eleventh month of Democratic control.

Why is this important? Playing make-believe that the month of June didn't exist last year helps some of my colleagues explain away the fact that they failed to hold any confirmation hearings during that entire month. There is no basis for the underlying assertion that the lack of an organizational resolution prevented the Judiciary Committee from doing so. It certainly didn't stop 9 other Senate Committees from holding 16 confirmation hearings for 44 nominees during that same month. And it did not prevent the Judiciary Committee from holding five hearings in three weeks on a variety of issues other than pending nominations.

Of course, the month-of-June distortion is simply part of the larger charade of pretending that the current judicial vacancy crisis has less to do with the last 11 months of foot dragging than with the Committee's work between the years 1994 and 2000. The fact is that, at the close of the 106th Congress, there were only 67 vacancies in the federal judiciary. In the space of one Democratic-controlled congressional session last year, that number shot up to nearly 100, where it remains today. The broader picture shows that the Senate confirmed essentially the same number of judges for President Clinton (377) as it did for President Reagan (382), which proves bipartisan fairness—especially when you consider that both Presidents has six years of Republican control in the Senate.

So, how did we go from 67 vacancies at the end of the Clinton Administration to nearly 100 today? There can be only one answer: The current pace of hearings and confirmations is simply not keeping up with the increase in vacancies. We are moving so slowly that we are making no forward progress. President Bush nominated 66 highly qualified individuals to fill judicial vacancies last year. But in the first four months of Democratic control of the Senate last year, only 6 federal judges were confirmed. At several hearings, the Judiciary Committee considered only one or two judges at a time. The Committee voted on only 6 of 29 circuit court nominees in 2001, a rate of 21%, leaving 23 of them without any action at all. In fact, eight of the first eleven judges that President Bush nominated on May 9 of last year still have not had a hearing—despite being pending for 344 days as of today.

It is time for this Senate to examine the real situation in the Judiciary Committee, rather than listen to more inventive ways of distorting it. We have lots of work to do. There are 96 vacancies in the Federal judiciary—a vacancy rate of more than 11.2 percent—and we have 53 nominees pending—plus 4 nominees for the Court of Federal Claims. Twenty of the pending nominees are for circuit court positions, yet the Senate has confirmed only 2 circuit judges this session. This is despite a crisis of 30 vacancies pending in the circuit courts nationwide—virtually the same number of vacancies pending when the Democrats took control of the Senate in June of last year.

These numbers beg the question: If the Judiciary Committee is not making any progress on the judicial vacancy crisis, What is happening in the Judiciary Committee? What is the Committee doing in lieu of confirming President Bush's nominees?

Well, the judicial confirmation process appears to be falling into the hands of some extreme-left special-interest groups whose political purposes are served by launching invidious attacks on the good people President Bush has nominated to serve as judges.

We all know too well what happened to Judge Pickering, who was a decent, honorable man who is clearly qualified to be a judge on the Fifth Circuit Court of Appeals. So I won't recount that very unfortunate situation. But I would like to warn everyone that the stoves of the special interest groups are readying to boil up an attack on Judge Brooks Smith of Pennsylvania who had a hearing nearly two months ago but still has had no vote in the Judiciary Committee.

If you are waiting to hear that some profound issue has been raised about a complicated or important legal issue, I am sorry to disappoint you. The fact is that Judge Smith has a very distinguished record as a Federal judge for nearly 14 years, and no one has questioned his ability or competence. So what is the great issue that may well be endangering his nomination—you might ask? Well, believe it or not, some are trying to make hay out of the fact that Judge Smith used to be a member of a small family-oriented fishing club—like hundreds that exist from Vermont to Wisconsin to North Carolina to Utah, that happens to limit membership to men.

Let me note at the outset that Judge Smith's nomination is supported by the Women's Bar Association of Western Pennsylvania and the local Domestic Violence Board in Pennsylvania. The people who know him best are the ones who support him the most.

It is also important to recognize that the Judiciary Committee, in 1990, and the Judicial Conference, in 1992, each made clear that Judges or nominees can belong to single-gender clubs so long as the club exhibits certain attributes of privacy first articulated by Justice William Brennan for the Supreme Court in *Roberts v. Jaycees*.

In *Roberts*, Justice Brennan—the great liberal patriarch of American jurisprudence—first articulated the right of intimate association in furtherance of the Freedom of Association recognized by the Supreme Court in *NAACP v. Alabama* as an extension of First Amendment speech. Such intimate association, Justice Brennan said, must be protected ''as a fundamental element of personal liberty,'' and ''choices to enter into and maintain certain intimate human relationships must be secured against undue intrusion . . . because of the role of such relationships in safeguarding the individual freedom central to our constitutional scheme.'' The Court went on to describe the attributes of such intimate associations as ''relative smallness . . . a high degree of selectivity in decisions to begin and maintain the affiliation, and seclusion from others in critical aspects of the relationship.''

I should note that the club that Judge Smith belonged to has only 115 members.

I for one, stand by the American people's Freedom of Association as defined by the Supreme Court. As Justice Thurgood Marshall pointed out, the ability to associate as we see fit is part of what makes this country great, and a freedom we honor. And I hope we can all recognize that Judges, or people who might want to be Judges someday, should be just as free as anyone else to exercise that right. There is no point to turning the nomination of Judge Smith into a referendum on the Freedom of Association. And there is certainly no sympathy among the American electorate to turn yet another of President Bush's judicial nominees into a mere single-issue caricature when Judge Smith has an outstanding record of service to our country.

I am very concerned that any further delay of Judge Smith's confirmation will lead to even more cynicism about the Senate in the minds of the American people. The voters who have watched the Judiciary Committee during the past eleven months already know that the vacancy crisis is not tit for tat or mere payback for anything that happened in the past. The voters know that the Democratic leadership has plunged into truly uncharted territory, holding up an absolutely unprecedented percentage of President Bush's nominees and, in the process, allowing leftist special interest groups to smear decent and accomplished public servants in order to serve highly partisan political aims.

There is no better way to understand the extreme partisanship of these powerful leftist groups than to look at the irony in their call for ''diversity'' on the circuit courts of appeal. I of course agree with having a diverse judiciary, but I do not believe that these groups mean what they say.

Let's look at judicial diversity. Right now, over 50 percent of the active federal judges in America were appointed by President Clinton. The best way to ensure diversity on the bench is for the Senate to confirm more Bush nominees who will enforce existing law and leave

lawmaking to the people's elected representatives, including the President's nominees from Minority groups.

But I fear that nominees like Miguel Estrada, whom the President has nominated to be the first Hispanic to sit on the second most prestigious court in the land, are not getting a fair shake because out-of-the-mainstream liberal groups show increasing intolerance to Hispanics and African-Americans who don't subscribe to the left-of-mainstream ideology. The intolerance is not because of race, but because many liberals will not give the time of day to any minority or woman who have become accomplished in any field other than liberal activism. I fear that the Liberals are seriously thinking about shutting the door to our Courts of Appeal to any Hispanic, African-American or woman who does not toe the line of the radical, left-of center special interest groups. That would be a great tragedy for our country. I would be an end to the very diversity that is the strength of America and its judicial system.

We cannot allow outside groups to impede progress. In fact, what we need is to approve more circuit judges at a faster pace to address the vacancy crisis in the federal appellate courts. The Sixth Circuit is presently functioning at a 50 percent capacity. Eight of that court's 16 seats are vacant. President Bush has nominated 7 well qualified individuals to fill the vacancies on that court. Two of those nominees, Deborah Cook and Jeffrey Sutton, have been pending since May 9 of last year—344 days of inaction. They have languished in Committee without so much as a hearing while the Sixth Circuit functions at 50 percent capacity. Another appellate court that is in trouble is the D.C. Circuit, which is missing one-third of its judges: It has only 8 of its 12 seats filled. President Bush nominated two exceedingly well qualified individuals to fill seats on the D.C. Circuit on May 9 of last year. Those individuals, Miguel Estrada and John Roberts, are among the most well respected appellate lawyers in the country. Yet the Judiciary Committee has not granted them a hearing, much less a vote.

Part of the problem is a decision by the Committee not to consider more than one circuit judge per hearing. In fact, the Committee has not moved more that one circuit judge per hearing during the entire time the Democrats have had control of the Senate. When I was Chairman, I had 10 hearings with more than one circuit nominee on the agenda. If we are going to get serious about filling circuit vacancies, then I encourage my Democratic colleagues to move more than one circuit nominee per hearing.

The bottom line of all this is that America is facing a real crisis facing its federal judiciary, especially the circuit courts of appeals, due to the nearly 100 vacancies that plague it. The Judiciary Committee has decided not to make any progress toward remedying this situation. Instead, it is pouring its energy into creative accounting and make believe. But the American people are sick of the charades and are disgusted by the personal destruction for partisan purposes. They want the Senate to help—not hinder—President Bush. I urge my friends across the aisle to focus on this situation, to step up the pace of hearings and votes, to resist the powerful leftists who are the enemies of the independent judiciary, and to do what's right for the country.

HOMESTEAD EXEMPTION TO THE BANKRUPTCY BILL

Mr. KOHL. Madam President, the bankruptcy conference will meet on Tuesday to discuss and attempt to resolve the remaining differences between the House and Senate versions of the bill.

One of those issues is the Senate provision that addresses the single most offensive abuse in the bankruptcy system, the homestead exemption. As we all know, the homestead exemption allows debtors in five privileged States to declare bankruptcy but still shield unlimited millions of dollars in their homes from their creditors.

With every year that passes, we learn of new cases where scoundrels have declared bankruptcy in States like Florida and Texas but have continued to live like kings in multi-million dollar mansions.

Just 2 weeks ago, the New York Times ran a story on former Enron executives like Ken Lay and Andrew Fastow who are doing some bankruptcy planning of their own. They are selling numerous properties around the country worth millions of dollars, but retaining—or in some cases even building—luxury homes in Texas or Florida. Using the homestead exemption, Lay will be able to retain his $7.1 million condominium in the finest apartment building in Houston and Fastow will keep his multi-million dollar mansion currently under construction. They will be able to enjoy their mansions, even if they declare bankruptcy, as their former employees struggle to find a new paycheck or to cover the rent.

Last year, it was Paul Bilzerian—a convicted felon—who tried to wipe out $140 million in debts and all the while held on to his 37,000 square foot Florida mansion worth over $5 million—with its 10 bedrooms, two libraries, double gourmet kitchen, racquetball court, indoor basketball court, movie theater, full weight and exercise rooms, and swimming pool.

The Bankruptcy Conference has a real chance to put an end to this now. The Senate has repeatedly—year after year—voted overwhelmingly in favor of a provision that would put a hard cap on the amount of home equity that a debtor can retain even after bankruptcy. The Senate should insist on a real and meaningful solution to this problem.

But so far, the only compromises we have been offered are road maps that show debtors how to circumvent the law. We have been told that we can only impose a residency requirement of two and a half years

This will not do. First, it does nothing to stop lifelong residents of Texas or Florida. Ken Lay has lived there most of his life. So has Andrew Fastow. They get away scot free under this proposal. Second, most bankruptcy attorneys will tell you that anyone rich enough can plan 2 to 3 years in advance.

In the spirit of compromise, we have agreed to raise the homestead cap to $175,000—a figure that far exceeds the average amount of equity a Houston homeowner has in their house. So, the average homeowner will not be affected at all by this provision, only the extraordinarily wealthy debtor. And even now, we remain open to effective and practical proposals aimed at solving this inequity.

Yet, we may not have an opportunity to reach that compromise. Instead, those that want the bill so badly that they are willing to legislate unfairness into the bankruptcy code are trying to get their way.

We should remember that one of the central principles of the bankruptcy bill is that people who can pay part of their debts should be required to do so. But the call to reform rings hollow when the proposal creates an elaborate, taxpayer-funded system to squeeze an extra $100 a month out of middle-class debtors but allows people like Burt Reynolds to declare bankruptcy, wipe out $8 million in debt, and still hold on to a $2.5 million Florida mansion.

To put it another way, political expediency may well trump fairness. The rich will be able to pour millions of dollars into the value of their Florida home, their Texas ranch, or their unimproved plot of land secure in the knowledge that their creditors will never be able to touch it. Yet, the average debtor will lose their house and most of their personal possessions as they try to repay their debts.

We have made historic changes to the bankruptcy code, but have chosen not to remedy the worst abuse of them all. We can only hope that between now and the conference committee's meeting on Tuesday, the parties to this deal will have a change of heart.

ADDITIONAL STATEMENTS

TRIBUTE TO JAMES GRIMMER

• Mr. SHELBY. Mr. President, today I pay tribute to James B. Grimmer, a business pioneer in Birmingham, AL, and a dedicated community leader and family man. He was responsible for developing over thirty shopping centers throughout the Southeast, which helped to spur business and economic development in the region. Mr. Grimmer died in Birmingham on March 12 at the age of 81. I would like to take a few moments to reflect on the life of

a man who brought opportunity to many in the Southeast and lived a life committed to family, friends and community.

James Grimmer was born on March 23, 1920 and raised in East Lake, AL. He attended Ramsay High School and graduated from Woodlawn High in Birmingham. Upon finishing high school and unable to join the armed forces due to age restrictions, James joined the Royal Canadian Air Force in 1937 before he turned eighteen. However, with America's imminent entrance into World War II, James dutifully returned to the United States to serve in the U.S. Army Air Corps. He eventually retired from the military as a Lt. Colonel in the U.S. Air Force.

After the war, James embarked on a long and stellar career in real estate development. In 1955, he joined the firm of Moulton, Allen & Williams. It was with this firm that he developed the Eastwood Mall, which was the Southeast's first enclosed mall. It had such a positive impact on the community that other developers soon followed James' lead and established numerous shopping centers in the Birmingham area. This led to new jobs, economic growth and was instrumental in Birmingham's expansion during the fifties and sixties. In 1962, James decided to build on his success and founded the Grimmer Realty Company. With his new independence, James went on to develop numerous other malls, including: the Western Hills Mall, the Montgomery Mall, Quintard Mall in Oxford, AL, and Jackson Mall in Jackson, MS. In fact, James Grimmer developed over eight and a half million square feet of retail space throughout the Southeast.

James was also closely involved with the Birmingham community and had close ties to real estate developers around the nation. He enjoyed scouting, golfing and fishing with family and friends, and was a member of the Independent Presbyterian Church. He was a member of the International Council of Shopping Centers, The Club, Summit Club; Vestavia Country Club and the New York Real Estate Board.

It is with sincere respect that I pay tribute to James Grimmer. He will be remembered as a pioneering businessman not only in the Birmingham community but the entire Southeastern region. He will be missed by the community as well as by his many close friends and relatives. My thoughts and prayers extend to his wife, Rose, children, Park and Susan, grandchildren, Leslie, Shelly and Jamie, and his sister, Evelyn Williams.●

IN HONOR OF THE RETIREMENT OF SUPERINTENDENT FOR CLOVIS UNIFIED SCHOOL DISTRICT, DR. WALTER L. BUSTER

● Mrs. BOXER. Mr. President, today I recognize and pay tribute to Dr. Walter L. Buster, Superintendent of Clovis Unified School District in Clovis, CA as he prepares to retire.

Dr. Buster has been in education for over 50 years, seventeen of those years as a school superintendent and the last 7 years as Superintendent for Clovis Unified School District. Dr. Buster is committed to educational excellence. He has taught all levels of school: elementary, junior high, high school and college, successfully serving many school districts in California and along the way has implemented visionary programs.

In Clovis Unified, Dr. Buster implemented Class Size Reduction and Early Literacy Instruction in grades 1–3. In these grade levels, only 20 students or fewer are enrolled in each class, thus giving the students a better ability to learn during these critical early years. Some of his most prized work in Clovis Unified School District has been in the following programs: Community of Readers, a program where volunteers in the community are trained to assist students with reading one hour each week; CHARACTER COUNTS, a program that teaches the six pillars of success—Responsibility, Respect, Fairness, Caring, Citizenship and Trustworthiness; and Laptops for Learners, a program developed to assist 7th, 8th and 9th graders in classes where laptop computer are used as learning tools.

Dr. Buster is truly a credit to the educational system. He has established as a standard a high level of integrity and decency. He is a man of great determination and dedication who has worked tirelessly to educate our children. I am honored to congratulate and pay tribute to him, and I encourage my colleagues to join me in wishing Dr. Walter L. Buster best wishes as he embarks on future endeavors.●

LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred April 13, 1996 in Long Beach, CA. Two lesbians were beaten with a baseball bat. The attackers, a large group of people, were heard to yell anti-gay epithets.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

RECOGNITION OF MR. SEIJI OZAWA

● Mr. KERRY. Mr. President, I rise today to recognize and celebrate one of this Nation's brightest stars, Mr. Seiji Ozawa, who has presided over the Boston Symphony Orchestra as music director for the last 29 years. On April 20, Seiji will conduct the BSO in Mahler's Ninth Symphony and the conclusion of that performance will mark the final installation of his work in Massachusetts. The enthusiasm and precision he brings to his craft are legendary, and as he prepares to assume his new post at the Vienna State Opera, I want to take a moment to join people throughout Massachusetts and across the country in expressing our gratitude for the contributions he has made during his time with the BSO.

For the last three decades Seiji Ozawa has challenged colleagues with his innovative interpretations and charmed audiences with his playful energy and focus. Through award-winning recordings, and celebrated performances in cities around the world, he has brought the beauty and insight of classical music to life for people of all ages. His service to the BSO stands as the longest continuous directorship in the history of the symphony, surpassing even Serge Koussevitzky, who held the baton from 1924 to 1949. Throughout that time, Seiji has lent his skills to the Berlin Philharmonic, the Vienna Philharmonic, the Orchestre de France and the Paris Opera, where he presided over the debut of Messiaen's ''Saint Francois d'Assise.''

Seiji began his musical journey by enrolling at the Toho Music School in Tokyo, Japan, as a child. A rugby injury changed his original plans of becoming a concert pianist and soon after he shifted focus to the unique art of conducting. Once Seiji settled on this pursuit, his instructor at the Toho School, Mr. Hideo Saito, urged him to travel abroad and refine his skills. Following that advice, he won first prize at the International Competition of Orchestral Conductors, in Besancon, France in 1959. This accolade earned Seiji an invitation in 1960 from Charles Munch, then music director of the BSO, to study at the Tanglewood Music Center. That first Tanglewood visit resulted in Seiji winning the Koussevitzky Prize for outstanding student conductor, and it also marked the beginning of a mutual love affair between Massachusetts and the young conductor.

Upon completion of his studies, Seiji moved to West Berlin to work with Herbert von Karajan. It was here that Seiji's unique presentation and style caught the eye of Leonard Bernstein, and upon returning to the United States he accepted Bernstein's offer to serve as assistant conductor of the New York Philharmonic for 1961 and 1962. In 1964, he conducted the Boston Symphony Orchestra at Tanglewood, raising the baton in a concert hall where he had studied just 4 years before. Word continued to spread about the enthusiastic Ozawa, and offers came in from orchestras around the world. Seiji

decided on becoming the music director of the Ravinia Festival in Chicago, where he remained for five summers, and then moved to the Toronto Symphony until 1969. After a brief period with the San Francisco Symphony, Seiji became artistic director at Tanglewood in 1970, and was subsequently asked to assume the role of music director for the Boston Symphony Orchestra in 1973.

It has been during his time with the BSO that Seiji became the cultural icon that we celebrate this year. In 1976, he was honored with an Emmy Award for the Boston Symphony Orchestra's PBS television series, ''Evening at Symphony.'' In 1994, he won a second Emmy Award for Individual Achievement in Cultural Programming, in recognition of his work ''Dvorak in Prague: A Celebration with the Boston Symphony Orchestra.'' In a nod to his early instructor and the Japanese heritage he has proudly shared with the world, he co-founded the Saito Kinen Festival in Japan, which will provide young people the same chance he had to learn the arts of conducting and performing. The academic community of my home state has recognized Seiji's tremendous talent with honorary Doctor of Music degrees from the University of Massachusetts, the New England Conservatory of Music and Wheaton College, and certainly our beloved Red Sox have never had a more enthusiastic supporter.

Seiji arrived in Massachusetts as a young man finishing his education and beginning his professional ascension. After April 20, he will leave the Boston Symphony Orchestra a true master of his craft. While he has been guided by a deep respect for the past and its masters, Seiji remains the consummate modernist; a solitary individual fueled by an instinctual fascination and hunger for the unexplored frontier of the future.

My constituents and I have been so proud to host Mr. Ozawa over these last three decades. For the rest of his career we will proudly think of him as one of our own in Massachusetts, and I join my constituents in thanking Seiji Ozawa for the invaluable contributions he has made throughout his time at Tanglewood and with the Boston Symphony Orchestra.●

HONORING THE JEWISH COMMUNITY FEDERATION OF LOUISVILLE

● Mr. BUNNING. Mr. President, I rise today in order to thank and honor the 50 members of the Jewish Community Federation of Louisville, Ky for participating in Monday's Pro-Israel rally held outside our Nation's Capitol. I truly believe these individuals along with the entire Jewish Community Federation of Louisville deserve to be honored for their commitment to Israel and all that it stands for.

Monday's rally was quite a sight to see. Over 100,000 supporters gathered, including former Israeli Prime Minister Benjamin Netanyahu and former mayor of New York Rudy Guilani, to demonstrate support for Israel in its current struggle against terrorism. Since September 11, the citizens of the United States of America have unfortunately and tragically been forced to face the realities that accompany terrorism; the fear, the pain, and the struggle. The American people now have an understanding of what it means to live in fear of a cowardly and radical enemy.

The terrorist threat and presence Americans currently fear and feel everyday has been a reality for the people of Israel since 1948, when the state of Israel was officially established and recognized. For 54 years now, the Israeli people have fought for their freedom and right to exist. In recent weeks, the Israeli government has come under fire for their aggressive but necessary military actions in Palestinian-controlled areas of the West Bank. While I pray for the innocent Palestinians who suffer the consequences of their leader's failures, I cannot find it in myself to condemn Israel, doing all it can to protect its families, future, and freedom.

Since the time he was a 17-year old arms dealer in Cairo fighting to rid Palestine of all British and Jewish influence, Yasser Arafat has dedicated his time, thoughts, and efforts to bringing terrorism to the homes and streets of the Jewish people. In 1958, Arafat founded the Al-Fatah movement, an underground network of terrorist cells working as one to bring about the demise of the Jewish state. Just one year after the organization was established, Al-Fatah was publishing a radical magazine advocating the armed struggle against Israel and its people. Since Al-Fatah, under the leadership of Arafat, took control of the PLO in 1969, both Jordan, for attempting to overthrow King Hussein, and Lebanon, for using Palestinian refugee camps as bases for cross-border attacks against Israel, have expelled Arafat and his terrorist group from their land. Even today, Arafat continues to support the terrorist activity of such barbaric groups as Hamas and Palestine Islamic Jihad by agreeing to compensate the families of their homicide bombers. These homicide bombers are no different from the 19 Al-Qaeda terrorists who piloted two planes into the World Trade Centers, and one into the Pentagon killing thousands of innocent American citizens. They are all willing to kill innocent civilians as well as themselves for fanatical leaders such as Osama bin Laden and Yasser Arafat.

In 1988 at a special session of the UN, Arafat showed signs that he was willing to negotiate for peace. He renounced terrorism and vowed to prosecute those who took part in terrorist activities. This empty rhetoric however proved to be short-lived. In 1991, Arafat fully supported Saddam Hussein and Iraq in the Persian Gulf War just three short years after he gave his UN speech. He has also refused to take a tough stance on terrorism, failing to live up to his promise to prosecute those responsible for such horrific acts as we have seen in the past six months. Arafat has now had the opportunity to deal with multiple Israeli Prime Ministers and U.S. Presidents but to no avail. He has been offered land, statehood, and a peaceful existence with the state of Israel. In every instance, talks ended and violence ensued.

I once again would like to thank the Jewish Community Federation for sending 50 of its most devoted individuals to the rally. Israel has always been a good friend to both the U.S. and to democracy, and it always will be. I finally ask that my colleagues join me in praying that this situation ends as quickly and as peacefully as possible. I know that we all would like to see this conflict resolved without any further bloodshed, but we must be willing to stand by our in friends in Israel in our fight to eradicate terrorism from the globe.●

THE FUTURE OF AMERICAN STEEL

● Ms. MIKULSKI. I am proud to join Majority Leader DASCHLE, Senator ROCKEFELLER and the other cosponsors today in introducing the Steel Industry Consolidation and Retiree Benefits Protection Act, a bill that seeks to maintain the viability of a critical domestic industry, and maintain a safety net for its workers and retirees who today live in fear of losing their healthcare coverage.

I am on the side of steel and steelworkers. I will stand up for steelworkers and make sure that their voices are heard in the Senate.

On March 20th, President Bush announced that he would impose tariffs on steel imports, the tariffs weren't as high as we believe necessary to give America's steel industry the opportunity to consolidate and get back on its feet. The tariffs imposed under section 201 were a first step, but we can not afford half-measures. Congress now needs to take the next step and address retiree health care benefits.

I recently held a hearing to listen to the people behind ''legacy costs''—the workers; the retirees; the widows; the executives; and worker representatives whose voices are not being heard. I heard from retirees and widows from the Bethlehem Steel plant at Sparrow's Point in Baltimore. I will never forget hearing Gertrude Misterka tell me that she would have to spend nearly $7,000 on her prescriptions if she lost her husband's health care benefits. She would be in tough shape if she lost those health benefits that her husband, a proud Korean War veteran, Charlie, worked so hard for.

I will not forget Jeff Mikula who has a job at Sparrow's Point but if that plant closed, he lose the benefits he has worked so hard for over the last 26

years. I will not forget McCall White, a retired steelworker, a proud veteran, who worked at Sparrow's point for nearly 40 years. It is for them and hundreds of thousands in similar situations that I will fight. I will fight to make sure legacy costs are addressed in a very serious way.

HOW WOULD THE ROCKEFELLER BILL HELP STEELWORKERS AND RETIREES?

This bill would help protect the U.S. steel industry and would provide health care and life insurance to steel retirees of those companies directly effected by unfair trade practices.

This bill helps companies consolidate by addressing the liability costs that have served as barrier to the restructuring that many argue that is needed by this industry in order to be able to compete. At my hearing on the steel industry, I heard how restructuring would help to maintain a competitive U.S. steel industry, which is in the national interest and would preserve American jobs today and tomorrow good paying, American jobs.

This bill would mean that promises made are promises kept. Steel retirees, their families and dependents would have the retirement security earned through decades of hard work and sacrifice. This bill would establish a health benefits program for retirees modeled on the most popular health care for Federal employees the Blue Cross/Blue Shield standard plan. This is not the Cadillac, gold-plated health plan that some claim these retirees have. These are the benefits that our steel workers worked hard for. Under this bill, any steelworker with at least 15 years of work in our nation's steel mills would have a basic health benefit package that they can count on. This bill would also provide a very modest death benefit of $5,000 to the widows of steel retirees.

WHO WOULD THIS BILL HELP?

Now, there are now about 142,000 active steelworkers, but there are about 600,000 retirees counting on these benefits. By helping those with more than 15 years of hard work in our mills, this bill would help many of our Nation's active and retired steelworkers. In my own State of Maryland, 3,700 people work at the Bethlehem Steel Sparrows Point facility, but there are 23,000 retired steelworkers, widows and dependents. These workers and retirees deserve a basic health benefit package that they can rely on.

I agree with President Bush when he said, ''Steel is an important job issue. It is also an important national security issue.'' We need to see the President join us on this issue in fighting for American jobs and for national security. A sound domestic steel industry is critical as we fight the war on terrorism. Steel builds our tanks, our planes and our ships. Bethlehem Steel produced the armor to repair the USS *Cole*.

The policy of our government is to support producers when it is in the national interest. National interest means national responsibility. Congress voted for nearly $80 billion in farm support over the next 10 years. It is important to support farmers to make sure we have the producers to be food-independent. I voted for the bill that is now in conference, and I am happy to stand up for American farmers. Congress gave the airlines $15 billion after September 11 because of a national emergency. It was the right thing to do.

Now, we need to stand up for steel. We need to have producers here in America to be steel-independent and be ready for national emergencies. Make no mistake: This is a national emergency for steel. Standing up for steel is in the national interest just like farmers, just like airlines.

There is much to do to ensure that there is a viable U.S. steel industry. We need to make sure that the Section 201 tariffs are being implemented properly. Steel legacy costs are also a vital, necessary, crucial part of ensuring a viable U.S. steel industry. This is part of the comprehensive solution. We can not afford half-measures, not with a critical industry at the brink of collapse, not with the retirement security of hundreds of thousands at risk.

I urge my colleagues to join us to protect American steel.●

IN MEMORY OF CLAIRE T. SHADIE

● Mr. SPECTER. Madam President, I seek recognition today to acknowledge the service of the late Claire T. Shadie of West Nanticoke, PA, a very special woman whose untimely death on October 10, 2001, left a great void in the lives of her family and the many whom she touched.

Claire Shadie was Founder and Chairman of the Board of ''Supporting Autism and Families Everywhere,'' or SAFE, Inc., which is a non-profit group of parents of autistic children that works to help people with autism live full and independent lives. From April 24 through April 26, 2002, the annual SAFE, Inc., conference on autism will bring together international experts on autism and families affected by the malady, and the meeting will be dedicated to the memory of Claire Shadie.

Claire was known throughout her community as the ''Angel of Autism,'' and she dedicated her life to helping find effective ways to aid individuals with the condition, including her son Alexander. She worked diligently throughout the years, counseling families and organizations throughout the United States. In addition to SAFE, Inc., she helped establish the Coalition on Autism, whose goal is to bring together related agencies and support groups to help ease the bureaucracy and improve the quality of service in Northeast Pennsylvania. Through SAFE, Inc., she worked with the U.S. Department of Housing and Urban Development, the Wyoming County Housing and Redevelopment Authority, and other agencies to create New Hope Farm, a facility that will provide its learning-disabled residents with daily opportunities for social interaction, skill acquisition, and integration into the greater community.

For her leadership and work on behalf of autism, I would like to extend the gratitude and recognition of the United States Senate to Claire Shadie, ''Angel of Autism.''●

AN ESSAY BY BERNARD RAPOPORT ON ENRONICS

● Mr. HOLLINGS. Mr. President, I want to share with my colleagues an excellent essay by a long-time friend of this Senator, Bernard Rapoport. The essay points out that using any means to make money as those at Enron did, or evading taxes as too many American corporations do today by creating offshore schemes, are unpatriotic acts, which should outrage the American people.

As the message comes from someone who has distinguished himself as a business leader and whose generosity has made our society a little more just and equal, it is a message I hope all American business executives not only hear, but heed.

The essay follows:

''ENRONICS''—(LACK OF PATRIOTISM)

My father was a Russian Jewish revolutionist, (the Agrarian Revolution of 1905). He was a Marxist which advocated the philosophy that the ''ends justified the means.'' It is, perhaps, an understandable point of view of someone subjected to the despotic czarist rulers of the Russia in the time in which he was raised. A few years after he escaped from Siberia, to which he was exiled for life for participation in the revolution, he came to America still convinced about ends and means from the Marxian view. I, too, was raised with that philosophy. Fortunately, and I think at the same time as he, I was influenced by Emerson's wonderful admonition that ''character is that which can do without success,'' and it brought both of us to a new understanding. Yes, how one achieves is more important than if one achieves.

It's the ''means'' that in fact does determine the ''ends.'' In my eight and a half decades of living I've had three poignant examples of unrestrained American patriotism. Of course, there have been many others, but what follows are the three that are most firmly imprinted in my memory.

The first was America's reaction to Pearl Harbor. Second, during World War II, on that day that General Dwight Eisenhower told us by radio that D-Day had begun and that there would be a large loss of lives, and, third, 9/11! The most essential ingredient in patriotism is love of country, which requires a commitment that we conduct ourselves in such a manner as to consistently do those things to make our country better.

The tragedy of ''Enronics'' is that these high-falutin' capitalists lowered themselves to a Marxian philosophy. Yes, their end was making money. Any means legal or otherwise, was justified because of their ''ends!''

My reason for this essay is that I'm not angry—''I'm mad!'' My father's daily plea was to me was to ''have a sense of outrage at injustice.'' ''Enronics.'' Gives just cause to understand outrage because it is unrestrained unpatriotism.

Here's another example of what I perceive to be unpatriotism. In the New York Times

of February 18, 2002, the column headline on the front page was, ''U.S. Companies Use Filings in Bermuda to Slash Tax Bills.'' I always thought I was fairly sophisticated when it came to finance, but I quickly learned after reading that article that I wasn't nearly as ''smart'' as I thought I was. This is an occurrence that happens often in my life. I majored in economics at the University of Texas. The bibliography included Adam Smith's ''Wealth of Nations,'' which is the predicate for capitalism. Smith realized the greed instinct within all of us, but thought that the invisible hand, i.e. competition, would be the moderator or leveler of the greed instinct. Well, this particular article to which I've alluded is beyond my comprehension. Evidently intelligent lawyers and accountants had come up with schemes to ''legally'' avoid the rules by which the rest of us must play. Secondly, this was combined with lobbyists who appealed to members of Congress to include riders to particular pieces of legislation which would benefit one particular corporation, and enable it to escape the responsibilities that any patriotic company would observe. Competition is making a better product, merchandising it more intelligently, and paying the taxes that all the rest in the same category pay. Well, not in the legal sense, but morally. I ask the question, ''Why do we put up with these kind of shenanigans? Why don't we have a sense of outrage at this injustice? Why don't we get mad?

I'm reminded of Murray Edelman's wonderful though, ''Political history is largely an account of mass violence and of the expenditure of vast resources to cope with mythical fears and hopes. At the same time, large groups of people remain quiescent (that's us!) under noxiously oppressive conditions and sometimes passionately defend the very social institutions that deprive or degrade them.''

For example, in the New York Times article, it points out that one company made $30 million additional profit because they didn't pay taxes. Now if they had played by the same rules as other companies, they would've shown $30 million less profit because of the payment of what it really owes. Guess what! Their stock sells at a much higher price because they are taking advantage of what I call an ''Enronic'' approach. At least, such companies should have the courtesy and be required to show what their earnings would be if they were paying on the same basis as their competitors. In the New York Times article it is pointed out that one corporation saved $400 million in taxes! Reducing taxes can really be a meaningful objective if these groups to which I've referred to were truly patriotic. All these companies do to avoid these taxes is to have an office in Bermuda or the Cayman's or some other island, and obtain this unfair advantage. As ridiculous as it may sound, a company with one of these offices in Bermuda, for example, can borrow money from its Bermuda account, charge out the interest that it pays, reducing their taxes in the United States. Let's be quickly reminded that there is no tax on the interest earned by the Bermuda parent. So an additional injustice is compounded as a result of this tax avoidance scheme.

The U.S. Treasury has to borrow money, sell bonds, and you know who buys them? These same corporations! Guess what! The interest they have received on their bonds as a result of their Bermuda office will not be taxable. It's a vicious circle! Where, of where, is there not a sense of outrage to their unconscientious acts of unpatriotism?

We must be constantly reminded of what Guiseppe Mazzini said, ''God has given you your country as cradle, and humanity as mother; you cannot rightly love your brethren of the cradle if you love not the common mother.''●

NINETY DAYS IS SIMPLY NOT ENOUGH TIME

● Mr. LEVIN. Mr. President, a letter released last week by the General Accounting Office highlighted serious problems that could result from reducing the period of time that National Instant Criminal Background System records are retained to only 24-hours after a firearm sale. Under current NICS regulations, records of allowed firearms sales can be retained for up to 90 days, after which the records must be destroyed. On July 6, 2001, the Department of Justice published proposed changes to the NICS regulations that would reduce the maximum retention period from 90 days to only one day.

According to FBI officials and the GAO letter, retained records that were more than 1 day old but less than 90 days old were used to initiate over 100 firearm-retrieval actions by law enforcement in the 4-month period beginning July 3, 2001, through October 2001. As a result, the GAO believes that next-day destruction of NICS records would likely obstruct the ability of law enforcement to retrieve firearms from individuals who were mistakenly approved to purchase firearms. Since its inception, NICS checks have prevented more than 156,000 felons, fugitives and others not eligible to purchase a firearm from doing so. While not infringing upon any law-abiding citizen's ability to purchase a firearm.

The retention of NICS records for a sufficient period of time is important. I am greatly concerned by the Attorney General's action and I support the ''Use NICS in Terrorist Investigations Act'' introduced by Senators KENNEDY and SCHUMER. This legislation would codify the 90-day period for law enforcement to retain and review NICS data. The GAO letter provides further evidence that the Schumer/Kennedy bill is common sense legislation that deserves enactment.●

ANDIE BUEL RETIRES AFTER 35 YEARS

● Mr. HOLLINGS. Mr. President, later this month, Andie Buel, Chief of the Congressional Operations Division at the Department of Defense, will be retiring after 35 years of government service. I wish her the very best.

No question, the congressional delegation trip to Normandy in 1994 commemorating the 50th anniversary of D-Day stands out as one of the great highlights of my years in the Senate. Mrs. Buel was the architect of that trip.

She has a long list of accomplishments, but to get right to the point: she has worked hard to ensure all our congressional trips are not only meaningful to our work in Washington, but that they run flawlessly. We thank her, and as she enters her new life we certainly will miss her.●

TRIBUTE OF DONALD LANGENBERG

● Mr. SARBANES. Madam President, as the end of the 200–2002 academic year approaches, I rise to pay tribute to Dr. Donald N. Langenberg, who at the end of this month will retire as Chancellor of the University System of Maryland, which for the past twelve years he has served with great distinction.

In 1990, when Dr. Langenberg came to Maryland from the University of Illinois-Chicago, the University System of Maryland was still in the earliest stages of its formation. It was established in 1988 to bring together thirteen diverse institutions, each with a distinctive and distinguished history, into a ''family'' dedicated to ''nurturing minds, advancing knowledge, elevating the human spirit and applying (our) talents to the needs of the citizens of Maryland.'' The purpose of the new system was to be nothing less than to ''achieve and sustain national eminence and become a model for American higher education and a source of pride'' for all the people of my State.

In short, Dr. Langenberg had his work cut out for him, but no one could have been better suited to the challenge, by both temperament and experience, than he. It was his task as the first Chancellor of the University of Illinois at Chicago, established in the 1980s to bring together existing undergraduate, research and medical institutions, to guide the new university through its formative years; and he came to that position from the National Science Foundation, where he had served as acting and deputy director.

Dr. Langenberg's academic background, however, was not in administration but rather in physics. With degrees from Iowa State University, the University of California at Los Angeles and the University of California at Berkeley, he taught at the University of Pennsylvania, where he also directed the Laboratory for Research on the Structure of Matter and served as Vice Provost for Graduate Studies and Research. He has been a visiting professor at numerous institutions in this country and abroad; his work on superconductivity has resulted in the development of a new type of voltage standard, which is in use worldwide, and it led to the publication of a paper so frequently cited in other papers and journals that it is known as a ''citation classic.'' Throughout his distinguished career, Dr. Langenberg has also maintained the highest level of engagement in numerous professional associations, for example as president and chairman of the board of the American Association for the Advancement of Science, AAAS, chairman of the board of National Association of State Universities and Land-Grant Colleges,

NASULGC, President of the American Physical Society, APS, chairman of the President's Council of the Association of Governing Boards of Universities and Colleges, AGB. He recently completed a decade's service as a member of the University of Pennsylvania's Board of Trustees.

For the past twelve years the University System of Maryland has been the beneficiary of the great breadth and depth of Dr. Langenberg's experience, and above all from his abiding commitment to make our state system a model for higher education everywhere. The University System's campuses have never been more vigorous than they are today. The schools of medicine and law are thriving, and so are programs designed for adults wishing to resume or continue their education. Under Dr. Langenberg's leadership the University System has developed new measures of accountability and productivity, which are in use not only in Maryland but at universities around the Nation. The K 16 Partnership for Teaching and Learning, of which Dr. Langenberg was a founding member, works to ensure continuity and coherence in Marylanders' education, from kindergarten through the B.A. And in a State whose extraordinary diversity of human and natural resources is reflected in its public institutions of higher education, among them a major research university that is also one of the earliest land-grant colleges, three historically black colleges, professional schools and independent research institutes, he has played a leading role in building the University System family. Each of its thirteen very different member campuses determines its own focus and honors its own traditions, while at the same time all collaborate to offer better opportunities for higher education to Marylanders of all backgrounds, talents and persuasion.

Behind the formidable intelligence, zest for hard work, success in academic administration and distinction as a scholar that Dr. Langenberg brought to his position as Chancellor of the University System of Maryland there has always been a clear and steady vision, which he himself has most eloquently described. First, he remarked in a speech not long ago, ''As a Midwesterner, I have always had tremendous admiration for great public universities because I know that they provide opportunities that might not otherwise exist.'' And then, he observed, ''much of his long and distinguished career ''has been about creating linkages and partnerships, between our citizens and higher education, between and among campuses, between higher education and public schools, and between higher education and the business community.'' For this he offered a compelling and moving explanation: ''as the only child of deaf parents, I became my parents' translator and their link to the hearing and speak world.''

Maryland has been deeply fortunate to have Dr. Donald Langenberg at the helm of its University System. I want to express my gratitude for all that he has accomplished, my congratulations on his retirement, my delight in the decision he and his wife have made to stay in Maryland, and my best wishes for the years ahead.●

OUTSTANDING VOLUNTEER PERFORMANCES BY FLORIDA SENIORS

● Mr. GRAHAM. Mr. President, I would like to extend congratulations to a group of outstanding citizens from Broward County, FL. Each of these men and women has given a special gift to their community—they have given of themselves. Their volunteer efforts should be an inspiration to all of us.

On May 3, 2002, these 10 individuals will be inducted into the Dr. Nan S. Hutchison Broward Senior Hall of Fame. These selfless volunteers have contributed time, talents and love toward their fellow residents of Broward County. Allow me to tell you about each of them:

Evelyn Denner helped found the We Care organization, providing assistance to the elderly and helping them to remain self-sufficient. Her work with many civic, political, and religious organizations continues to make Broward County a treasured place to live.

Clara Font has volunteered for 12 years at the Horizon Club's ''Assisted Living Community.'' At 101 years of age, people young and old look to her service for inspiration. She has contributed time to those suffering from the debilitating effects of Alzheimer's disease, while also assisting friends and neighbors.

Joan Hinden, a retired teacher, has provided support to Florida's youth for many years. She was appointed to the Family Care Council by Florida's Governor and has worked with the Department of Children and Families, aiding and encouraging people through difficult times.

George Olferm has donated his time to many worthy organizations such as TRIAD, SALT, the Davie Fraternal Order of Police, and the Area Agency on Aging of Broward County. As a talented artist, George has donated stained glass artwork to help local charities raise thousands of dollars to support their ongoing projects. He has had a tangible impact on people's lives.

Casey Pollack has worked diligently to improve the lives of Alzheimer's patients. He has established training programs for care givers and founded the Crisis Respite Program, helping many citizens fill a temporary need for Alzheimer's care.

Sidney Spector has served as president of the Kings Point Culture Club of Tamarac. His leadership and energy have provided groups of senior citizens the opportunity to attend cultural events which enrich their lives.

William Teague has served as president of the South Broward Chapter of the National Federation for the Blind, helping to serve over 51,000 visually challenged individuals. He has educated drivers to yield to blind pedestrians, thereby reducing the number of individuals involved in traffic accidents.

Former State representative Jack Tobin has given over a decade of service as a legislator. He worked to secure continuing funding for Alzheimer's care and treatment centers, which has made an indelible impact on the quality of life for many Floridians. He participates on the board of directors for the Area Agency on Aging after serving as its president. He has contributed invaluable guidance as a Director of both the YMCA and Child Care Connection, helping to the continuation of social service programs for the future.

Dr. Murray Todd's medical services have contributed to the health and well-being of countless Broward County residents, especially those with Alzheimer's. As a teacher, speaker and volunteer, he has trained others to join in the fight for a cure for this disease.

Ellyne F. Walters has spent years serving her church, the city of Fort Lauderdale, and numerous organizations. As vice president of the Broward County Friends of the Library, she has helped strengthen local libraries and contributed to the opening of the African American Research Library.

These ''volunteers for humanity'' have served diligently and tirelessly in their quest to enhance the lives of their fellow man. Our State and Nation are fortunate to have such inspiring senior citizens.●

TRIBUTE TO ALEX MARION

● Mr. SMITH of New Hampshire. Madam President, today I show my support for Alex Marion for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Adam Anderson, and Andrew Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at the ski slope, he noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy when he fell. Alex helped save the boy and prevent any serious injuries.

I commend this heroic act of Alex Marion. He helped to save the life of a fellow citizen and brought comfort to a worried family. As long as we have such dedicated citizens our nation will continue to be strong. Alex exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.●

TRIBUTE TO CODI VACHON

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Codi Vachon of Manchester, NH. Her heroic actions saved the life of a drowning boy.

While life guarding she noticed twelve-year old Julio Velez at the bottom of the pool. Codi later learned that

Julio had experienced a seizure and by acting quickly she was able to bring the boy to safety.

Codi Vachon is to be commended for her selfless actions. As long as we have such dedicated citizens, our nation will continue to be strong. Codi exemplifies the ideals of a Granite Stater. It is an honor and privilege to represent her in the U.S. Senate.●

TRIBUTE TO ANTHONY TRIPARI

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Anthony Tripari of Merrimac, MA. His heroic actions saved the lives of numerous Farmington, NH residents, including the life of a helpless baby. He put his own life on the line to rescue others from a burning building.

In August of 2001, Anthony was on his way to a fishing trip with his friend Derek Vitale, when they noticed smoke from a burning apartment building. It was about three o'clock in the morning so Derek honked the horn of his car in an attempt to wake the residents of the building to alert them to the fire.

I commend the altruistic acts of Anthony Tripair. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Anthony, our nation will continue to be strong. It is an honor and a privilege to represent you in the U.S. Senate. ●

TRIBUTE TO ELIZABETH ''BOO'' MURRAY

● Mr. SMITH of New Hampshire. Mr. President, today I show my support to Elizabeth ''Boo'' Murray of Danville, NH. Her heroic efforts saved the life of an elderly neighbor.

Walking through her Danville neighborhood one day in June, Elizabeth noticed flames and smoke coming from her neighbor's house. Realizing that the elderly woman was likely to be still inside, Elizabeth raced in to save her. She found her in the home and removed her from danger. Although her neighbor later died of injuries she sustained, Elizabeth put her life in the foreground to rescue the life of another.

I commend you Boo for your commitment to life. You are an example of heroism to New Hampshire residents and the nation alike. I am honored to represent you in the U.S. Senate.●

TRIBUTE TO ARTHUR MOREAU

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Arthur Moreau of Manchester. Arthur, with the assistance of his friends Russ Lauriat and Russ VanderHorst, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Arthur for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO RUSS VANDERHORST

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russ VanderHorst of Goffstown. Russ, with the assistance of his friends Russ Lauriat and Arthur Moreau, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Russ for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO SHAWN PAGE

● Mr. SMITH of New Hampshire. Mr. President, I rise today to show my support for Shawn Page for his heroic efforts at the McIntyre Ski Area. He, along with Adam Anderson, Alex Marion, and Andrew Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at the ski slope, Shawn noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy when he fell. Shawn helped save the boy and prevent any serious injuries.

I commend this heroic act of Shawn Page. He helped to save the life of a fellow citizen and brought comfort to a worried family. As long as we have such dedicated citizens our nation will continue to be strong. Shawn exemplifies the ideals of a Granite Stater. I am honored to represent him in the U.S. Senate.●

TRIBUTE TO EDWARD ROY

● Mr. SMITH of New Hampshire. Mr. President, I rise today to show my support for Edward Roy of Manchester, NH. His heroic actions saved the lives of numerous residents sleeping inside their multi-story apartment building. He put his own life on the line to preserve the lives of others.

On a December morning in 2001, the off-duty firefighter was driving home from work when he noticed smoke in the distance. He raced to the site and found a burning apartment building. In an attempt to awaken and evacuate the residents, he knocked on all the doors of the building. In the process of knocking on residents doors, his coat caught on fire, but Edward continued to rescue people. Edward met the arriving fire fighters and helped them extinguish the fire.

Firefighters, like Edward, work valorously everyday. Every time they respond to a call for help, they are putting their own lives in jeopardy to help the community in crisis. Firefighters are among our country's bravest heroes, and I applaud Edward for his dedication to keep New Hampshire safe.

I commend the altruistic act of Edward Roy. It takes true courage and honor to put other's lives above one's own. I am confident that as long as we have people like Edward, our nation will continue to be strong. New Hampshire is proud to have such dedicated citizens. It is truly an honor to represent Edward Roy in the U.S. Senate.●

TRIBUTE TO DUSTIN SHERWOOD

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Dustin Sherwood of Barnstead. Dustin, along with his two friends John Lank and Nick Poulin, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you Dustin for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO JOHN HORAN

● Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to John Horan of Nashua, NH, for risking his life to save the life of a motorist trapped in a crashed vehicle.

In August of 2001, John was driving with his friend Nathan Langlais when they came across a vehicle that had plunged through a guardrail and down a hill. John and Nathan, without regard for their own lives, raced to the aid of the trapped motorist.

They discovered a smoking car and a semi-conscious driver. The men attempted to extract the driver from the vehicle but were unsuccessful in their first attempt. Loud noises began coming from the gasoline tank and the back of the car began to ignite. With little time to spare, the men rescued the driver from the passenger's side of the vehicle.

I commend John Horan for his bravery. His selfless act saved the lives of a fellow citizen, and set a positive example for the people of the Granite State. I am confident that as long as there are Americans like John Horan who are willing to put the well-being of others before themselves, our Nation will continue to be strong. It is truly an honor and a privilege to represent you in the U.S. Senate.●

TRIBUTE TO LIEUTENANT CASINO CLOGSTON

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Lieutenant Casino Clogston of New Hampshire. His heroic actions brought comfort to a family and community who endured a very tragic event.

On an early April morning in 2001, Casino arrived at the scene of a burning apartment. After giving commands to the rest of his crew, he entered the burning building. Putting his own life in jeopardy, the Lieutenant searched for any signs of life. He discovered the body of a burning man. Holding the body in one arm, he was able to kick down the door of the room and escape safely. After the victim received medical attention, he was pronounced dead. However, Clogston helped to bring comfort to the man's family and friends.

Firefighters, including Firefighter Clogston, work valorously everyday. Every time they respond to a call for help, they are putting their own lives on the line. In this instance, Casino truly did go above and beyond the call of duty in order to recover the body of a fellow citizen. Firefighters are some of our country's bravest heroes, and I applaud Clogston for his efforts to keep New Hampshire safe.

I commend the altruistic acts of Lieutenant Casino Clogston. It takes true courage to value the lives of others above one's own. I am confident that as long as we have people like Casino, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen, and it is truly an honor to represent Casino Clogston in the U.S. Senate.•

TRIBUTE TO THE PEMBROKE FIRE DEPARTMENT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for the Pembroke Fire Department, including Deputy Chief Paul Gagnon; Lieutenants Rob Farley, David Bouffard and Brian Lemoine; Firefighters Patrick Maccini, Ricky Bilodeau, Jeff Bokum, Stacy Amyot, Josh Ginn, Mike Perron, Steve Perron and Eric Stromvall; and Engineers Brad Robertson, Chet Martel, Chuck Schmidt and Steve Ludwick. Their heroic actions saved numerous lives and helped preserve one of New Hampshire's historical landmarks. They placed their own lives at risk to protect and serve the people of New Hampshire.

On an early morning in July of 2001, the Pembroke Fire Department received what appeared to be a routine call. They learned that a historic Bed and Breakfast was in flames and worked tirelessly to extinguish the flames of the burning building.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches to confirm that everybody was out of the building safely.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community.

I commend the selfless acts of the Pembroke Fire Department. It takes courage to place somebody else's life above one's own. I am confident that as long as we have firefighters like those in Pembroke our Nation will continue to remain protected. New Hampshire is proud to have such dedicated citizens and it is an honor to represent you in the U.S. Senate.•

TRIBUTE TO CHRISTOPHER SMITH

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Christopher Smith of Seabrook, NH. His heroic actions, along with the help of Timothy Dillon, saved the life of a woman trapped in a burning vehicle. He put his own life on the line to rescue a fellow citizen.

In October of 2001, Christopher was riding with his mother when he noticed that a burning car had driven off the road. Christopher and Timothy raced to the scene of the accident and discovered an elderly woman trapped in the burning vehicle. She was pinned in the vehicle by the deployed air bag and the crushed dashboard.

Christopher attempted to break the driver's side window, while Timothy broke through the back of the car. Christopher smashed the window using a tire iron and then entered through the front of the car. Putting their own lives in jeopardy, the two men were able to pull the woman to safety.

I commend the selfless acts of Christopher Smith. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Christopher, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor to represent him in the U.S. Senate.•

TRIBUTE TO MELISSA BOGACKI

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Melissa Bogacki of Chester, NH. Her quick action and bravery helped save the life of her drowning brother.

I commend Melissa for immediately responding to this stressful and dangerous situation. While she was taking a walk with her siblings, she noticed that her three-year old brother had fallen into a swampy area. Responding immediately, she jumped in to rescue him. After dragging him to safety Melissa immediately notified her mother for help.

Melissa's valorous deed serves as an example to the people of Chester as well as the Granite State. She saved the life of a family member and brought comfort to her family. I am confident that as long as we have dedicated citizens like Melissa our Nation will continue to be strong. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO RUSSELL KEAT

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russell Keat of Grantham, NH. He helped recover numerous bodies that had been buried beneath the rubble at Ground Zero, as well as three American flags. He put his own life on the line to bring comfort to a grieving nation.

After the second airline crashed into the World Trade Center on September 11, 2001, one of the most catastrophic days in our Nation's history, Russell offered his support for the rescue efforts.

Russell specializes in rescue missions and had previously rescued individuals from airline crashes, collapsed buildings, and caves. However, no other rescue meant as much to this patriot as his work at Ground Zero. He recovered the bodies of victims and helped with the clean up effort. Russell also led a group of five other heroes who uncovered three United States flags. Russell risked working on unstable structures and inhaling hazardous materials in order to perform his patriotic duty.

I commend the selfless acts of Russell Keat. It takes true courage and honor to value one's Nation above their own life. I am confident that as long as we have people like Russell our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Russell Keat in the U.S. Senate.•

TRIBUTE TO JOHN LANK

• Mr. SMITH of New Hampshire. Mr. President, today I show my support for John Lank of Barnstead. John, along with his two friends Nick Poulin and Dustin Sherwood, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you John for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.•

TRIBUTE TO KATHLEEN MOORE

• Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Kathleen Moore of Goffstown, NH. Her heroic actions, along with the help of

Henry Gerlack Jr., saved the life of a man trapped inside a burning vehicle.

In April of 2001, Kathleen was driving down a local highway when she came to the aid of a motorist trapped inside a burning vehicle. She, and nearby resident Henry Gerlack, heard cries for help coming from the vehicle. The two found 34-year-old Mark Renaud wedged between a crushed steering wheel and the dashboard. Kathleen and Henry, putting their own lives in jeopardy, pulled the man out of the car through the driver's side window. The car exploded moments after they pulled Mark to safety.

I commend the bravery and heroism of Kathleen Moore. It takes true courage to place somebody else's life above your own. I am confident that as long as we have people like Kathleen, our State and Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor to represent you in the U.S. Senate.●

TRIBUTE TO ANDREW EMANUEL

● Mr. SMITH of New Hampshire. Mr. President, today I show my support to Andrew Emanuel for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Alex Marion and Adam Anderson, helped to save the life of a fellow skier.

Last winter, while enjoying a day of recreation at the ski slope, he noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the dangling boy. When the boy fell, they saved his life and prevented him from sustaining any serious injuries.

I commend this heroic act of Andrew Emanuel. He helped to save the life of a fellow citizen and brought comfort to a worried family. I feel that as long as we have such dedicated citizens, our Nation will continue to be strong. Andrew exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.●

TRIBUTE TO HENRY GERLACK

● Mr. SMITH of New Hampshire. Mr. President, I show my support for Henry Gerlack Jr. of Barnstead, NH. His heroic actions, along with the help of Kathleen Moore, saved the life of a man trapped inside a burning vehicle. Henry put his life on the line to preserve the life of another.

In April of 2001, Henry Gerlack noticed a burning vehicle on the side of the road. He heard cries for help and raced to the burning vehicle to find a 34 year-old man wedged between the crushed steering wheel and dashboard. Henry and Kathleen pulled the man out of the car moments before it exploded.

I commend the altruistic acts of Henry Gerlack, Jr. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Henry, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is an honor to represent him in the U.S. Senate.●

TRIBUTE TO NICK POULIN

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Nick Poulin of Manchester. Nick, along with his two friends John Lank and Dustin Sherwood, saved the life of a distressed boater.

While boating on Suncook Lake in July, the three boys noticed a boat that was moving erratically. Upon closer inspection, they realized the driver had lost control and had fallen into the water. Skillfully the three regained control of the boat and dragged the Vermont teen to safety.

I commend you Nick for your selfless act of heroism. You gave of yourself to help another in need. There is no greater gift. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO JACK LEE

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Jack Lee for his heroic efforts in pulling a semi-conscious teenager to safety. He went above and beyond the call of duty to reach out to another in need.

Mr. Lee came upon a burning vehicle in Auburn, NH. Noticing a young individual was trapped inside, he began to try and free her from the burning wreck. Though not successful at his first few attempts to save the girl from the car, Mr. Lee did not give up. He finally pulled her to safety.

Not only do Jack's actions serve as an exemplary commitment to human life, they also highlight a selflessness we all should strive for. I commend Jack for being a hero to his community and nation. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO THE HOOKSETT FIRE DEPARTMENT

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for the Hooksett Fire Department, including Chief Michael Howard, Lieutenant David Carignan, Firefighter Bill Palmer and Firefighter Steve Davis. Their heroic actions saved numerous lives, and preserved one of New Hampshire's historical landmarks. They worked without regard for their own safety to preserve a treasure to the community.

On an early morning in July of 2001, the Hooksett Fire Department received a call that a historic bed and breakfast was on fire. The company worked tirelessly to save the burning building.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches and confirm that everybody rescued.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community. Firefighters are among are country's bravest heroes, and this company has served the State of New Hampshire for many years.

I commend the altruistic acts of the Hooksett Fire Department. It takes courage to place somebody else's life above your own. I am confident that as long as we have firefighters such as the men of the Hooksett Fire Department, our Nation will continue to be protected. New Hampshire is proud to have such dedicated citizens. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO KEVIN HEALY

● Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Kevin Healy, a firefighter in the city of Manchester, NH. His heroic actions saved the lives of numerous residents caught inside an apartment building.

On a February 2001 morning, the off-duty firefighter was driving home from work when he noticed smoke in the distance. He found a burning apartment building which he immediately entered in search of victims. He could hear people coughing and used their sounds to locate burning victims. He successfully brought two people to safety and returned to the burning building to check for trapped victims. During the rescue Kevin suffered burns and respiratory injuries.

Firefighters, like Kevin, work valorously everyday. Each time they respond to a call for help, they are risking their own lives. Kevin went above and beyond the call of duty in order to save fellow citizens and bring comfort to his community. Firefighters are some of our country's bravest heroes, and I applaud Kevin's efforts to keep the citizens of New Hampshire safe.

I commend Kevin Healy's bravery and applaud his dedication to public service. It exemplifies true courage and honor to put other's lives above your own. I am confident that as long as we have people like Kevin, our State and Nation will continue to be strong. New Hampshire is proud to have such exemplary citizens and it is an honor to represent you in the U.S. Senate.●

TRIBUTE TO JEFFREY MORSE

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Jeffrey Morse of New Hampshire. His heroic actions, combined with help from Paul Gagne, saved a woman and numerous animals. He put his life on the line to rescue others from a house.

In September of 2001, the two telephone technicians were working on a

cable problem when they noticed smoke coming from a nearby house. They raced to the scene of the fire. Paul hurried to call the emergency rescue services, while Jeffrey used a garden hose to prevent the flames from spreading. Jeffrey then noticed a sign indicating that live animals were living in the house, so he kicked down the door to the building and retrieved a cat.

After the animal was brought to safety, the two men heard screams. Paul and Jeffrey entered the burning building and worked their way through the thick smoke to find a choking woman. The two men picked her up and carried her to safety. They returned for a final trip to ensure they had rescued everyone.

I commend the selfless acts of Jeffrey Morse. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Jeffrey, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Jeffrey Morse in the U.S. Senate.●

TRIBUTE TO RUSS LAURIAT

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Russ Lauriat of Goffstown. Russ, with the assistance of his friends Arthur Moreau and Russ VanderHorst, rescued the life of 28-year-old Scott Derendal.

The three friends came upon a wrecked, burning vehicle while driving through Wear last July. Feeling a civic duty to aid a fellow person in need, Arthur, Russ and Russ raced to rescue the individual trapped in the car. They managed to save the life of Scott.

I commend you Russ for the selfless act of kindness you imparted on an unknown individual. You gave of yourself without a second thought as to how it might affect your life. It is an honor to represent you in the U.S. Senate.●

TRIBUTE TO PAUL GAGNE

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Paul Gagne of New Hampshire. His heroic actions, combined with help from Jeffrey Morse, saved a woman and numerous animals. He put his life on the line to rescue others from a burning house.

In September of 2001, the two telephone technicians were working on a cable problem when they noticed smoke coming from a nearby house. They raced to the scene of the fire. Paul hurried to call the emergency rescue services, while Jeffrey used a garden hose to prevent the flames from spreading. Jeffrey then noticed a sign indicating that live animals were living in the house, so he kicked down the door to the building and retrieved a cat.

After the animal was brought to safety, the two men heard screams. Paul and Jeffrey entered the burning building and worked their way through the thick smoke to find a choking woman. The two men picked her up and carried her to safety. They returned for a final trip to ensure everyone had been rescued.

I commend the acts of Paul Gagne. It takes true courage and honor to put somebody else's life above one's own. I am confident that as long as we have people like Paul, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent Paul Gagne in the U.S. Senate.●

TRIBUTE TO RAY SUMMERS

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Ray Summers of Manchester, NH. His heroic actions and dedication to his country saved two fellow citizens and helped to discover numerous bodies that were buried beneath the rubble at Ground Zero. He put his own life on the line to bring comfort to a Nation.

Ray was interning at Shea Stadium when the World Trade Center Buildings collapsed on September 11, 2001, one of the most catastrophic days in our Nation's history. As a trained EMT, Ray answered a call from the New York City emergency authorities who desperately needed his support at Ground Zero. He was escorted to the scene, given rescue equipment, and immediately began to search for victims.

Ray searched for survivors and cleaned up rubble for about 72 hours, taking little time to rest or eat. He encountered several near death experiences, including nearly being crushed by the collapsing Liberty Plaza Building. He and another rescuer found two Port Authority officers still alive. They uncovered the two officers and carried them to safety.

I commend the selfless acts of Ray Summers. It takes true courage and honor to put somebody else's life and their country above one's own life. I am confident that as long as we have people like Ray Summers, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent him in the U.S. Senate.●

TRIBUTE TO ADAM ANDERSON

● Mr. SMITH of New Hampshire. Mr. President, today I show my support to Adam Anderson for his heroic efforts at the McIntyre Ski Area. He, along with Shawn Page, Alex Marion, and Andrew Emanuel, helped to save the life of a fellow skier.

While enjoying a day of recreation at a ski slope, Adam noticed a child hanging from the seat of a chairlift. The skiers formed a human net to catch the boy. When the boy fell, Adam and his friends were able to save his life and prevent him from sustaining any serious injuries.

I commend this heroic act of Adam Anderson. He helped to save the life of a fellow citizen and brought comfort to a worried family. I feel that as long as we have such dedicated citizens our Nation will continue to be strong. Adam exemplifies the ideals of a Granite Stater and I am honored to represent him in the U.S. Senate.●

TRIBUTE TO CAPTAIN TOM BUINICKY

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Captain Tom Buinicky of the Claremont Fire Department. His heroic actions, along with the efforts of Firefighter Amos Chamberlain, helped to save the lives of several families caught inside a burning apartment building. Amos puts his life on the line everyday for the sake of others.

In January of 2001, the two men responded to what seemed to be a routine call. They were two of the first firefighters on the scene and they discovered a three-alarm fire. Witnesses told them of an infant trapped on the third floor of the building, so the men searched for the baby. The baby had already been brought to safety, but the men continued to make sure that the entire building had been vacated.

Firefighters Buinicky and Chamberlain work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of how they went above and beyond the call of duty in order to save the lives of fellow citizens and bring comfort to the community. Firefighters are among some of this Nation's bravest heroes, and I applaud them for their work to keep New Hampshire safe.

I commend the altruistic acts of Captain Buinicky. It takes true courage to put other's lives above one's own. I am confident that as long as we have people like Tom our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is truly an honor to represent Captain Tom Buinicky in the U.S. Senate.●

TRIBUTE TO TIMOTHY DILLON

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Timothy Dillon of Hampton Falls, NH. His heroic actions, along with those of Christopher Smith, saved the life of a woman trapped in a burning vehicle. He put his own life on the line to rescue a fellow citizen.

In October of 2001, Timothy noticed a burning car that had fallen down an embankment. Timothy and Christopher raced to the scene of the accident and discovered an elderly woman trapped in the burning vehicle. She was pinned in the vehicle by the deployed air bag and the crushed dashboard.

Christopher attempted to break the driver's side window, while Timothy broke through the back of the car. Christopher smashed the window using a tire iron and he entered through the front of the car. Putting their own

lives in jeopardy, the two men were able to pull the woman to safety.

I commend the selfless act of Timothy Dillon. It takes true courage to put somebody else's life above one's own. I am confident that as long as we have people like Timothy, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is truly an honor and privilege to represent Timothy Dillon in the U.S. Senate.●

TRIBUTE TO FIREFIGHTER AMOS CHAMBERLAIN

● Mr. SMITH of New Hampshire. Mr. President, today I show my support for Firefighter Amos ''Buzz'' Chamberlain of the Claremont Fire Department. His heroic actions, along with the efforts of Captain Tom Buinicky, helped to save the lives of several families caught inside a burning apartment building. Buzz puts his life on the line each day for the sake of others.

In January of 2001, the two men responded to what seemed to be a routine call. They were two of the first firefighters on the scene and discovered a three-alarm fire. Witnesses told them of an infant trapped on the third floor of the building and they searched for the baby. The baby had already been brought to safety, but the men continued to make sure that the entire building had been vacated.

Firefighters Chamberlain and Buinicky work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of how they went above and beyond the call of duty in order to save the lives of fellow citizens and bring comfort to the community. Firefighters are among some of this Nation's bravest heroes, and I applaud them for their work to keep New Hampshire safe.

I commend the altruistic acts of Amos Chamberlain. It takes true courage and honor to put others' lives above one's own. I am confident that as long as we have people like Buzz, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen and it is truly an honor to represent him in the U.S. Senate.●

TRIBUTE TO FRED AND JOYCE CORSER

● Mr. SMITH of New Hampshire. Mr. President, today I pay tribute to Fred and Joyce Corser of Concord, NH, for their heroic act of rescuing two young passengers from a vehicle on the verge of exploding.

In August of 2001, an automobile accident occurred outside of the Corser's home. Fred immediately rushed to assist the two passengers trapped inside the vehicle, while Joyce contacted rescue personnel and then joined her husband. Together, they risked their lives to remove the backseat passenger from the vehicle, who had sustained a compound leg fracture during the accident.

Moments before the vehicle exploded, Fred and Joyce put their lives in jeopardy once again and pulled out the second passenger. As they were carrying him to safety, the car burst into flames. Fred Corser quickly found a piece of plywood and used it to shield the victim from the explosion.

I commend Fred and Joyce Corser for their altruistic acts. Their selfless deeds saved the lives of two fellow citizens. I feel confident that as long as there are Americans like Fred and Joyce Corser, who are willing to put the well-being of others before themselves, our Nation will continue to be strong. It is truly an honor and a privilege to represent them in the U.S. Senate.●

TRIBUTE TO DEREK VITALE

● Mr. SMITH of New Hampshire. Madam President, today I show my support for Derek Vitale of Chester, NH. His heroic actions saved the lives of numerous Farmington, NH residents, including the life of a helpless baby. He put his own life on the line to rescue others from a burning building.

In August of 2001, Derek was on his way to a fishing trip with his friend Anthony Tripari, when they noticed smoke from a burning apartment building. It was about three o'clock in the morning, so Derek honked the horn of his car in an attempt to wake up all the residents in the building and alert them to the fire.

As the residents vacated, it was reported that a baby was trapped on the second floor. Derek sprinted into the flaming building, covering his mouth with only the collar of his shirt and found the baby. Derek carried the baby to safety and simultaneously knocked on the doors of every apartment to make sure the building was vacated.

I commend the altruistic acts of Derek Vitale. It take true courage to put somebody else's life above one's own. I am confident that as long as we have people like Derek Vitale, our Nation will continue to be strong. New Hampshire is proud to have such a dedicated citizen. It is an honor to represent him in the U.S. Senate.●

TRIBUTE TO THE ALLENSTOWN FIRE DEPARTMENT

● Mr. SMITH of New Hampshire. Madam President, today I show my support for the Allenstown Fire Department, including Captain Dan Silva, Lieutenant Scott Eaton, as well as Firefighters Edward Higgins, Lee Cheney, Mark Jacobs, Ray Sevigny and Keith Lambert. Their heroic actions saved the lives of numerous hotel guests and preserved one of New Hampshire's historical landmarks. The men of the Allenstown Fire Department risked their lives, as they do everyday, to protect and serve.

On an early morning in July of 2001, the Allenstown Fire Department received a call that a historic bed and breakfast was in flames. The company worked tirelessly to extinguish the fire.

Upon learning that guests were trapped in the residence, the firefighters successfully made several rescues. Leading six victims down their ladders, they brought them to safety. The firefighters further risked their lives to perform room-by-room searches to confirm that everybody was out of the building safely.

These firefighters work valorously everyday. Each time they respond to a call for help, they are putting their own lives in jeopardy. This is just one example of the hard work and dedication of New Hampshire's firefighters. By consistently operating above and beyond the call of duty, these men and women save the lives of fellow citizens and bring comfort to the community. Firefighters are among our country's bravest heroes, and this company has been serving the State of New Hampshire for many years.

I commend the altruistic acts of the Allenstown Fire Department. It takes courage to place somebody else's life above one's own. I am confident that as long as we have firefighters like those of Allenstown our Nation will continue to remain protected. New Hampshire is proud to have such dedicated citizens, and it is an honor to represent you in the U.S. Senate.●

TRIBUTE TO NATHAN LANGLAIS

● Mr. SMITH of New Hampshire. Madam President, today I pay tribute to Nathan Langlais of Nashua, NH, for risking his safety to save the life of a fellow motorist trapped in a crashed vehicle.

In August of 2001, Nathan and his friend John Horan, noticed a vehicle that had plunged through the guardrail and down a hill on the side of Daniel Webster Highway. The men immediately, and without regard for personal safety, came to the aid of the car's driver.

They discovered a semi-conscious driver in the smoking car. The men attempted to extract the driver from the vehicle but were unsuccessful in their first attempt. Loud noises came from the gasoline tank and the back of the car began to ignite. With little time to spare, the men rescued the driver from the passenger's side of the vehicle.

I commend Nathan Langlais for his bravery and heroism. His selflessness saved the life of a fellow citizen, and set a positive example for the people of the State of New Hampshire. I am confident that as long as there are Americans like Nathan Langlais, our Nation will continue to be strong. It is truly an honor and a privilege to represent you in the U.S. Senate.●

MESSAGE FROM THE HOUSE

At 3:23 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to

the amendment of the Senate to the bill (H.R. 586) to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes, with amendments in which it requests concurrence of the Senate.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6523. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled ''Department of Veterans' Affairs Reorganization Act of 2002''; to the Committee on Veterans' Affairs.

EC–6524. A communication from the Chairman and Vice Chairman of the Federal Election Commission, transmitting, a report relative to emergency Fiscal Year 2002 supplemental appropriations associated with the Bipartisan Campaign Reform Act of 2002; to the Committee on Appropriations.

EC–6525. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on Agency Drug-Free Workplace Plans; to the Committee on Appropriations.

EC–6526. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenhexmid; Pesticide Tolerance'' (FRL6829–9) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6527. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fuazinam; Pesticide Tolerance'' (FRL6831–8) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6528. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium Starch Glycolate; Exemption from the Requirement of a Tolerance'' (FRL6833–9) received on April 16, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6529. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act and Toxic Substances Control Act; to the Committee on Environment and Public Works.

EC–6530. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazard Mitigation Planning and Hazard Mitigation Grant Program'' (RIN3067–AD22) received on April 12, 2002; to the Committee on Environment and Public Works.

EC–6531. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate of Progress Plans'' (FRL7171–9) received on April 16, 2002.; to the Committee on Environment and Public Works.

EC–6532. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of New York'' (FRL7172–6) received on April 16, 2002; to the Committee on Environment and Public Works.

EC–6533. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to State Implementation Plan'' (FRL7172–7) received on April 16, 2002; to the Committee on Environment and Public Works.

EC–6534. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Report on Abnormal Occurrences for Fiscal Year 2001; to the Committee on Environment and Public Works.

EC–6535. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Passenger Equipment Safety Standards'' (RIN2130–AB48) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6536. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL 600 2C10 Series Airplanes'' ((RIN2120–AA64)(2002–0181)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6537. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: BAE Systems Limited Model BAe 146 Series Airplanes; and Model Avro 146–RJ Series Airplanes'' ((RIN2120–AA64)(2002–0180)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6538. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 Series Airplanes'' ((RIN2120–AA64)(2002–0182)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6539. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Modification of Class E Airspace, Brainerd, MN'' ((RIN2120–AA66)(2002–0059)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6540. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Modification of Class E Airspace; Frankfort, MI'' ((RIN2120–AA66)(2002–0060)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6541. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Mystere-Falcon 50 Series Airplanes'' ((RIN2120–AA64)(2002–0191)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6542. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes'' ((RIN2120–AA64)(2002–0192)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6543. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Actions Modification of Class D Airspace, Modification of Class E Airspace; Rockford, IL'' ((RIN2120–AA66)(2002–0058)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6544. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Various Transport Category Airplanes Equipped With Air Traffic Control (ATC) Transponders Manufactured by Rockwell Collins Inc.'' ((RIN2120–AA64)(2002–0188)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6545. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, 200, 200C, 300, 400, and 500 Series Airplanes'' ((RIN2120–AA64)(2002–0189)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6546. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes'' ((RIN2120–AA64)(2002–0190)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6547. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Request for Comments Boeing Model 767–300 Airplanes that have been modified in accordance with Supplemental Type Certificate STC00973WI–D'' ((RIN2120–AA64)(2002–0185)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6548. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: SOCATA—Group AEROSPATIALE Models MS 892A–150, MS 892E–150, MS 893A, MS 894A, MS 894E, Rallye 150T, and Rallye 150ST Airplanes'' ((RIN2120–AA64)(2002–0186)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6549. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rockwell Collins, Inc. TDR–94 and TDR–94D Model S Transponders'' ((RIN2120–AA64)(2002–0187)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6550. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cessna Aircraft Company P206, TP206, U206, 207, T207, 210, P210, and T210 Series Airplanes'' ((RIN2120–AA64)(2002–0194)) received

on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6551. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–10–10, 10F, 15, 30, 30F KC–10A and KDC–10, 40, and 40F Series Airplanes and Model MD–10–10F and MD–10–30F Series Airplanes'' ((RIN2120–AA64)(2002–0184)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6552. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. Models P–12 and PC–12/45'' ((RIN2120–AA64)(2002–0195)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6553. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Request for Comments Boeing Model 777–200 and 300 Series Airplanes'' ((RIN2120–AA64)(2002–0183)) received on April 16, 2002; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

H. Con. Res. 243: A concurrent resolution expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001.

S. Con. Res. 66: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

S. Con. Res. 75: A concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Jeffrey R. Howard, of New Hampshire, to be United States Circuit Judge for the First Circuit.

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

Percy Anderson, of California, to be United States District Judge for the Central District of California.

Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Michael M. Baylson, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Cynthia M. Rufe, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

William C. Griesbach, of Wisconsin, to be United States District Judge for the Eastern District of Wisconsin.

John F. Walter, of California, to be United States District Judge for the Central District of California.

Barry D. Crane, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy.

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Coast Guard nomination of Vice Adm. Thad W. Allen.

*Coast Guard nomination of Rear Adm. Thomas J. Barrett.

*Coast Guard nomination of Rear Adm. James D. Hull.

*Coast Guard nomination of Rear Adm. Terry M. Cross.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Ms. COLLINS, Mr. SMITH of Oregon, and Mr. BENNETT):

S. 2194. A bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mrs. CLINTON, Mrs. CARNAHAN, and Mrs. FEINSTEIN):

S. 2195. A bill to establish State infrastructure banks for education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BENNETT:

S. 2196. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN:

S. 2197. A bill to provide for the liquidation or reliquidation of certain entries of roller chain; to the Committee on Finance.

By Mr. BREAUX (for himself, Ms. LANDRIEU, Mr. SPECTER, and Mr. SANTORUM):

S. 2198. A bill to establish a commission to commemorate the sesquicentennial of the American Civil War, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 2199. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2200. A bill to amend the Ineternal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property; to the Committee on Finance.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. BURNS, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. CLELAND, Mr. NELSON of Florida, and Mrs. CARNAHAN):

S. 2201. A bill to protect the online privacy of individuals who use the Internet; to the Committee on Commerce, Science, and Transportation.

By Mr. EDWARDS (for himself and Mr. BINGAMAN):

S. 2202. A bill to amend title III of the Public Health Service Act to increase professional and public awareness of the link between periodontal disease in pregnant women and pre-term, low-birth weight babies and the maternal transmission of caries; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself and Mrs. MURRAY):

S. 2203. A bill to provide grants for mental health and substance abuse services for women and children who have been victims of domestic or sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. EDWARDS (for himself and Mrs. MURRAY):

S. 2204. To amend the Public Health Service Act to improve treatment for the mental health and substance abuse needs of women with histories of trauma, including domestic and sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER:

S. 2205. A bill to amend title 38, United States Code, to clarify the entitlement to disability compensation of women veterans who have service-connected mastectomies, to provide permanent authority for counseling and treatment for sexual trauma, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BUNNING:

S. 2206. A bill to make technical correction with respect to the duty suspension relating to certain polyamides; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. HARKIN, and Mr. GRASSLEY):

S. 2207. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself and Mr. BIDEN):

S. 2208. A bill to provide that children's sleepwear shall be manufactured in accordance with stricter flammability standards; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 2209. A bill to amend title 38, United States Code, to provide an additional program of service disabled veterans' insurance for veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BIDEN (for himself, Mr. SANTORUM, Mr. KERRY, Mr. FRIST, Mr. SARBANES, Mr. CHAFEE, and Mr. DEWINE):

S. 2210. A bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative; to the Committee on Foreign Relations.

By Mr. HUTCHINSON (for himself and Mr. CLELAND):

S. 2211. A bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes; to the Committee on Armed Services.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 2212. A bill to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior, and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act and for other purposes; to the Committee on Indian Affairs.

By Mr. DAYTON (for himself and Mr. SESSIONS):

S. 2213. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain overseas pay of members of the Armed Forces of the United States; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, and Mrs. CLINTON):

S. 2214. A bill to provide compensation and income tax relief for the individuals who were victims of the terrorist-related bombing of the World Trade Center in 1993 on the same basis as compensation and income tax relief is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 2215. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 246. A resolution demanding the return of the USS *Pueblo* to the United States Navy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 229

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 229, a bill to amend Federal banking law to permit the payment of interest on business checking accounts in certain circumstances, and for other purposes.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 677

At the request of Mr. HATCH, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 1005

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 1005, a bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1370

At the request of Mr. MCCONNELL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1370, a bill to reform the health care liability system.

S. 1449

At the request of Mr. GRAHAM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1449, a bill to establish the National Office for Combatting Terrorism.

S. 1549

At the request of Mr. LIEBERMAN, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 1549, a bill to provide for increasing the technically trained workforce in the United States.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1749, supra.

S. 1785

At the request of Mr. CLELAND, the names of the Senator from South Carolina (Mr. THURMOND), the Senator from Florida (Mr. NELSON), the Senator from Hawaii (Mr. INOUYE), the Senator from Delaware (Mr. CARPER), and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 1828

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1828, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 1981

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1981, a bill to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

S. 1990

At the request of Mrs. MURRAY, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1990, a bill to establish a public education awareness program relating to emergency contraception.

S. 1992

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1992, a bill to amend the Employee Retirement Income Security Act of 1974 to improve diversification of plan assets for participants in individual account plans, to improve disclosure, account access, and accountability under individual account plans, and for other purposes.

S. 2003

At the request of Mr. NELSON of Nebraska, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2003, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for other purposes.

S. 2039

At the request of Mr. DURBIN, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2039, a bill to expand aviation capacity in the Chicago area.

S. 2046

At the request of Mr. CRAIG, the names of the Senator from New Hampshire (Mr. SMITH) and the Senator from

New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 2046, a bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology.

S. 2051

At the request of Mr. REID, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Maryland (Mr. SARBANES), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2078

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2078, a bill to amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local political committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

S. 2134

At the request of Mr. HARKIN, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Maine (Ms. COLLINS), the Senator from Georgia (Mr. CLELAND), the Senator from Montana (Mr. BAUCUS), the Senator from Georgia (Mr. MILLER), and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2134, a bill to allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

S. 2179

At the request of Mrs. CARNAHAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2179, a bill to authorize the Attorney General to make grants to States, local governments, and Indian tribes to establish permanent tributes to honor men and women who were killed or disabled while serving as law enforcement or public safety officers.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

AMENDMENT NO. 3103

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3103 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3136

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 3136 intended to be proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

AMENDMENT NO. 3141

At the request of Mr. DORGAN, the names of the Senator from Connecticut (Mr. DODD), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Nevada (Mr. REID) were added as cosponsors of amendment No. 3141 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Ms. COLLINS, Mr. SMITH of Oregon, and Mr. BENNETT):

S. 2194. A bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes; to the Committee on Foreign Relations.

Mr. MCCONNELL. Madam President, on behalf of the Senator from California and myself, I offer the Arafat Accountability Act. This act seeks to create conditions more conducive to stopping the senseless violence and flow of innocent blood in the Middle East.

The act takes aim at the weakest link in ongoing efforts to negotiate a political solution to the Israeli-Palestinian conflict—PLO Chairman Yasser Arafat. His leadership has been marked by repeated failures—failure to forcefully denounce and terminate the spree of horrific homicide bombings, failure to serve as a credible and reliable partner in peace, and failure to fulfill the aspirations of the Palestinian people for stability, economic opportunity, and a viable homeland.

Instead, he has acquiesced to terror and violence. Documents seized during recent counterterrorism operations on the West Bank reveal his personal involvement in financing and supporting terrorism against Israeli civilians. The successful interception of a cargo vessel from Iran earlier this year—loaded with offensive weaponry destined for the Palestinian Authority—should have conclusively proven that Chairman Arafat was, at best, a balky partner in peace, or, at worst, a foe of any meaningful reconciliation.

The terrorist attacks against Israel must come to an end. And they must end on terms that safeguard the lives and livelihoods of innocent Israeli and Palestinian civilians. Much like our war against the Taliban and al-Qaida in Afghanistan, Israel is rotting out terrorist cells and destroying their networks.

It is no understatement that the Israeli military is undertaking its operations with precision and professionalism that no other army in the region could exert.

The Arafat Accountability Act will not frustrate or derail the important efforts of the administration to secure a political solution to the ongoing strife. Rather, it places critical incentives to ensure that Chairman Arafat and the Palestinian Authority do not deliver a fatal blow to the prospects for peace.

Specifically, the act denies a visa to Arafat and other senior PLO officials to travel to the United States, downgrades the PLO's representative office here in Washington, restricts the travel of senior PLO officials at the United Nations, and seizes the assets of the PLO and the Palestinian Authority and Arafat in the United States. It also requires the administration to report to Congress on any acts of terrorism committed by the PLO or its constituent elements.

Importantly, the bill provides the President with flexibility in determining the sanctions, but it is my expectation that they would remain in place until a cease-fire is achieved and the Tenet plan implemented. These are the very same short-term goals that Secretary Powell has been trying to achieve over the last few days.

We should not forget that in 1993 Arafat himself committed the PLO to ''a peaceful resolution of the conflict,'' so we are not holding Arafat to any higher standard than he established for himself already.

I would offer that Arafat should have listened more carefully to Secretary Powell when he said to the Nation and the world from the McConnell Center for Political Leadership at the University of Louisville last year that solutions to this conflict ''will not be created by teaching hate and division, nor will they be born amidst violence and war.''

I emphasize that it is not my intent to push this bill to a vote on the Senate floor at this time. We should give the President and his advisers more time to pursue their objectives in the region.

It is my intent, though, and the intent of the Senator from California, to send a powerful signal to Chairman Arafat and the Palestinian Authority that the Senate will not stand idly by while they talk peace in English and practice terror in Arabic.

No progress toward a political solution to this conflict will be made until and unless Yasser Arafat forcefully, clearly, and repeatedly condemns homicide bombings and other acts of terrorism against Israel and takes concrete measures to restrain Palestinian extremists.

The bill we introduce today puts added pressure on Arafat and the PLO to be responsible and responsive partners in peace. There is no room for further failure on Arafat's part. He must either lead his people toward peace or get out of the way.

Let me close by commending President Bush and his administration for their superb conduct in the ongoing war against terrorism. They certainly have my full support in this endeavor—be it in the West Bank or in Gaza or, for that matter, in Iraq.

My colleagues and I are looking forward to hearing from Secretary Powell when he appears before the Foreign Operations Subcommittee next week.

Mrs. FEINSTEIN. Madam President, I thank the Senator from Kentucky for his work and leadership on this issue.

We are here because we believe any hope for peace in the Middle East must begin with the complete renunciation of terrorism by the Palestinian Liberation Organization and a strong, unwavering commitment to bring such terrorism to an end.

We also believe that only with the leadership of the United States can there be a peaceful settlement and resolution of issues in the area.

For the past 18 months, as the violence of the second Intifada has increased, the United States has consistently called upon Yasser Arafat to halt the terrorism he pledged to end in the Oslo accords.

Unfortunately, Arafat has incited the violence and helped financially support the terrorists.

We now know that one of Arafat's top advisers is directly involved in financing the illegal weapons purchases and terror activities of the Al Aqsa Brigade.

We now know, according to documents seized by the Israeli Defense Forces, that Arafat was directly involved in efforts to illegally smuggle more than 50 tons of arms into Israel from Iran a few months ago.

We now know that Arafat has failed to confiscate weapons of terrorist suspects.

We know he has failed to arrest and hold suspected terrorists and is harboring suspects in the assassination of an Israeli Cabinet official in his own headquarters in Ramallah.

In fact, much of the terrorism emanates from the heart of the PLO, carried out by the Al Aqsa Martyrs Brigade, composed of members of Arafat's own Fatah faction.

Since the beginning of the year, 209 people have been murdered and more than 1,500 injured in these suicide bombings. These are children, women, men—innocent civilians.

The Al Aqsa Martyrs Brigade claimed credit for numerous of these attacks, including on March 31, central Jerusalem, killing 3 people; March 3, killing 10 people in west Jerusalem; and January 31, when the first female bomber killed an elderly Israeli.

A document seized by the Israel Defense Forces in Ramallah, signed by Arafat himself, approves funding for the Al Aqsa Brigades.

On February 3, Arafat wrote a New York Times op-ed opposing violence against Israel. Yet he declared a few days later, in Ramallah, that ''we will make the lives of the infidels Hell'' and led a chant of ''A million martyrs marching to Jerusalem!''

And this past week, while Arafat spoke out against terrorism, his wife, in Paris, said she would be proud if she had a son who became a suicide bomber.

I believe, sincerely, that this is not a leader who wants peace for his people. In fact, I believe the suicide bombings have been precisely calculated to destroy any chance for peace.

If these suicide bombers cannot be stopped, the situation is going to continue to deteriorate, Israel will have to continue to exercise its legitimate right of self-defense, and the result will be full-scale military conflagration.

Israel has done no less—and certainly no more—than what any country would do to defend itself. There has been a lamentable loss of life in the West Bank. And I grieve for it because I believe, very deeply, every life—Israeli or Palestinian—has equal value.

But let us not forget that Israel's military operation has been one based on specific intelligence information, with specific military goals—to act directly against terrorists who before the start of the operation were carrying out daily suicide bombings against Israeli civilians—and carried out with considerable restraint.

Certainly, Israel has not gone beyond what the United States and our allies have been doing in Afghanistan, or the United Kingdom in Northern Ireland, or the bloody French campaign in Algeria—let alone, what Egypt, Saudi Arabia, Syria, Iraq, or Iran do on almost a daily basis to quell dissent.

Does anyone doubt that a suicide bombing in Cairo, or Riyadh, or Damascus, or Beirut, or Paris would be met with the strongest of reactions, as was the 9–11 terrorist incident here?

There simply is no excuse for arming a teenage girl with bombs around her waist to blow up women and children. And this kind of terror is happening over and over again.

So the time is now for this Senate to stand up, in a strong, unified voice, to condemn the actions of Chairman Arafat and his PLO and the terrorism that has spawned.

Chairman Arafat has said one thing in English and another in Arabic. Chairman Arafat fans the flames and incites the people.

We offer this bill, after witnessing the failure of efforts by Messrs. Tenet, Mitchell, Zinni, and, at least initially, Secretary Powell to break the deadlock largely because Chairman Arafat has not brought to an end the suicide bombing and other acts of terrorism.

This legislation would require the President to report to Congress every 90 days, detailing the acts of terrorism engaged in by the Palestinian Liberation Organization or any of its constituent elements and, based on that report, to designate the PLO or its constituent elements as terrorist organizations, or explain why not.

The legislation also finds that Chairman Arafat and the PLO have violated his commitment to peace through the recent purchase of 50 tons of offensive weaponry from Iran; that they are responsible for the murder of hundreds of innocent Israelis and the wounding of thousands more since October 2000, and that they have been directly implicated in funding and supporting terrorists who have claimed responsibility for a number of homicide bombings inside Israel.

Because of the failure by the Palestinian Liberation Organization to renounce terrorism, the act would, A, downgrade PLO representation in the United States to before Oslo; B, place travel restrictions on senior PLO representatives at the United Nations; C, confiscate assets of PLO or Palestinian Authority or Chairman Arafat in the United States; D, deny visas to Chairman Arafat or other officials of the PLO or the Palestinian Authority.

It is important to note that the President may, on a case-by-case basis, waive this provision based on national security considerations.

The legislation presents a sense of the Senate outlining the first steps needed to reach peace. First, the United States should urge an immediate and unconditional end to all terrorist activities and commencement of a cease-fire. Two, Arafat and the PLO should turn over to Israel for detention and prosecution those wanted by the Israeli Government for the assassination of Israeli Minister of Tourism, Mr. Zeevi. Third, Arafat and the PLO should take broad and immediate action to condemn all acts of terrorism, including and especially suicide bombing, which has resulted in the murder of over 125 Israeli men, women, and children in the month of March alone and the injury of hundreds more; confiscate and destroy the infrastructure of terrorism, including weapons, bomb factories and materials, as well as end all financial support of terrorist activities; and to take positive steps to urge all Arab nations and individuals to cease funding terrorist operations and the families of terrorists.

Finally, the President of the United States, working with the international community, with Israel and the Arab States, should continue the search for a comprehensive peace in the region.

There is no question that there are serious differences to be reconciled between Israel and the Palestinian people and that only a political settlement can hopefully bring the violence in this region to an end. I believe the 1967 borders, borders which have the imprimatur of the United Nations, hold the key to a settlement. Despite serious differences about the refugee problem, ongoing security, and the status of Jerusalem, I believe peace can be

achieved through negotiation and agreement. But I know it cannot be achieved through violence.

The necessary first step is the end of the violence, the terrorism, and the suicide bombing. Once that is done, we are firmly convinced that if leaders on both sides want peace, the rest can all be worked out.

By Mr. HARKIN (for himself, Mrs. CLINTON, Mrs. CARNAHAN, and Mrs. FEINSTEIN):

S. 2195. A bill to establish State infrastructure banks for education; to the Committees on Health, Education, Labor, and Pensions.

Mr. HARKIN. Madam President, the need to rebuild our Nation's crumbling schools is clear. The National Center for Education Statistics estimates that it would cost $127 billion to repair, modernize, and renovate U.S. schools. Fourteen million U.S. students currently attend schools that report a need for extensive repair. And a study by the American Society of Civil Engineers concludes that public schools are in worse condition than any other sector of our national infrastructure.

And yet the Federal Government is doing far too little to help.

That is why I am introducing the Investing for Tomorrow's Schools Act of 2002. I am pleased to have Senators CLINTON, CARNAHAN, and FEINSTEIN join with me as co-sponsors.

This legislation allows States to create ''infrastructure banks'' for public schools and libraries. Modeled after State revolving funds, which have been used successfully to finance transportation projects, these banks would offer low-interest loans to school districts for building or repairing public schools, and to public libraries for building or repairing libraries. As the loans are repaid, the bank funds would be replenished, and the banks could make new loans to other schools and libraries. Once the banks got rolling, they would sustain themselves, without any need for ongoing Federal appropriations.

After more than a decade of fighting to rebuild our Nation's deteriorating schools, I am well aware that this bill is just one part of the solution. Two years ago, as the ranking member on the Senate Labor, HHS, and Education Appropriations Subcommittee, I led the effort to provide $1.2 billion in grants to schools that urgently need repairs. Last year, the Senate approved another $925 million on a bipartisan vote, but unfortunately that funding was eliminated during conference negotiations with the House.

I also introduced the America's Better Classrooms Act, which would provide tax credits to subsidize $25 billion in new construction. That legislation is still pending, and I am hopeful that it will succeed. The Investing for Tomorrow 's School Act is the final piece of the puzzle.

If the nicest buildings our kids see in their hometowns are shopping malls, sports arenas and movie theaters, and the most rundown place they see is their school, what kind of signal are we sending? We can and must do better for our children. The Investing for Tomorrow's School Act should be a critical part of our strategy to improve education, and I urge my colleagues to support it.

I ask that the text of the bill be printed in the RECORD.

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

S. 2195

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 ''Investing for Tomorrow's Schools Act of 2002''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) According to a 1996 study conducted by the American School & University, $10,420,000,000 was spent to address the Nation's education infrastructure needs in 1995, with the average total cost of a new high school at $15,400,000.

(2) According to the National Center for Education Statistics, an estimated $127,000,000,000 in repairs, renovations, and modernizations is needed to put schools in the United States into good overall condition.

(3) Approximately 14,000,000 American students attend schools that report the need for extensive repair or replacement of 1 or more buildings.

(4) Academic research has proven that there is a direct correlation between the condition of school facilities and student achievement. At Georgetown University, researchers found that students assigned to schools in poor conditions can be expected to fall 10.9 percentage points behind those in buildings in excellent condition. Similar studies have demonstrated improvement of up to 20 percent in test scores when students were moved from a poor facility to a new facility.

(5) The Director of Education and Employment Issues at the Government Accounting Office testified that nearly 52 percent of schools, affecting 21,300,000 students, reported insufficient technology elements for 6 or more areas.

(6) Large numbers of local educational agencies have difficulties securing financing for school facility improvement.

(7) The challenges facing our Nation's public elementary schools and secondary schools and libraries require the concerted efforts of all levels of government and all sectors of the community.

(8) The United States competitive position within the world economy is vulnerable if America's future workforce continues to be educated in schools and libraries not equipped for the 21st century.

(9) The deplorable state of collections in America's public school libraries has increased the demands on public libraries. In many instances, public libraries substitute for school libraries, creating a higher demand for material and physical space to house literature and educational computer equipment.

(10) Research shows that 50 percent of a child's intellectual development takes place before age 4. The Nation's public and school libraries play a critical role in a child's early development because the libraries provide a wealth of books and other resources that can give every child a head start on life and learning.

SEC. 3. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

(a) ESTABLISHMENT.—

(1) COOPERATIVE AGREEMENTS.—The Secretary of Education (hereafter in this Act referred to as the ''Secretary''), in consultation with the Secretary of the Treasury, may enter into cooperative agreements with States under which—

(A) States establish State infrastructure banks and multistate infrastructure banks for the purpose of providing the loans described in subparagraph (B); and

(B) the Secretary awards grants to such States to be used as initial capital for the purpose of making loans—

(i) to local educational agencies to enable the agencies to build or repair elementary schools or secondary schools that provide free public education; and

(ii) to public libraries to enable the libraries to build or repair library facilities.

(2) INTERSTATE COMPACTS.—

(A) CONSENT.—Congress grants consent to any 2 or more States, entering into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, to enter into an interstate compact establishing a multistate infrastructure bank in accordance with this section.

(B) RESERVATION OF RIGHTS.—Congress expressly reserves the right to alter, amend, or repeal this section and any interstate compact entered into pursuant to this section.

(b) REPAYMENTS.—Each infrastructure bank established under subsection (a) shall apply repayments of principal and interest on loans funded by the grant received under subsection (a) to the making of additional loans.

(c) INFRASTRUCTURE BANK REQUIREMENTS.—A State establishing an infrastructure bank under this section shall—

(1) contribute in each account of the bank from non-Federal sources an amount equal to not less than 25 percent of the amount of each capitalization grant made to the bank under subsection (a);

(2) identify an operating entity of the State as recipient of the grant if the entity has the capacity to manage loan funds and issue debt instruments of the State for purposes of leveraging the funds;

(3) allow such funds to be used as reserve for debt issued by the State, so long as proceeds are deposited in the fund for loan purposes;

(4) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(5) ensure that any loan from the bank will bear interest at or below the lowest interest rates being offered for bonds, the income from which is exempt from Federal taxation, as determined by the State, to make the project that is the subject of the loan feasible;

(6) ensure that repayment of any loan from the bank will commence not later than 1 year after the project has been completed;

(7) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (6); and

(8) require the bank to make an annual report to the Secretary on its status, and make such other reports as the Secretary may require by guidelines.

(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

(1) IN GENERAL.—An infrastructure bank established under this section may make a loan to a local educational agency or a public library in an amount equal to all or part of the cost of carrying out a project eligible for assistance under subsection (e).

(2) APPLICATIONS FOR LOANS.—

(A) IN GENERAL.—A local educational agency or public library desiring a loan under this Act shall submit to an infrastructure bank an application that includes—

(i) in the case of a renovation project—

(I) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with loan funds and the priorities to be applied; and

(II) a description of the criteria used by the applicant to determine the type of corrective action necessary for the renovation of a facility;

(ii) a description of any improvements to be made and a cost estimate for the improvements;

(iii) a description of how work undertaken with the loan will promote energy conservation; and

(iv) such other information as the infrastructure bank may require.

(B) TIMING.—An infrastructure bank shall take final action on a completed application submitted to it in accordance with this subsection not later than 90 days after the date of the submission of the application.

(3) CRITERIA FOR LOANS.—In considering an application for a loan, an infrastructure bank shall consider—

(A) the extent to which the local educational agency or public library desiring a loan would otherwise lack the fiscal capacity, including the ability to raise funds through the full use of such bonding capacity of the agency or library, to undertake the project proposed in the application;

(B) in the case of a local educational agency, the threat that the condition of the physical plant in the proposed project poses to the safety and well-being of students;

(C) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility in the proposed project; and

(D) the age of the facility proposed to be reconstructed, renovated, or replaced.

(e) QUALIFYING PROJECTS.—

(1) IN GENERAL.—A project is eligible for a loan from an infrastructure bank if it is a project that consists of—

(A) the construction of a new elementary school or secondary school to meet the needs imposed by enrollment growth;

(B) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or lighting equipment;

(C) an activity to increase physical safety at the educational facility involved;

(D) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

(E) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

(F) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

(G) work that will bring an educational facility into conformity with the requirements of—

(i) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect when the facility was initially constructed; and

(ii) hazardous waste disposal, treatment, and storage requirements mandated by the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or similar State laws;

(H) work that will enable efficient use of available energy resources;

(I) work to detect, remove, or otherwise contain asbestos hazards in educational facilities; or

(J) work to construct new public library facilities or repair or upgrade existing public library facilities.

(2) DAVIS-BACON.—The wage requirements of the Act of March 3, 1931 (referred to as the ''Davis-Bacon Act'' (40 U.S.C. 276a et seq.)) shall apply with respect to individuals employed on the projects described in paragraph (1).

(f) SUPPLEMENTATION.—Any loan made by an infrastructure bank shall be used to supplement and not supplant other Federal, State, and local funds available to carry out school or library construction, renovation, or repair.

(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall specify procedures and guidelines for establishing, operating, and providing assistance from an infrastructure bank.

(i) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

(k) PROGRAM ADMINISTRATION.—A State may expend an amount not to exceed 2 percent of the grant funds contributed to an infrastructure bank established by a State or States under this section to pay the reasonable costs of administering the infrastructure bank.

(l) SECRETARIAL REVIEW AND REPORT.—The Secretary shall—

(1) review the financial condition of each infrastructure bank established under this section; and

(2) transmit to Congress a report on the results of such review not later than 90 days after the completion of the review.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELEMENTARY SCHOOL, FREE PUBLIC EDUCATION, LOCAL EDUCATIONAL AGENCY, AND SECONDARY SCHOOL.—The terms ''elementary school'', ''free public education'', ''local educational agency'', and ''secondary school'' have the same meanings as in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

(2) OUTLYING AREA.—The term ''outlying area'' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;

(3) PUBLIC LIBRARY.—The term ''public library''—

(A) means a library that serves free of charge all residents of a community, district, or region, and receives its financial support in whole or in part from public funds; and

(B) includes a research library, which, for purposes of this subparagraph, means a library that—

(i) makes its services available to the public free of charge;

(ii) has extensive collections of books, manuscripts, and other materials suitable for scholarly research which are not available to the public through public libraries;

(iii) engages in the dissemination of humanistic knowledge through services to readers, fellowships, educational and cultural programs, publication of significant research, and other activities; and

(iv) is not an integral part of an institution of higher education; and

(4) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

By Mr. BENNETT:

S. 2196. A bill to establish the National Mormon Pioneer Heritage Area in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BENNETT. Madam President, today it gives me great pleasure to introduce for the Senate's consideration legislation establishing the National Mormon Pioneer Heritage Area.

Spanning 250 miles, from the small town of Fairview, UT southward to our border with Arizona, the area encompassed by the National Mormon Pioneer Heritage Area includes outstanding examples of historical, cultural, and natural resources shaped by the Mormon pioneers. The story of the Mormon pioneers is one of the most compelling and captivating in our Nation's history. After traveling 1,400 miles from Illinois either by wagon or by pulling a handcart the pioneers came to the Great Salt Lake Valley. Along the way, the pioneers experienced many hardships including starvation, dehydration, exposure to the elements, Indian attacks, and religious persecution to name a few. Many people died during their journey. Shortly after arriving in and establishing Salt Lake City, Brigham Young dispatched pioneers to establish communities in present day Idaho, Wyoming, Oregon, and other regions of Utah. The vast colonization effort in no way ended the hardship experienced by the pioneers. Throughout the area included in my proposal are numerous stories of pioneers who perserved through challenging circumstances. Communities such as Panguitch have Quilt Days every year to commemorate the sacrifice and fortitude of its pioneers whose efforts saved the community from starvation in 1864. The Quilt Days celebration is a remembrance of an event known as the Quilt Walk, in which a group of men from Panguitch attempted to cross over the mountains to Parowan, a community to the west, to procure food during the community's first winter. Because of deep

snows the pioneers were unable to trek across the mountains. Using their quilts, the pioneers formed a path which would support their weight and were able to reach Parowan, secure food, and return to Panguitch. There are other remarkable stories in the proposed heritage area that demonstrate the tenacity of the Mormon pioneers. At times in order to survive, the pioneers had to overcome major natural obstacles. One such obstacle was the Hole-in-the-Rock. In 1880 a group of 250 people, 80 wagons, and 1,000 head of cattle came upon the Colorado River Gorge. After looking for sometime to find an acceptable path to the river, the pioneers found a narrow crevice leading to the bottom of the gorge. Because the crevice was too narrow to accommodate their wagons, the pioneers spent six weeks enlarging the crevice by hand, using hammers, chisels, and blasting powder, so wagons could pass. Today the Hole-in-the-Rock stands as a monument to the resourcefulness of the Mormon pioneers.

The National Mormon Pioneer Heritage Area will serve as special recognition to the people and places that have contributed greatly to our Nation's development. Throughout the heritage area are wonderful examples of architecture, such as the community of Spring City, heritage products, and cultural events, such as the Mormon Miracle Pageant, that demonstrate the way-of-life of the pioneers.

This designation will allow for the conservation of historical and cultural resources, the establishment of interpretive exhibits, will increase public awareness, and specifically allows for the preservation of historic buildings. This is a locally based, locally supported undertaking. My legislation has broad support from Sanpete, Sevier, Piute, Garfield, and Kane Counties. Furthermore, nothing in my legislation affects private property, land use planning, or zoning.

I am very proud to introduce this legislation today. I look forward to working with my colleagues in the Committee on Energy and Natural Resources to pass this legislation this year.

By Mr. WYDEN.

S. 2197. A bill to provide for the liquidation or reliquidation of certain entries of roller chain; to the Committee on Finance.

Mr. WYDEN. Madam President, today I am introducing legislation whose purpose is to correct a gross injustice that has been carried out for more than two decades by bureaucrats at the International Trade Administration, ITA, and the U.S. Customs Service, Customs, against a small Oregon business, GS Associates, Inc., GS. What has been allowed to happen to this company at the hands of the federal government is a shocking and ultimately disturbing example of what can happen to ordinary, hardworking Americans when an overzealous Federal bureaucracy is allowed to run horribly amok.

In 1973, imports of Japanese roller chain, not bicycle chain, potentially became subject to dumping duties, and in 1980, Congress instructed the International Trade Administration, ITA, to conduct complete annual administrative reviews of outstanding dumping findings to determine whether any dumping duties should be assessed. But ITA failed to complete its reviews on a timely basis. In fact, for my small Oregon importer, GS, the ITA wasn't just a day or two late in reporting the findings of its review of the company's Japanese supplier for shipments imported from April 1, 1981 through March 31, 1982, they were nine-and-a-half years late. When ITA finally got around to issuing a notice regarding its administrative review on September 22, 1992, a court challenge was initiated by the Japanese supplier and a court decision was rendered on July 11, 1995. Not surprisingly, ITA failed to publish notice of the court's decision in the Federal Register within ten days, as required by law. That was in 1995. The year is now 2002, and ITA still has not published that notice. And as if all of this ineptitude were not enough, ITA then failed to instruct Customs to begin assessing dumping duties on and to liquidate GS Associates' shipments until the Spring of 2000. When Customs finally began assessing duties, they added on enormous amounts of interest, dating back almost 20 years, in sums that were two to three times greater than the original dumping duty assessments. This outrageous pattern of conduct by the federal government threatens GS with bankruptcy.

The level of ineptitude displayed in this case by bureaucrats at ITA and the Customs Service is egregious bordering on negligence. Legitimate small businesses in this country should have the expectation they will be treated fairly and forthrightly by their federal government. ITA and the Customs Service deserve a very strong rebuke. GS Associates deserves to have its case resolved quickly and fairly, and that is the point of my legislation. It will liquidate once and for all the $1.7 million in duties and interest that have accumulated over the past 20 years on these imports because of federal government negligence.

I intend to work with the Finance Committee to assure that this measure is included in the legislation the committee is preparing on temporary duty suspensions, and hope that the duty suspension bill will enable this Oregon company to be able to put this terrible experience behind it.

By Mr. CRAIG:

S. 2199. A bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance; to the Committee on Finance.

Mr. CRAIG. Madam President, I rise today to introduce the Long-Term Care Insurance Partnership Act.

In the early 1990's, with support from a grant by the Robert Wood Johnson Foundation, four States, California, Connecticut, Indiana and New York, initiated programs to create public-private long-term care partnerships to provide citizens with options for long-term care coverage without having to spend down to Medicaid eligibility. However, current law prohibits additional States from including asset protection in any public-private partnerships they may develop. Other States may set up the policies, but the beneficiaries receive no asset protection in the event they exhaust the long-term care insurance policies. They would be forced to spend down to Medicaid levels, thereby removing the key incentive behind the partnership program—asset protection.

Under the partnership program, States authorize the sale of approved long-term care insurance policies that meet certain benefit requirements. Individuals who purchase approved policies, would receive a guarantee from the State that should their policy benefits be exhausted, the State would then cover the cost of their continuing care through Medicaid. The primary incentive for purchasing partnership policies is asset protection.

In other words, the State Medicaid program would become a payer of last resort rather than providing first-dollar coverage, in effect becoming a long-term care ''stop-loss'' program.

The benefits of the program are significant for both seniors and government: Individuals are encouraged to take responsibility for their own long-term care needs rather than relying on a State benefit. It avoids forcing middle-class individuals to spend down to Medicaid levels, but gives these same individuals the knowledge that the government will be there if they need it. This program has been successful in the goal of keeping people from needing to use Medicaid. Under this program in four States, there are nearly 66,000 policies in force and so far only 28 policyholders have exhausted their long-term care insurance benefits and accessed Medicaid assistance. At a cost averaging $50,000 per year for long-term care services, the savings for State Medicaid budgets can be significant.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2199

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-Term Care Insurance Partnership Program Act of 2002''.

SEC. 2. PERMITTING ADDITIONAL STATES TO ENTER INTO LONG-TERM CARE PARTNERSHIPS TO PROMOTE USE OF LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 1917(b)(1)(C) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)) is amended—

(1) in clause (i), by striking ''shall seek adjustment'' and inserting ''may seek adjustment''; and

(2) in clause (ii), by striking ''had a State plan amendment approved as of May 14, 1993, which provided'' and inserting ''has a State plan amendment approved which provides''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date of the enactment of this Act.

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2200. A bill to amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property; to the Committee on Finance.

Mr. BAUCUS. Madam President, today I introduce legislation, along with Senator GRASSLEY, to clarify the tax treatment of the clergy housing allowance. It is a very simple bill that confirms established Internal Revenue Service policy that has lacked the force of law. Without this clarification, we risk losing a long-standing benefit that is terribly important to hundreds of thousands of ministers, priests, rabbis and other clergy all across America.

Since 1921, the Tax Code has allowed clergy to exclude from their taxable income the value of housing provided to them, and since the 1950's they have also been able to exclude a housing allowance provided for the same purpose. This section of the Code is similar to one for employer-provided housing for other taxpayers. The one for clergy is much simpler, in order to minimize the involvement of the Government in the affairs of churches, that is, to keep the separation between Church and State.

The IRS has always interpreted this exclusion to be limited to the fair market rental value of the housing. They clearly stated that position in 1971, but their statement lacked the force of law. Their position has been challenged in Court, and the Court has said that it was not clear that Congress meant to impose this limit. That is why we must act.

The vast majority of clergy across America work very hard for very modest pay. Especially in rural areas like we have in Montana, many congregations are small, pay is low, and ministers are very dependent upon their churches providing or paying for their housing. A dispute over this issue has led to a controversial attempt by a panel of court of appeals judges to call into question the constitutionality of the exclusion. If the exclusion is lost, it will cost America's clergy $500 million each year. That may seem like a small amount of money compared to many of our tax bills that add up to billions, but it is a lot of money to those who are directly affected, and to the millions of Americans in the congregations that they serve.

The House has passed similar legislation by a vote of 408 to 0. Senator GRASSLEY and I will try to expedite passage of the legislation here in the Senate.

It is good tax policy to keep a reasonable limit on the amount of this deduction, as the IRS has done for decades. And it is good policy to make our intent crystal clear so that government involvement with religious affairs is kept to a minimum. This bill will do both.

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. BURNS, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. CLELAND, Mr. NELSON of Florida, and Mrs. CARNAHAN):

S. 2201. A bill to protect the online privacy of individuals who use the Internet; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Madam President, today I rise to introduce bipartisan legislation that will establish baseline requirements for the protection of personal information collected from individuals over the Internet. This bill, the Online Personal Privacy Act, represents the work of many months and important input from consumer groups, affected individuals, and most importantly, many Senators on the Commerce Committee. The origin of this emerging consensus position began to take shape at a Commerce committee hearing last summer that focused generally on whether there was a need for online privacy legislation. At that time, members of the committee began to articulate the notion that not all personal information is created equal. I agree. Some, highly sensitive personal information, such as personal financial or medical information or a person's religious beliefs are clearly more sensitive than other garden-variety types of information, such as a pair of slacks that an individual may purchase. Since that hearing, and in numerous meetings with members of the Committee, we have worked hard to develop a balanced approach to Internet privacy regulation that recognizes and builds upon best practices in the online community while establishing a federal baseline standard for the protection of individuals' privacy on the Internet.

Let me begin by expressing my gratitude to Senators ROCKEFELLER, INOUYE, BREAUX, and CLELAND, who worked closely with me during the last Congress to advocate the need for strong online privacy protections and who have agreed to be original cosponsors of this legislation. In addition, I would also like to particularly thank Senators KERRY, STEVENS, and BURNS for their invaluable contributions throughout this process and their willingness to join with us in working to craft a workable, bipartisan, consensus position on legislation that will provide individuals with better controls over the use of their personal information while fueling the growth of e-commerce as consumer confidence in the Internet spurs a significant increase in online activity.

Some have argued that Americans' concerns about privacy no loner exist in the aftermath of September 11. But poll after poll consistently demonstrates that the American people want companies they patronize to seek their permission prior to using their personal information for commercial profit. These concerns are heightened with respect to the Internet, which, in a digital age, enables the seamless compilation of highly detailed personal profiles of Internet users. Accordingly, fears about privacy have had palpable effects on the willingness of consumers to embrace the full potential of the Internet and e-commerce.

Distrust of false privacy promises has sparked a rage of online self-defense, especially the providing of false information by individuals. Industry analysts estimate that between one-fifth to one-third of all individuals provide false personal information on the Internet. This response is understandable given that consumers have few tools to discover whether their personal information is being disclosed. sold, or otherwise misused, and they have virtually no recourse.

Privacy fears are stifling the development and expansion of the Internet as an engine of economic growth. Because of consumer distrust, online companies and services are losing potential business and collecting bad data, blocking the Internet and its wide range of services from reaching its full potential. The lack of enforceable privacy protections is a significant barrier to the full embrace by consumers of the Internet marketplace. According to a recent Harris/Business Week poll, almost two-thirds of non-Internet users would be more likely to use the Net if the privacy of their ''personal information and communications were protected.''

Moreover, according to a recent Forrester study, online businesses lost nearly $15 billion, or 27 percent of e-commerce revenues, due to consumer privacy concerns. Those numbers are significant in light of the economic downturn and its disproportionate impact on the high-tech Internet sectors. Good privacy means good business and the Internet economy could use a healthy dose of that right now.

Accordingly, our legislation offers a win-win proposition for consumers and business: it will protect the privacy of individuals online and provide online businesses with a new market of willing customers. While protecting the necessary business certainty of a single Federal standard.

Online companies have long argued that privacy regulations would hamper their ability to efficiently conduct business on-line and give consumers the tailored buying experience they now expect from the Internet. Online

merchants also touted self-regulation as sufficient privacy protection. We know otherwise.

Privacy violations continue to make headlines: a major outcry erupted last year after Eli Lilly disclosed a list of hundreds of customers suffering from depression, bulimia, and obsessive compulsive disorder over the Internet. Moreover, just last week, a New York Times article, ''Seeking Profits, Internet Companies Alter Privacy Policy,'' recounted how Internet companies such as Yahoo had changed their privacy policies in order to require consumers to restate their privacy preferences even if they had previously withheld consent for the use and commercialization of their personal information. Accordingly, these companies expanded their ability to use an individual's personal information for online and offline marketing purposes notwithstanding that individual's prior policy preferences. Still other businesses confound consumers with opaque privacy policies that begin with, ''Your privacy is important to us,'' but in the subsequent legalese, outline a series of exceptions crafted with double-negative verbs that allow virtually any use of a consumer's information. Still other commercial web sites fail to pass any privacy policy at all, safe in the knowledge that they face virtually no legal jeopardy for selling personal information.

To be fair, some companies have taken consumer privacy seriously. Earthink launched a national television advertising campaign touting its policy of not selling customer information. U-Haul's web site simply says: ''We will never sell or share our information with anyone, or send you junk mail, we hate that stuff, too.'' Companies like Hewlett Packard, Intel, and Microsoft, giants of the high tech industry, already provide individuals opt-in protection with respect to their personal information. But, in the final analysis, despite the best of intentions and some successful efforts, reliance on self-regulation alone has not proven to provide sufficient protection. In its May 2000 Report to Congress, the Federal Trade Commission clearly recognized this shortcoming having studied this issue diligently for 5 years: ''Because self-regulatory initiatives to date fall short of broad-based implementation of effective self-regulatory programs, the Commission has concluded that such efforts alone cannot ensure that the online marketplace as a whole will emulate the standards adopted by industry leaders. The Commission recommends that Congress enact legislation that, in conjunction with continuing self-regulatory programs, will ensure adequate protection of consumer privacy online.''

Our legislation aims to do just that.

Fundamentally, our legislation is built upon the five core principles of privacy protection identified by the Federal Trade Commission in its 1995 report to Congress regarding online privacy: 1. Notice, 2. Consent, 3. Access, 4. Security and 5. Enforcement. Those principles are tried and true and formed the framework for the bipartisan Children's Online Privacy Protection Act of 1998. Which was hailed by industry far and wide as a template for protecting children's personal information that is collected on the Internet.

The bill we introduce today takes a singular approach. It divides online personal information into two categories: sensitive information and nonsensitive information. Sensitive information is narrowly tailored to include actual information about specific financial data, health information, ethnicity, religious affiliation, sexual orientation, and political affiliation, or someone's social security number. Nonsensitive information is all other personally identifiable information collected online.

In this respect, the legislation is also similar to the two-tiered approach taken by the European Union in which companies are required to provide baseline protections governing the use of nonsensitive information, and stronger consent protections governing the use of sensitive data. More than 180 American companies, including Staples, Marriott, Microsoft, Intel, Hewlett Packard, DoubleClick Kodak, and Acxiom, doing business in Europe have agreed to provide such protections with respect to the personal data of European citizens. They have signed up for the EU Safe Harbor and their names are listed on the Department of Commerce's web site. Our bill simply asks these and other companies to provide similar protections for U.S. citizens.

First, with respect to notice and consent, the bill would require web sites and online services to post clear and conspicuous notice of its information practices. In other words, plainly state to individuals what you plan to do with their personal information. To the extent that a web site collects sensitive information, it would also be required to obtain a consumer's affirmative consent, so-called ''opt-in'' consent, prior to the collection of such data. To the extent that a web site collects only non-sensitive personal data, it would be able to collect such data for other uses as long as it provides individuals with an ability to ''opt out'' of such uses and provides the consumer with actual notice at the point of collection, so-called ''robust notice'', which briefly and succinctly describes how the information may be used or disclosed.

Many Internet companies are doing this already. For example, on the same page where an individual provides his or her personal information, the web site for 1–800 Flowers states: ''You will be receiving promotional offers and materials from our sites and companies we own. Please check the box below if you do not want to receive such materials in the future and do not wish us to provide personal information collected from you to third parties.'' Similarly, NBC's website says the following on the webpage where individuals register their personal information: ''As our customer, you will occasionally receive email from shopnbc.com about new services, features, and special offers we believe would interest you. If you'd rather not receive these updates, please uncheck this box.'' It's as simple as that. And it provides the individual the ability to make an informed choice at the critical point at which he or she is providing a company with personally identifiable information.

Next, our legislation requires companies to provide individuals with the ability to find out what personal information a web site has collected about them. While important, this right of reasonable access is not unqualified. Rather, it considers a variety of factors including the sensitivity of the information sought by the consumer and the burden and expense on the provider in giving consumers access to their personal information. In addition, the bill would permit online companies to charge individuals a reasonable fee to access their personal data, as is similarly provided under the Fair Credit Reporting Act.

In addition, our bill requires that web sites adopt reasonable security procedures to protect the security, confidentiality, and integrity of personally identifiable information, just as Congress required in the Children's privacy legislation.

Moreover, the bill grants consumers important rights of redress. First, the Federal Trade Commission and state attorneys general are empowered to take action. If the FTC collects civil penalties, the bill creates a mechanism whereby those injured can petition to receive up to $200 of the award. For more serious violations involving sensitive information, the bill would additionally permit individuals on their own to pursue redress for damages in federal court.

Finally, in addition to following these fair information principles, the legislation also takes the critical step of establishing a uniform federal standard for online privacy protection by preempting State Internet laws. Inconsistent state regulation of privacy is already causing problems for online businesses. Vermont has adopted ''opt-in laws'' governing financial and medical privacy. In Minnesota, the state Senate has adopted ''opt-in'' online privacy legislation by a vote of 96–0. In California, state privacy legislation is again moving through the state legislature, offering the very real possibility that online businesses will sooner rather than later face the prospect of trying to bring their online operation into compliance with inconsistent state laws.

Because new technologies make privacy protection a constantly evolving issue, the bill requires the FTC not only to implement the requirements of the law, but further, to issue periodic reports about how the law is working;

whether similar privacy protections should apply offline or to pre-existing data; whether standardized online privacy notices should be developed; if a meaningful safe harbor should be constructed; and whether privacy protection technologies in the marketplace such as P3P can help facilitate the administration of the Act.

Consumer participation in cyberspace should not be conditioned on a willingness to relinquish control over one's personal information. Rather, for the medium to truly flourish, we must establish baseline consumer protections that will eliminate the tyranny of convenience in which consumers are forced to choose between disclosing private, personal information, or not using the Internet at all. Congress has a moral obligation to protect American individual liberties, including the right to better control the commercialization of one's own personal, private information.

This bill is an important first step. The privacy protections in this legislation will instill more confidence in people to use the Internet and create a consistent legal framework for online businesses. It will provide better online privacy protections for consumers, better commercial opportunities for businesses who respond to consumer privacy concerns, and a better future for Americans who will embrace the Internet rather than fear it.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2201

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 ''Online Personal Privacy Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Preemption of State law or regulations.

Title I—Online Privacy Protection

Sec. 101. Collection, use, or disclosure of personally identifiable information.
Sec. 102. Notice and consent requirements.
Sec. 103. Policy changes; privacy breach.
Sec. 104. Exceptions.
Sec. 105. Access.
Sec. 106. Security.

Title II—Enforcement

Sec. 201. Enforcement by Federal Trade Commission.
Sec. 202. Violation is unfair or deceptive act or practice.
Sec. 203. Private right of action.
Sec. 204. Actions by States.
Sec. 205. Whistleblower protection.
Sec. 206. No effect on other remedies.

Title III—Application to Congress and Federal Agencies

Sec. 301. Exercise of rulemaking power.
Sec. 302. Senate.
Sec. 303. Application to Federal agencies.

Title IV—Miscellaneous

Sec. 401. Definitions.
Sec. 402. Effective date.
Sec. 403. FTC rulemaking.
Sec. 404. FTC report.
Sec. 405. Development of automated privacy controls.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) The right to privacy is a personal and fundamental right worthy of protection through appropriate legislation.

(2) Individuals engaging in and interacting with companies engaged in interstate commerce have a significant interest in their personal information, as well as a right to control how that information is collected, used, or transferred.

(3) Absent the recognition of these rights and the establishment of consequent industry responsibilities to safeguard those rights, the privacy of individuals who use the Internet will soon be more gravely threatened.

(4) To extent that States regulate, their efforts to address Internet privacy will lead to a patchwork of inconsistent standards and protections.

(5) Existing State, local, and Federal laws provide minimal privacy protection for Internet users.

(6) With the exception of Federal Trade Commission enforcement of laws against unfair and deceptive practices, the Federal Government thus far has eschewed general Internet privacy laws in favor of industry self-regulation, which has led to several self-policing schemes, none of which are enforceable in any meaningful way or provide sufficient privacy protection to individuals.

(7) State governments have been reluctant to enter the field of Internet privacy regulation because use of the Internet often crosses State, or even national, boundaries.

(8) States are nonetheless interested in providing greater privacy protection to their citizens as evidenced by recent lawsuits brought against offline and online companies by State attorneys general to protect the privacy of individuals using the Internet.

(9) The ease of gathering and compiling personal information on the Internet, both overtly and surreptitiously, is becoming increasingly efficient and effortless due to advances in digital communications technology which have provided information gatherers the ability to compile seamlessly highly detailed personal histories of Internet users.

(10) Personal information flowing over the Internet requires greater privacy protection than is currently available today. Vast amounts of personal information, including sensitive information, about individual Internet users are collected on the Internet and sold or otherwise transferred to third parties.

(11) Poll after poll consistently demonstrates that individual Internet users are highly troubled over their lack of control over their personal information.

(12) Market research demonstrates that tens of billions of dollars in e-commerce are lost due to individual fears about a lack of privacy protection on the Internet.

(13) Market research demonstrates that as many as one-third of all Internet users give false information about themselves to protect their privacy, due to fears about a lack of privacy protection on the Internet.

(14) Notwithstanding these concerns, the Internet is becoming a major part of the personal and commercial lives of millions of Americans, providing increased access to information, as well as communications and commercial opportunities.

(15) It is important to establish personal privacy rights and industry obligations now so that individuals have confidence that their personal privacy is fully protected on the Internet.

(16) The social and economic costs of establishing baseline privacy standards now will be lower than if Congress waits until the Internet becomes more prevalent in our everyday lives in coming years.

(17) Whatever costs may be borne by industry will be significantly offset by the economic benefits to the commercial Internet created by increased consumer confidence occasioned by greater privacy protection.

(18) Toward the close of the 20th Century, as individuals' personal information was increasingly collected, profiled, and shared for commercial purposes, and as technology advanced to facilitate these practices, the Congress enacted numerous statutes to protect privacy.

(19) Those statutes apply to the government, telephones, cable television, e-mail, video tape rentals, and the Internet (but only with respect to children).

(20) Those statutes all provide significant privacy protections, but neither limit technology nor stifle business.

(21) Those statutes ensure that the collection and commercialization of individuals' personal information is fair, transparent, and subject to law.

SEC. 4. PREEMPTION OF STATE LAW OR REGULATIONS.

This Act supersedes any State statute, regulation, or rule regulating Internet privacy to the extent that it relates to the collection, use, or disclosure of personally identifiable information obtained through the Internet.

TITLE I—ONLINE PRIVACY PROTECTION

SEC. 101. COLLECTION, USE, OR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—An internet service provider, online service provider, or operator of a commercial website on the Internet may not collect personally identifiable information from a user, or use or disclose personally identifiable information about a user, of that service or website except in accordance with the provisions of this Act.

(b) APPLICATION TO CERTAIN THIRD-PARTY OPERATORS.—The provisions of this Act applicable to internet service providers, online service providers, and commercial website operators apply to any third party, including an advertising network, that uses an internet service provider, online service provider, or commercial website operator to collect information about users of that service or website.

SEC. 102. NOTICE AND CONSENT REQUIREMENTS.

(a) NOTICE.—Except as provided in section 104, an internet service provider, online service provider, or operator of a commercial website may not collect personally identifiable information from a user of that service or website online unless that provider or operator provides clear and conspicuous notice to the user in the manner required by this section for the kind of personally identifiable information to be collected. The notice shall disclose—

(1) the specific types of information that will be collected;

(2) the methods of collecting and using the information collected; and

(3) all disclosure practices of that provider or operator for personally identifiable information so collected, including whether it will be disclosed to third parties.

(b) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION REQUIRES OPT-IN CONSENT.—An internet service provider, online service provider, or operator of a commercial website may not—

(1) collect sensitive personally identifiable information online, or

(2) disclose or otherwise use such information collected online, from a user of that service or website,

unless the provider or operator obtains that user's affirmative consent to the collection and disclosure or use of that information before, or at the time, the information is collected.

(c) NONSENSITIVE PERSONALLY IDENTIFIABLE INFORMATION REQUIRES ROBUST NOTICE AND OPT-OUT CONSENT.—An internet service provider, online service provider, or operator of a commercial website may not—

(1) collect personally identifiable information not described in subsection (b) online, or

(2) disclose or otherwise use such information collected online, from a user of that service or website,

unless the provider or operator provides robust notice to the user, in addition to clear and conspicuous notice, and has given the user an opportunity to decline consent for such collection and use by the provider or operator before, or at the time, the information is collected.

(d) INITIAL NOTICE ONLY FOR ROBUST NOTICE.—An internet service provider, online service provider, or operator of a commercial website shall provide robust notice under subsection (c) of this section to a user only upon its first collection of non-sensitive personally identifiable information from that user, except that a subsequent collection of additional or materially different non-sensitive personally identifiable information from that user shall be treated as a first collection of such information from that user.

(e) PERMANENCE OF CONSENT.—

(1) IN GENERAL.—The consent or denial of consent by a user of permission to an internet service provider, online service provider, or operator of a commercial website to collect, disclose, or otherwise use any information about that user for which consent is required under this Act—

(A) shall remain in effect until changed by the user; and

(B) shall apply to the collection, disclosure, or other use of that information by any entity that is a commercial successor of, or legal successor-in-interest to, that provider or operator, without regard to the legal form in which such succession was accomplished (including any entity that collects, discloses, or uses such information as a result of a proceeding under chapter 7 or chapter 11 of title 11, United States Code, with respect to the provider or operator).

(2) EXCEPTION.—The consent by a user to the collection, disclosure, or other use of information about that user for which consent is required under this Act does not apply to the collection, disclosure, or use of that information by a successor entity under paragraph (1)(B) if—

(A) the kind of information collected by the successor entity about the user is materially different from the kind of information collected by the predecessor entity;

(B) the methods of collecting and using the information employed by the successor entity are materially different from the methods employed by the predecessor entity; or

(C) the disclosure practices of the successor entity are materially different from the practices of the predecessor entity.

SEC. 103. POLICY CHANGES; BREACH OF PRIVACY.

(a) NOTICE OF POLICY CHANGE.—Whenever an internet service provider, online service provider, or operator of a commercial website makes a material change in its policy for the collection, use, or disclosure of sensitive or nonsensitive personally identifiable information, it—

(1) shall notify all users of that service or website of the change in policy; and

(2) may not collect, disclose, or otherwise use any sensitive or nonsensitive personally identifiable information in accordance with the changed policy unless the user has been afforded an opportunity to consent, or withhold consent, to its collection, disclosure, or use in accordance with the requirements of section 102(b) or (c), whichever is applicable.

(b) NOTICE OF BREACH OF PRIVACY.—

(1) IN GENERAL.—If the sensitive or nonsensitive personally identifiable information of a user of an internet service provider, online service provider, or operator of a commercial website—

(A) is collected, disclosed, or otherwise used by the provider or operator in violation of any provision of this Act, or

(B) the security, confidentiality, or integrity of such information is compromised by a hacker or other third party, or by any act or failure to act of the provider or operator,

then the provider or operator shall notify all users whose sensitive or nonsensitive personally identifiable information was affected by the unlawful collection, disclosure, use, or compromise. The notice shall describe the nature of the unlawful collection, disclosure, use, or compromise and the steps taken by the provider or operator to remedy it.

(2) DELAY OF NOTIFICATION.—

(A) ACTION TAKEN BY INDIVIDUALS.—If the compromise of the security, confidentiality, or integrity of the information is caused by a hacker or other external interference with the service or website, or by an employee of the service or website, the provider or operator may postpone issuing the notice required by paragraph (1) for a reasonable period of time in order to—

(i) facilitate the detection and apprehension of the person responsible for the compromise; and

(ii) take such measures as may be necessary to restore the integrity of the service or website and prevent any further compromise of the security, confidentiality, and integrity of such information.

(B) SYSTEM FAILURES AND OTHER FUNCTIONAL CAUSES.—If the unlawful collection, disclosure, use, or compromise of the security, confidentiality, and integrity of the information is the result of a system failure, a problem with the operating system, software, or program used by the internet service provider, online service provider, or operator of the commercial website, or other non-external interference with the service or website, the provider or operator may postpone issuing the notice required by paragraph (1) for a reasonable period of time in order to—

(i) restore the system's functionality or fix the problem; and

(ii) take such measures as may be necessary to restore the integrity of the service or website and prevent any further compromise of the security, confidentiality, and integrity of the information after the failure or problem has been fixed and the integrity of the service or website has been restored.

SEC. 104. EXCEPTIONS.

(a) IN GENERAL.—Section 102 does not apply to the collection, disclosure, or use by an internet service provider, online service provider, or operator of a commercial website of information about a user of that service or website necessary—

(1) to protect the security or integrity of the service or website or to ensure the safety of other people or property;

(2) to conduct a transaction, deliver a product or service, or complete an arrangement for which the user provided the information; or

(3) to provide other products and services integrally related to the transaction, service, product, or arrangement for which the user provided the information.

(b) PROTECTED DISCLOSURES.—An internet service provider, online service provider, or operator of a commercial website may not be held liable under this Act, any other Federal law, or any State law for any disclosure made in good faith and following reasonable procedures in responding to—

(1) a request for disclosure of personal information under section 1302(b)(1)(B)(iii) of the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.) to the parent of a child; or

(2) a request for access to, or correction or deletion of, personally identifiable information under section 105 of this Act.

(c) DISCLOSURE TO LAW ENFORCEMENT AGENCY OR UNDER COURT ORDER.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, an internet service provider, online service provider, operator of a commercial website, or third party that uses such a service or website to collect information about users of that service or website may disclose personally identifiable information about a user of that service or website—

(A) to a law enforcement, investigatory, national security, or regulatory agency or department of the United States in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or a properly executed administrative compulsory process; and

(B) in response to a court order in a civil proceeding granted upon a showing of compelling need for the information that cannot be accommodated by any other means if—

(i) the user to whom the information relates is given reasonable notice by the person seeking the information of the court proceeding at which the order is requested; and

(ii) that user is afforded a reasonable opportunity to appear and contest the issuance of requested order or to narrow its scope.

(2) SAFEGUARDS AGAINST FURTHER DISCLOSURE.—A court that issues an order described in paragraph (1) shall impose appropriate safeguards on the use of the information to protect against its unauthorized disclosure.

SEC. 105. ACCESS.

(a) IN GENERAL.—An internet service provider, online service provider, or operator of a commercial website shall—

(1) upon request provide reasonable access to a user to personally identifiable information that the provider or operator has collected from the user online, or that the provider or operator has combined with personally identifiable information collected from the user online after the effective date of this Act;

(2) provide a reasonable opportunity for a user to suggest a correction or deletion of any such information maintained by that provider or operator to which the user was granted access; and

(3) make the correction a part of that user's sensitive personally identifiable information or nonsensitive personally identifiable information (whichever is appropriate), or make the deletion, for all future disclosure and other use purposes.

(b) EXCEPTION.—An internet service provider, online service provider, or operator of a commercial website may decline to make a suggested correction a part of that user's sensitive personally identifiable information or nonsensitive personally identifiable information (whichever is appropriate), or to make a suggested deletion if the provider or operator—

(1) reasonably believes that the suggested correction or deletion is inaccurate or otherwise inappropriate;

(2) notifies the user in writing, or in digital or other electronic form, of the reasons the provider or operator believes the suggested correction or deletion is inaccurate or otherwise inappropriate; and

(3) provides a reasonable opportunity for the user to refute the reasons given by the provider or operator for declining to make the suggested correction or deletion.

(c) REASONABLENESS TEST.—The reasonableness of the access or opportunity provided under subsection (a) or (b) by an internet service provider, online service provider, or operator of a commercial website shall be determined by taking into account such factors as the sensitivity of the information requested and the burden or expense on the provider or operator of complying with the request, correction, or deletion.

(d) REASONABLE ACCESS FEE.—

(1) IN GENERAL.—An internet service provider, online service provider, or operator of a commercial website may impose a reasonable charge for access under subsection (a).

(2) AMOUNT.—The amount of the fee shall not exceed $3, except that upon request of a user, a provider or operator shall provide such access without charge to that user if the user certifies in writing that the user—

(A) is unemployed and intends to apply for employment in the 60-day period beginning on the date on which the certification is made;

(B) is a recipient of public welfare assistance; or

(C) has reason to believe that the incorrect information is due to fraud.

SEC. 106. SECURITY.

An internet service provider, online service provider, or operator of a commercial website shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personally identifiable information maintained by that provider or operator.

TITLE II—ENFORCEMENT

SEC. 201. ENFORCEMENT BY FEDERAL TRADE COMMISSION.

Except as provided in section 202(b) of this Act and section 2710(d) of title 18, United States Code, this Act shall be enforced by the Commission.

SEC. 202. VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.

(a) IN GENERAL.—The violation of any provision of title I is an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with title I of this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of title I is deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under title I, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating title I in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that subtitle is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.

(e) DISPOSITION OF CIVIL PENALTIES OBTAINED BY FTC ENFORCEMENT ACTION INVOLVING NONSENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—

(1) IN GENERAL.—If a civil penalty is imposed on an internet service provider, online service provider, or commercial website operator in an enforcement action brought by the Commission for a violation of title I with respect to nonsensitive personally identifiable information of users of the service or website, the penalty shall be—

(A) paid to the Commission;

(B) held by the Commission in trust for distribution under paragraph (2); and

(C) distributed in accordance with paragraph (2).

(2) DISTRIBUTION TO USERS.—Under procedures to be established by the Commission, the Commission shall hold any amount received as a civil penalty for violation of title I for a period of not less than 180 days for distribution under those procedures to users—

(A) whose nonsensitive personally identifiable information was the subject of the violation; and

(B) who file claims with the Commission for compensation for loss or damage from the violation at such time, in such manner, and containing such information as the Commission may require.

(3) AMOUNT OF PAYMENT.—The amount a user may receive under paragraph (2)—

(i) shall not exceed $200; and

(ii) may be limited by the Commission as necessary to afford each such user a reasonable opportunity to secure that user's appropriate portion of the amount available for distribution.

(4) REMAINDER.—If the amount of any such penalty held by the Commission exceeds the sum of the amounts distributed under paragraph (2) attributable to that penalty, the excess shall be covered into the Treasury of the United States as miscellaneous receipts no later than 12 months after it was paid to the Commission.

(f) EFFECT ON OTHER LAWS.—

(1) PRESERVATION OF COMMISSION AUTHORITY.—Nothing contained in this subtitle shall be construed to limit the authority of the Commission under any other provision of law.

(2) RELATION TO TITLE II OF COMMUNICATIONS ACT.—Nothing in title I requires an operator of a website or online service to take any action that is inconsistent with the requirements of section 222 of the Communications Act of 1934 (47 U.S.C. 222).

(3) RELATION TO TITLE VI OF COMMUNICATIONS ACT.—Section 631 of the Communications Act of 1934 (47 U.S.C. 551) is amended by adding at the end the following:

''(i) To the extent that the application of any provision of this title to a cable operator as an internet service provider, online service provider, or operator of a commercial website (as those terms are defined in section 401 of the Online Personal Privacy Act) with respect to the provision of Internet service or online service, or the operation of a commercial website, conflicts with the application of any provision of that Act to such provision or operation, the Act shall be applied in lieu of the conflicting provision of this title.''.

SEC. 203. ACTIONS BY USERS.

(a) PRIVATE RIGHT OF ACTION FOR SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—If an internet service provider, online service provider, or commercial website operator collects, discloses, or uses the sensitive personally identifiable information of any person or fails to provide reasonable access to or reasonable security for such sensitive personally identifiable information in violation of any provision of title I then that person may bring an action in a district court of the United States of appropriate jurisdiction—

(1) to enjoin or restrain a violation of title I or to obtain other appropriate relief; and

(2) upon a showing of actual harm to that person caused by the violation, to recover the greater of—

(A) the actual monetary loss from the violation; or

(B) $5,000.

(b) REPEATED VIOLATIONS.—If the court finds, in an action brought under subsection (a) to recover damages, that the defendant repeatedly and knowingly violated title I, the court may, in its discretion, increase the amount of the award available under subsection (a)(2)(B) to an amount not in excess of $100,000.

(c) EXCEPTION.—Neither an action to enjoin or restrain a violation, nor an action to recover for loss or damage, may be brought under this section for the accidental disclosure of information if the disclosure was caused by an Act of God, unforeseeable network or systems failure, or other event beyond the control of the Internet service provider, online service provider, or operator of a commercial website.

SEC. 204. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates title I, the State, as

parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin that practice;

(B) to enforce compliance with the rule;

(C) to obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) to obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this subtitle shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of title I, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that rule.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 205. WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—No internet service provider, online service provider, or commercial website operator may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal or State agency or to the Attorney General of the United States or of any State regarding a violation of any provision of title I.

(b) ENFORCEMENT.—Any employee or former employee who believes he has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the close of the 2-year period beginning on the date of such discharge or discrimination. The complainant shall also file a copy of the complaint initiating such action with the appropriate Federal agency.

(c) REMEDIES.—If the district court determines that a violation of subsection (a) has occurred, it may order the Internet service provider, online service provider, or commercial website operator that committed the violation—

(1) to reinstate the employee to his former position;

(2) to pay compensatory damages; or

(3) to take other appropriate actions to remedy any past discrimination.

(d) LIMITATION.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation; or

(2) knowingly or recklessly provides substantially false information to such an agency or the Attorney General.

(e) BURDENS OF PROOF.—The legal burdens of proof that prevail under subchapter III of chapter 12 of title 5, United States Code (5 U.S.C. 1221 et seq.) shall govern adjudication of protected activities under this section.

SEC. 206. NO EFFECT ON OTHER REMEDIES.

The remedies provided by sections 203 and 204 are in addition to any other remedy available under any provision of law.

TITLE III—APPLICATION TO CONGRESS AND FEDERAL AGENCIES

SEC. 301. SENATE.

The Sergeant at Arms of the United States Senate shall develop regulations setting forth an information security and electronic privacy policy governing use of the Internet by officers and employees of the Senate that meets the requirements of title I.

SEC. 302. APPLICATION TO FEDERAL AGENCIES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act applies to each Federal agency that is an internet service provider or an online service provider, or that operates a website, to the extent provided by section 2674 of title 28, United States Code.

(b) EXCEPTIONS.—This Act does not apply to any Federal agency to the extent that the application of this Act would compromise law enforcement activities or the administration of any investigative, security, or safety operation conducted in accordance with Federal law.

TITLE IV—MISCELLANEOUS

SEC. 401. DEFINITIONS.

In this Act:

(1) COLLECT.—The term ''collect'' means the gathering of personally identifiable information about a user of an Internal service, online service, or commercial website by or on behalf of the provider or operator of that service or website by any means, direct or indirect, active or passive, including—

(A) an online request for such information by the provider or operator, regardless of how the information is transmitted to the provider or operator;

(B) the use of a chat room, message board, or other online service to gather the information; or

(C) tracking or use of any identifying code linked to a user of such a service or website, including the use of cookies or other tracking technology.

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) COOKIE.—The term ''cookie'' means any program, function, or device, commonly known as a ''cookie'', that makes a record on the user's computer (or other electronic device) of that user's access to an internet service, online service, or commercial website.

(4) DISCLOSE.—The term ''disclose'' means the release of personally identifiable information about a user of an Internet service, online service, or commercial website by an internet service provider, online service provider, or operator of a commercial website for any purpose, except where such information is provided to a person who provides support for the internal operations of the service or website and who does not disclose or use that information for any other purpose.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNAL OPERATIONS SUPPORT.—The term ''support for the internal operations of a service or website'' means any activity necessary to maintain the technical functionality of that service or website.

(7) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(8) INTERNET SERVICE PROVIDER; ONLINE SERVICE PROVIDER; WEBSITE.—The Commission shall by rule define the terms ''internet service provider'', ''online service provider'', and ''website'', and shall revise or amend such rule to take into account changes in technology, practice, or procedure with respect to the collection of personal information over the Internet.

(9) ONLINE.—The term ''online'' refers to any activity regulated by this Act or by section 2710 of title 18, United States Code, that is effected by active or passive use of an Internet connection, regardless of the medium by or through which that connection is established.

(10) OPERATOR OF A COMMERCIAL WEBSITE.—The term ''operator of a commercial website''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(11) PERSONALLY IDENTIFIABLE INFORMATION.—

(A) IN GENERAL.—The term ''personally identifiable information'' means individually identifiable information about an individual collected online, including—

(i) a first and last name, whether given at birth or adoption, assumed, or legally changed;

(ii) a home or other physical address including street name and name of a city or town;

(iii) an e-mail address;

(iv) a telephone number;

(v) a birth certificate number;

(vi) any other identifier for which the Commission finds there is a substantial likelihood that the identifier would permit the physical or online contacting of a specific individual; or

(vii) information that an Internet service provider, online service provider, or operator of a commercial website collects and combines with an identifier described in clauses (i) through (vi) of this subparagraph.

(B) INFERENTIAL INFORMATION EXCLUDED.—Information about an individual derived or inferred from data collected online but not actually collected online is not personally identifiable information.

(12) RELEASE.—The term ''release of personally identifiable information'' means the direct or indirect, sharing, selling, renting, or other provision of personally identifiable information of a user of an internet service, online service, or commercial website to any other person other than the user.

(13) ROBUST NOTICE.—The term ''robust notice'' means actual notice at the point of collection of the personally identifiable information describing briefly and succinctly the intent of the Internet service provider, online service provider, or operator of a commercial website to use or disclose that information for marketing or other purposes.

(14) SENSITIVE FINANCIAL INFORMATION.—The term ''sensitive financial information'' means—

(A) the amount of income earned or losses suffered by an individual;

(B) an individual's account number or balance information for a savings, checking, money market, credit card, brokerage, or other financial services account;

(C) the access code, security password, or similar mechanism that permits access to an individual's financial services account;

(D) an individual's insurance policy information, including the existence, premium, face amount, or coverage limits of an insurance policy held by or for the benefit of an individual; or

(E) an individual's outstanding credit card, debt, or loan obligations.

(15) SENSITIVE PERSONALLY IDENTIFIABLE INFORMATION.—The term ''sensitive personally identifiable information'' means personally identifiable information about an individual's—

(A) individually identifiable health information (as defined in section 164.501 of title 45, Code of Federal Regulations);

(B) race or ethnicity;

(C) political party affiliation;

(D) religious beliefs;

(E) sexual orientation;

(F) a Social Security number; or

(G) sensitive financial information.

SEC. 402. EFFECTIVE DATE OF TITLE I.

Title I of this Act takes effect on the day after the date on which the Commission publishes a final rule under section 403.

SEC. 403. FTC RULEMAKING.

The Commission shall—

(1) initiate a rulemaking within 90 days after the date of enactment of this Act for regulations to implement the provisions of title I; and

(2) complete that rulemaking within 270 days after initiating it.

SEC. 404. FTC REPORT.

(a) REPORT.—The Commission shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce 18 months after the effective date of title I, and annually thereafter, on—

(1) whether this Act is accomplishing the purposes for which it was enacted;

(2) whether technology that protects privacy is being utilized in the marketplace in such a manner as to facilitate administration of and compliance with title I;

(3) whether additional legislation is required to accomplish those purposes or improve the administrability or effectiveness of this Act;

(4) whether legislation is appropriate or necessary to regulate the collection, use, and distribution of personally identifiable information collected other than via the Internet;

(5) whether and how the government might assist industry in developing standard online privacy notices that substantially comply with the requirements of section 102(a);

(6) whether and how the creation of a set of self-regulatory guidelines established by independent safe harbor organizations and approved by the Commission would facilitate administration of and compliance with title I; and

(7) whether additional legislation is necessary or appropriate to regulate the collection, use, and disclosure of personally identifiable information collected online before the effective date of title I.

(b) FTC NOTICE OF INQUIRY.—The Commission shall initiate a notice of inquiry within 90 days after the date of enactment of this Act to request comment on the matter described in paragraphs (1) through (7) of subsection (a).

SEC. 405. DEVELOPMENT OF AUTOMATED PRIVACY CONTROLS.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) DEVELOPMENT OF INTERNET PRIVACY PROGRAM.—The Institute shall encourage and support the development of one or more computer programs, protocols, or other software, such as the World Wide Web Consortium's P3P program, capable of being installed on computers, or computer networks, with Internet access that would reflect the user's preferences for protecting personally-identifiable or other sensitive, privacy-related information, and automatically execute the program, once activated, without requiring user intervention.''.

Mr. CLELAND. Madam President, just last week I read an article that described the practice of online companies placing prices on people's personal information in order to raise revenue. When the Internet revolution began, I do not believe anyone thought the buying and selling of our personal information would be where these companies would turn when they began to experience difficulties in the financial markets. My constituents have expressed to me their concerns over such practices, and I have responded by co-sponsoring Senator HOLLINGS' bi-partisan legislation to enact reasonable privacy standards on personal information gathered on-line.

In May 2000, the Federal Trade Commission, FTC, issued its third report to Congress on the state of online privacy. Due to the fact that there remained a great deal of concern by consumers over how their information is used by online companies, so much so that some consumers provided false information or did not utilize the commercial aspects of the Internet altogether, the FTC recommended legislation to establish online privacy guidelines. Introduction of this legislation is a step in the right direction, and a step closer to the FTC's recommendation.

This bill calls for sensitive, personally identifiable information, such as health information, race, religion, and social security number, to be protected by requiring consumers to provide affirmative consent for this information to be shared; in other words, they must ''opt in.'' Under our proposal, the treatment of non-sensitive, personally identifiable information must be described through strict, robust notice in plain English. After some consumers received their privacy policies required by the Gramm-Leach-Bliley Act, they thought it would be easier to understand the tax code.

An important provision in the Hollings measure modeled on allowing consumers to access their credit report information would allow online consumers to access and correct any incorrect information companies may be listing. Additionally, to monitor the effectiveness of this legislation, the bill calls for the FTC to report to Congress on this matter and to recommend any needed changes in its provisions.

I am pleased to be an original cosponsor of this legislation which I believe moves us in the right direction to actually grow the Internet and its capability for commerce by easing people's fears over how their names, addresses, social security numbers and other important information will be secured. The Internet's possibilities are only beginning to be realized. In the business world, it creates an easy way to share information and conduct transactions. However, if the information is personal in nature, I, along with many of my colleagues, believe people deserve and are indeed entitled to expect the opportunity to elect whether to have that information shared or not, and in all cases for it to be securely monitored. I am proud to lend my support to this important bill.

By Mr. ROCKEFELLER:

S. 2205. A bill to amend title 38, United States Code, to clarify the entitlement to disability compensation of women veterans who have service-connected mastectomies, to provide permanent authority for counseling and treatment for sexual trauma, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, I introduce legislation today that would help VA continue to meet the needs of veterans who experienced sexual trauma while serving in the military. This legislation would also extend special compensation to women veterans whose service led to the loss of all or part of a breast, and would help us understand better how well VA is meeting the health care needs of women veterans.

Almost a decade ago, the Committee on Veterans Affairs took a hard look at

the growing needs of women veterans in a hearing that helped VA improve its women's health care and services. Many studies grew from this hearing, including investigations that showed that women veterans are eight times more likely to report having experienced sexual assault during military service than women civilians of the same age.

In 1992, Congress authorized VA to provide counseling to women who experienced sexual trauma during active military service. Two years later, recognizing that sexual trauma is not limited to women, Congress expanded VA's mandate to offer counseling and treatment to victims of sexual harassment or sexual assault without regard to gender. The Veterans Millennium Health Care and Benefits Act of 1999 broadened VA's responsibilities toward victims of sexual trauma even farther, strengthening outreach efforts and extending the programs through December 2004.

VA has worked, internally and with the Department of Defense, to educate health care professionals about the physical and emotional legacies of military sexual trauma. Those who have endured such trauma need counseling and appropriate treatment, both during and following service. Although we must hope that education will eliminate sexual violence from our forces, the sad reality is that the programs that VA has established will continue to be needed. The legislation I introduce today would authorize VA to continue its counseling and treatment programs for veterans who have experienced military sexual trauma beyond 2004, so that veterans and health care professionals can depend upon these critical services.

The Committee on Veterans Affairs continues to await VA's report on rates of military sexual trauma among National Guard and Reservists, mandated in the Millennium Act and due in March 2001, to make a sound decision on the need for counseling services among these forces who might have experienced sexual trauma while on active duty for training.

Last year, Congress authorized VA to offer special monthly compensation to women who had lost one or both breasts, including through surgical treatment, as a result of their military service. VA recently issued regulations addressing this, which would require complete loss of a breast through simple or radical mastectomy in order to make a woman eligible for benefits. The intent of Congress in passing this legislation was to acknowledge that women who undergo such procedures face physical, emotional, and financial challenges in returning to health. The need for increased medical attention, and concomitant impairment in daily activities, remains consistent, whether the loss of a breast is complete or partial. Therefore, the legislation that I offer here would extend benefits to women veterans who have lost half or more of a breast's tissue as a result of military service, rather than drawing an arbitrary clinical line for compensation.

According to the Veterans Health Administration, women veterans now make up about 5 percent of enrolled veterans, a percentage that is expected to double over the next two decades. We must ensure that women veterans enjoy access to the best possible health care, including for gender-specific medical conditions, in the most appropriate setting. One of the challenges that Congress and VA face in assessing how well the needs of women veterans are being met is understanding exactly what services women veterans require, and whether these are being offered by VA's medical facilities.

Many of the advances VA has made in improving women's care and services has resulted from the hard work of the Women Veterans Coordinators who work within VA's medical centers. These coordinators assist women veterans who seek VA medical care, and help VA understand which needs still go unmet, frequently as a collateral portion of their jobs, while facing many competing demands on their time. As VA health care evolves from a primarily hospital-based system to a network of outpatient clinics, women veterans coordinators face an even more complex set of tasks and a shifting geography of care.

Women veterans increasingly receive care within general outpatient clinics rather than in women's clinics, an issue of special concern as women may comprise only a tiny part of the caseload for VA's general practitioners, unlike the private sector where women make up half or more of a doctor's patients, resulting in less expertise in women's health. The legislation I offer here would request a report on how many clinics and health care teams remain dedicated specifically to the needs of women veterans, and how many hours per week Women Veterans Coordinators can allocate to serving women veterans.

In 1983, Congress responded to the needs of the growing number of women veterans by establishing the Advisory Committee on Women Veterans. This committee advises the Secretary of VA on the adequacy of programs for women veterans, and helps ensure that women veterans have the same access to services and benefits as their male counterparts. Early this year, the Secretary renewed the charter for the Advisory Committee on Women Veterans. I hope my colleagues will join me in acknowledging both the Secretary's decision to foster this essential voice, and the service of the men and women who share their time and experience with VA on behalf of all women veterans. Together, VA and the advisory committee have worked to be sure that VA can offer women veterans the services they need and the respect they have earned.

I ask that the text of the bill and a list of the membership of the Advisory Committee on Women Veterans be printed in the RECORD.

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

S. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF ENTITLEMENT TO WARTIME DISABILITY COMPENSATION FOR WOMEN VETERANS WHO HAVE SERVICE-CONNECTED MASTECTOMIES.

(a) IN GENERAL.—Section 1114(k) of title 38, United States Code, is amended by inserting ''of half or more of the tissue'' after ''anatomical loss'' the second place it appears.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months that begin on or after that date.

SEC. 2. PERMANENT AUTHORITY FOR COUNSELING AND TREATMENT FOR SEXUAL TRAUMA.

Section 1720D of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''During the period through December 31, 2004, the Secretary'' and inserting ''The Secretary''; and

(B) in paragraph (2), by striking '', during the period through December 31, 2004,''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''establishment and''; and

(B) in paragraph (2), by striking ''establishing a program'' and inserting ''operating a program''.

SEC. 3. REPORT ON FURNISHING OF HEALTH CARE TO WOMEN VETERANS BY VETERANS HEALTH ADMINISTRATION.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the furnishing by the Veterans Health Administration of health care for women veterans.

(b) REPORT ELEMENTS.—The report under subsection (a) shall set forth the following:

(1) A list of each Women Veterans' Comprehensive Health Center within the Veterans Health Administration, including whether such Center is located in a Department of Veterans Affairs medical center or outpatient clinic.

(2) For each Center listed under paragraph (1)—

(A) the staffing level of such Center, expressed in terms of number of full-time equivalent employees (FTEEs);

(B) the health care services furnished by such Center to women veterans, including the health care services (including breast cancer screening and cervical cancer screening) that are furnished only for women; and

(C) the number of women veterans furnished health care services by such Center during the last fiscal year ending before the date of the report.

(3) A list of each facility without a Women Veterans' Comprehensive Health Center that furnishes health care services to women veterans through a full-service womens' primary care team, including whether such facility is located in a Department medical center or outpatient clinic.

(4) For each facility listed under paragraph (3)—

(A) the staffing level of such facility for the furnishing of health care services to women veterans, expressed in terms of number of full-time equivalent employees (FTEEs);

(B) the health care services furnished by such facility to women veterans, including the health care services (including breast cancer screening and cervical cancer screening) that are furnished only for women; and

(C) the number of women veterans furnished health care services by such facility during the last fiscal year ending before the date of the report.

(5) For each Veterans Integrated Service Network and Department medical center, the number of hours per week that the Women Veterans' Coordinator of such network or medical center, as the case may be, is authorized to perform duties relating to the furnishing of health care services to women veterans.

CURRENT MEMBERSHIP OF THE VA ADVISORY COMMITTEE ON WOMEN VETERANS (AS OF JANUARY 2002)

Karen L. Ray, RN, MSN, Chair 2000–2002, Colonel, USA (Retired).

Constance G. Evans, RN, ARNP, Co-Chair 2000–2002, Commander, USPHS (Retired).

Marsha Tansey Four, USA.

Bertha Cruz Hall, USAF.

Marcelite J. Harris, Major General, USAF (Retired).

Edward E. Hartman, USA.

Consuelo C. Kickbusch, Lieutenant Colonel, USA (Retired).

Kathy LaSauce, Lieutenant Colonel, USAF (Retired).

M Joy Mann, Captain, US Air Force Reserve.

Lory Manning, Captain, USN (Retired).

Michele (Mitzi) Manning, Colonel, USMC (Retired).

Kahleen A. Morrissey, RN, BSN, Colonel, NJ. Army National Guard.

Joan O'Connor, Commander, Naval Reserve (Retired).

Sheryl Schmidt, USAF.

By Mr. DASCHLE (for himself, Mr. HARKIN, and Mr. GRASSLEY):

S. 2207. A bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DASCHLE. Madam President, last year I introduced S. 1378, the Access to Medical Treatment Act of 2001. This bill would allow patients to use certain alternative and complementary therapies not approved by the FDA.

Alternative therapies constitute an increasingly accepted part of medicine. At the National Institutes of Health's Office of Alternative Medicine, scientists are working to expand our knowledge of alternative therapies and their safe and effective use. Additionally, more Americans are turning to alternative therapies in those frustrating instances in which conventional treatments seem to be ineffective in combating illness and disease.

The Access to Medical Treatment Act support patient choice while maintaining important patient safeguards. It allows individuals, especially those who face life-threatening afflictions for which conventional treatments have proven ineffective, to try an alternative treatment. This is a choice rightly made by patients.

Treatments covered under the Access to Medical Treatment Act must be prescribed by an authorized health care practitioner. The practitioner must fully disclose all available information about the safety and effectiveness of any medical treatment, including questions that remain unanswered because the necessary research has not been conducted. The bill includes detailed informed consent requirements.

The bill carefully restricts the ability of practitioners to advertise or market unapproved drugs or devices or to profit financially from prescribing alternative treatments. This provision was included to ensure that practitioners keep the best interests of patients in mind and to retain incentives for seeking FDA approval.

The bill also protects patients by requiring practitioners to report any adverse reaction that could potentially have been caused by an unapproved drug or medical device. If an adverse reaction is reported, manufacture and distribution of the drug must cease pending an investigation. If it is determined that the adverse reaction was caused by the drug or medical device, as part of a total recall, the Secretary of the Department of Health and Human Services and the manufacturer have the duty to inform all health care practitioners to whom the drug or medical device has been provided.

While I believe that S. 1378 would give patients important new choices in health care while maintaining strong consumer protections, there has been little discussion or attention given to the issue. Meanwhile, some advocates of greater access to alternative therapies have urged me to reintroduce a version of the Access to Medical Treatment Act similar to the one I and 13 other senators introduced during the 105th Congress in an effort to stimulate further discussion of this important policy issue. This measure includes less detail than S. 1378 but embodies the same goal of making alternative treatments more available to patients who want them.

I continue to believe that S. 1378, with its detailed informed consent and practitioner reporting requirements, is the version of the Access to Medical Treatment Act that provides the appropriate vehicle for legislative debate, and I am hopeful that the bill Senators HARKIN, GRASSLEY, and I are introducing today will generate momentum to get that debate started.

By Mr. ROCKEFELLER:

S. 2209. A bill to amend title 38, United States Code, to provide an additional program of service disabled veterans' insurance for veterans, and for other purposes; to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Madam President, I am tremendously pleased to introduce legislation that would establish a new service-disabled veterans life insurance program. Named in honor of Robert Carey, former Director of the Philadelphia Regional Office and Insurance Center until his untimely death in 1990, this bill will improve enormously the life insurance options available to those veterans who are unable to purchase commercial policies because they became disabled in service to our Nation. I look forward to its swift passage.

Since 1919, the Department of Veterans Affairs has provided life insurance for servicemembers and veterans in various amounts and with varying degrees of success, but with the overarching purpose of providing them with an insurance benefit comparable to the commercial coverage that they are unable to purchase due to their service in the Armed Forces. Unfortunately, as described in the Department of Veterans Affairs' Program Evaluation of Benefits for Survivors of Veterans with Service-connected Disabilities, which was released last May, the current Service-Disabled Veterans Insurance, or SDVI, program does not sufficiently fulfill this purpose. .

The SDVI program insures service-disabled veterans who, but for their service-connected disability, would be eligible for commercial life insurance. The basic policy currently provides up to $10,000 in coverage. Veterans who are deemed totally disabled are eligible for an additional $20,000 in supplemental coverage and may apply to have the premium on their initial $10,000 policy waived.

However, according to VA's report, the current SDVI program uses mortality tables from 1941 to determine the premiums paid by its policyholders. This has led to premiums nearly four times greater than those paid by non-veterans. While SDVI policyholders would generally expect to pay somewhat higher premiums, many veterans still cited this extremely high cost as a major reason for not purchasing an SDVI policy. In light of this fact, it is not difficult to understand why only 3.5 percent of those eligible actually take advantage of the current SDVI program.

Also cited as a reason for non-participation was the limited benefit available under the current SDVI program. According to VA's report, the typical private sector employee possesses a life insurance policy two to three times his or her annual income, and most financial planners recommend even more coverage than that. However, half of all SDVI beneficiaries report receiving less than $15,000 in total insurance benefits from the loss of a loved one. On average, only $9,000 of this comes from their SDVI policy. Forty percent of all SDVI beneficiaries sole source of income are the benefits provided by VA. Their lack of other coverage, combined with the very limited benefit currently available through the current SDVI program, leaves disabled veterans woefully under-insured. We simply cannot accept this situation.

This bill would create a new life insurance program for service-disabled veterans offering as much as $50,000 in coverage at a price comparable to that

of commercial coverage. It would also bring the premiums charged under the current SDVI program more in line with commercial policies by updating the mortality tables VA uses to set its rates.

The motto of the Department of Veterans Affairs is ''To care for him that has borne the battle and for his widow and orphan.'' By introducing the ''Robert Carey Service-Disabled Veterans Insurance Act of 2002,'' I propose that we take yet another step toward fulfilling the obligation embodied in those words, and I encourage my colleagues to join with me in supporting this very important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2209

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 ''Robert Carey Service Disabled Veterans' Insurance Act of 2002''.

SEC. 2. ADDITIONAL PROGRAM OF SERVICE DISABLED VETERANS' INSURANCE FOR VETERANS.

(a) IN GENERAL.—(1) Subchapter I of chapter 19 of title 38, United States Code, is amended by inserting after section 1922A the following new section:

''§ 1922B. Service disabled veterans' insurance: level premium term insurance

''(a) Subject to the provisions of this section, any person described in subsection (b) shall, upon payment of premiums as provided in subsection (f), be granted insurance by the United States against the death of such person occurring while such insurance is in force.

''(b) A person described in this subsection is any person as follows:

''(1) A person insured under section 1922(a) of this title if such person applies for insurance under this section within the times provided for under paragraphs (2) and (3) of subsection (e).

''(2) A person (other than a person described in paragraph (1)) who—

''(A) is released from active military, naval, or air service, under other than dishonorable conditions;

''(B) is found by the Secretary to be suffering from a disability or disabilities for which compensation would be payable if 10 per cent or more in degree;

''(C) except for the disability or disabilities referred to in subparagraph (B), would be insurable according to standards of good health established by the Secretary; and

''(D) has not attained the age of 65 years as of the date of application for insurance under this section.

''(c)(1) Insurance under this section for a person described in subsection (b)(1) is in addition to the insurance of such person under section 1922(a) of this title and the insurance, if any, of such person under section 1922A of this title.

''(2) A person deemed insured under section 1922(b) of this title is not eligible for or entitled to insurance under this section.

''(d)(1)(A) Subject to subparagraph (B) and except as provided in paragraph (3), the amount for which a person described by subsection (b)(1) is insured under this section shall, at the election of the person, be—

''(i) $45,000; or

''(ii) an amount less than $45,000, but more than $5,000, that is evenly divisible by $5,000.

''(B) The amount of insurance elected under this paragraph by a person described by subsection (b)(1) may not cause the aggregate amount of insurance of the person under this section and sections 1922(a) and 1922A of this title to exceed $50,000.

''(2) Except as provided in paragraph (3), the amount for which a person described by subsection (b)(2) is insured under this section shall, at the election of the person, be—

''(A) $50,000; or

''(B) an amount less than $50,000, but more than $5,000, that is evenly divisible by $5,000.

''(3) Upon attaining the age of 70 years, the amount for which a person is insured under this section shall be the amount equal to 20 percent of the amount otherwise elected by the person under paragraph (1) or (2), as applicable.

''(e)(1) A person seeking insurance under this section shall submit to the Secretary an application in writing for such insurance.

''(2) The application of a person under paragraph (1) shall be submitted not later than 10 years after the date of the release of the person from active military, naval, or air service.

''(3)(A) Except as provided in subparagraph (B), the application of a person under paragraph (1) shall be submitted not later than two years after the date on which the Secretary finds the service-connection for the disability or disabilities of the person on which the application is based.

''(B) In the case of a person shown by evidence satisfactory to the Secretary to have been mentally incompetent during any part of the two-year period otherwise applicable to the person under subparagraph (A), an application for insurance under this section shall be filed not later than the earlier of—

''(i) two years after a guardian for the person is appointed; or

''(ii) two years after the removal of such disability or disabilities, as determined by the Secretary.

''(f)(1) Except as provided in paragraphs (2) and (3), a person insured under this section shall pay premiums for such insurance as determined under paragraph (4).

''(2) The provisions of section 1912 of this title shall apply with respect to payment of premiums for insurance under this section.

''(3) A person shall not be required to pay premiums for insurance under this section after attaining the age of 70 years.

''(4) The premium rates for insurance under this section shall be level, and shall be based on the Commissioners 1980 Standard Ordinary Basic Table of Mortality and interest at the rate of 5 per cent per annum.

''(5) All premiums and other collections for insurance under this section shall be credited directly to a revolving fund in the Treasury established for purposes of this section, and any payments on such insurance shall be made directly from such fund.

''(g)(1) Except as otherwise provided in this section, insurance under this section shall be issued on the same terms and conditions as are contained in standard policies of National Service Life Insurance, except that insurance issued under this section shall have no loan value or extended values.

''(2) All settlements on insurance under this section shall be paid in a lump sum.

''(h) Insurance under this section may be referred to as 'Robert Carey Service Disabled Veterans' Insurance'.''.

(2) The table of sections at the beginning of chapter 19 of that title is amended by inserting after the item relating to section 1922A the following new item:

''1922B. Service disabled veterans' insurance: level premium term insurance.''.

(b) COORDINATION WITH CURRENT SERVICE DISABLED VETERANS' INSURANCE PROGRAM.—Section 1922 of title 38, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

''(5) A person deemed insured under this subsection is not eligible for or entitled to insurance under section 1922B of this title.''; and

(2) by adding at the end the following new subsection:

''(d) A person insured under subsection (a) may also be eligible for insurance under section 1922B of this title in accordance with the provisions of that section.''.

(c) OTHER AMENDMENTS TO CURRENT SERVICE DISABLED VETERANS' INSURANCE PROGRAM.—Subsection (a) of such section 1922 is amended by striking ''Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum'' each place it appears in paragraphs (1) and (2) and inserting ''Commissioners 1980 Standard Ordinary Basic Table of Mortality and interest at the rate of 5 per cent per annum''.

(d) REVIEW OF APPLICABILITY OF MORTALITY TABLES.—(1) The Secretary of Veterans Affairs shall, from time to time, evaluate the standard ordinary table of mortality being used for purposes of service disabled veterans' insurance under sections 1922 and 1922B of title 38, United States Code, in order to determine whether such table of mortality continues to be suitable for such purposes.

(2) If as the result of an evaluation under paragraph (1) the Secretary determines that the standard ordinary table of mortality being used for purposes of insurance referred to in that paragraph is no longer suitable for such purposes, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report setting forth that determination and including a recommendation for an alternative standard ordinary table of mortality to be used for such purposes.

(e) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations for purposes of administering section 1922B of title 38, United States Code (as added by subsection (a)), and for purposes of administering the amendments to section 1922 of that title made by subsections (b) and (c). Such regulations shall take effect on October 1, 2003.

(f) AUTHORIZATION OF APPROPRIATIONS FOR REVOLVING FUND.—There is hereby authorized to be appropriated for the Department of Veterans Affairs for the revolving fund established pursuant to subsection (f)(5) of section 1922B of title 38, United States Code (as added by subsection (a) of this section), such sums as may be necessary for purposes of that section.

(g) EFFECTIVE DATE.—The amendments made by subsections (a) through (c) shall take effect on October 1, 2003.

By Mr. BIDEN (for himself, Mr. SANTORUM, Mr. KERRY, Mr. FRIST, Mr. SARBANES, Mr. CHAFFEE, and Mr. DEWINE):

S. 2210. A bill to amend the International Financial Institutions Act to provide for modification of the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative; to the Committee on Foreign Relations.

Mr. BIDEN. Madam President, I rise today, along with my colleague, Senator SANTORUM, to introduce legislation to reform the way we provide debt relief for the poorest nations of the

world. We are joined in this effort by Senators KERRY, FRIST, SARBANES, CHAFEE, and DEWINE.

Earlier today, our friends from the House, CHRIS SMITH, JOHN LAFALCE, SPENCER BAUCUS, MAXINE WATERS, BARNEY FRANK met with us to announce the introduction of companion legislation on their side of the Hill.

Looking around at that group of people, it would be fair to wonder what we all have in common. Some days, not much. Today, however, what we have in common is a shared concern about the fate of the men, women, and children in the poorest countries of the world.

It is true that the war on terrorism has brought home to us more clearly than before that conditions of grinding poverty in the rest of the world are ignored at our peril. Common sense tells us that our national security is at risk in a world where millions of people have little to live for, and are ripe for the seductions of radical, even violent action against the desperate conditions they face every day.

As Tom Friedman has said in another context, if you don't visit the bad neighborhoods, they will visit you.

But that cannot be the only reason that we all share a concern about poverty in the underdeveloped countries of the world. All of the world's great religions charge us to look after each other, and show special concern for those who need it most.

Common decency recoils at the conditions of disease and deprivation faced by others while we are so blessed with abundance here.

Common sense, and common decency. That is what brought us all together today.

Few things offend both common sense and common decency more than the situations faced by the poor countries of the world who lack the resources to provide the most basic public health care and the most basic education, but yet still send money to the international financial institutions established by the wealthiest nations of the world.

They send two billion dollars a year here to Washington, home of the World Bank and the International Monetary Fund, and to the regional development banks around the world, to pay interest on loans they have taken out over the years, money that they desperately need for basic human services.

We set up those institutions to promote conditions for global economic growth and stability, and to promote economic development. And they do many good things. But the blessings that came when those loans went out to poor countries in many cases have turned into a curse. Now many of those countries are stuck in a debt trap, where payments to simply service the interest on those loans weaken their ability to provide the kind of essential public services needed for basic human existence, much less sustainable economic growth.

Tragically, most of the countries with the greatest debt burdens are among the worst victims of the HIV/AIDS epidemic. The resources needed in African countries in the fight against HIV/AIDS are already beyond their reach. The burden of debt makes that fight even harder.

Two years ago, the United States joined with the other members of the IMF and the World Bank to reduce the debt burdens of the Heavily Indebted Poor Countries. The world's churches led that fight, the Jubilee 2000 fight, to undo some of the harm done by this cycle of debt. I was proud to be part of that effort.

The result was a real improvement in the debt situation of many countries. Our experience with that program shows that the money we free up with debt relief really does go for the important services the poor citizens of these countries really need.

As a matter of fact, about 40 percent of the debt savings in those countries is going for education, and 25 percent for health care.

But realistically, these countries will still be stuck in a debt trap far into the future.

In fact, just this week the Bank and the Fund honestly admitted that under the current formula, many countries will simply not reach a sustainable level of debt. James Wolfenson, President of the World Bank, has said that he is considering deeper debt relief to achieve the goals of the existing HIPC program. The legislation I am introducing today with Senator SANTORUM will make success under that HIPC program more likely.

Specifically, for the many countries facing a public health crisis, such as the HIV/AIDS epidemic, we say that no more than five percent of their budgets should go to service their debt to the international financial institutions. For those who do not face such a crisis, debt service should exceed no more than ten percent of their budget.

While the existing HIPC program sets a sustainable level of debt at 150 percent of a country's income from exports, our bill says that it is also important to measure the debt burden against a country's budget, as well. That's the best way to see the real impact on a country's ability to meet its own pressing domestic needs.

In fact, given the deep problems the eligible nations have with trade—most of them export basic commodities whose prices have been declining—using export income should not be the sole basis for determining their ability to pay. The HIPC program currently assumes that the eligible countries will enjoy much higher growth in that export income than they have ever been able to achieve. That is a formula for disappointment.

Deeper debt relief, more sustainable debt levels, measured by a country's actual ability to pay as a share of its budget, that is what our legislation would establish as the U.S. negotiating position at the Bank and the Fund. If those reforms are adopted, an additional billion dollars a year of debt service will be lifted from the poorest nations.

This weekend, the Bank and the Fund will be meeting here in Washington, and I expect those very issues will be under discussion. The legislation we are introducing today offers a way to achieve the original goals of debt relief, and the goals of our own foreign policy in the developing world.

Common sense, and common decency, should help us find some common ground to achieve those goals. The broad coalition of support this legislation already enjoys tells me that we can succeed.

By Mr. HUTCHINSON (for himself and Mr. CLELAND):

S. 2211. A bill to amend title 10, United States Code, to apply the additional retired pay percentage for extraordinary heroism to the computation of the retired pay of enlisted members of the Armed Forces who are retired for any reason, and for other purposes; to the Committee on Armed Services.

Mr. HUTCHINSON. Madam President, I rise today to introduce the Heroism Pay Equality Act. This legislation will restore fairness and equality to our country's retired military reservists who have been cited for extraordinary heroism, by affording them the same entitlements offered to their active component counterparts. Current law awards members with between 20 and 30 years of service who have been cited for extraordinary heroism in the line of duty an additional 10 percent to their retirement pay for their heroic acts. Typically, this equates to a service member who has received the Medal of Honor, the Distinguished Service Cross, or the Navy Cross. Yet a service member who has been awarded one of these medals, and whose retirement eligibility was achieved in the Reserves, is not recognized with the same benefit.

This bill erases this injustice, and is offered in the spirit of fairness to the total force. The United States is increasingly reliant on the Reserve component of the armed service to meet the challenges that face our military. Reserve and National Guard units have served with distinction in Bosnia, Kosovo, the Middle East, and are doing so today in Afghanistan and countless locations across the United States as part of our global war on terrorism. The additional pay for heroic acts is awarded for the act itself and has nothing to do with the component in which retirement eligibility was achieved. Thus, to honor our Nation's military reservists, I urge my colleagues on both sides of the aisle to support this legislation.

I ask unanimous consent that the text of the legislation, which Senator CLELAND and I are introducing today, be printed in the RECORD.

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

S. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANDED APPLICABILITY OF ADDITIONAL RETIRED PAY FOR EXTRAORDINARY HEROISM.

(a) ARMY.—Section 3991(a)(2) of title 10, United States Code, is amended—

(1) by striking ''If a member who is retired under section 3914 of this title'' and inserting ''If an enlisted member entitled to monthly retired pay under this subtitle''; and

(2) by inserting after the first sentence the following new sentence: ''The first sentence does not apply with respect to retired pay computed under section 12733 of this title.''.

(b) NAVY AND MARINE CORPS.—(1) Chapter 571 of such title is amended by inserting after section 6334 the following new section:

''§ 6334a. Computation of retired pay: additional 10 percent for enlisted members credited with extraordinary heroism

''If an enlisted member entitled to monthly retired pay under this subtitle has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 6333 or 6334 of this title, as the case may be, but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based. The first sentence does not apply with respect to retired pay computed under section 12733 of this title. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''6334a. Computation of retired pay: additional 10 percent for enlisted members credited with extraordinary heroism.''.

(c) AIR FORCE.—Section 8991(a)(2) of title 10, United States Code, is amended—

(1) by striking ''If a member who is retired under section 8914 of this title'' and inserting ''If an enlisted member entitled to monthly retired pay under this subtitle''; and

(2) by inserting after the first sentence the following new sentence: ''The first sentence does not apply with respect to retired pay computed under section 12733 of this title.''.

(d) DISABILITY RETIREMENT.—(1) Section 1201 of such title is amended—

(A) in subsection (a), by striking '', with retired pay computed under section 1401 of this title,''; and

(B) by adding at the end the following new subsection:

''(d) COMPUTATION OF RETIRED PAY.—(1) The retired pay to which a member is entitled under this section shall be computed under section 1401 of this title.

''(2) If an enlisted member entitled to monthly retired pay under this section has been credited by the Secretary concerned with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 1401 of this title (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based).''.

(2) Section 1202 of such title is amended—

(A) by inserting ''(a) RETIREMENT.—'' before the text of such section;

(B) by striking ''with retired pay computed under section 1401 of this title'' and inserting ''and pay retired pay to the member.''; and

(C) by adding at the end the following new subsection:

''(b) COMPUTATION OF RETIRED PAY.—(1) The retired pay to which a member is entitled under this section shall be computed under section 1401 of this title.

''(2) If an enlisted member entitled to monthly retired pay under this section has been credited by the Secretary concerned with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under section 1401 of this title (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based).''.

(e) APPLICABILITY.—The amendments made by this section shall not apply with respect to months beginning on or before the date of the enactment of this Act.

By Mr. MCCAIN (for himself, Mr. DASCHLE, and Mr. JOHNSON):

S. 2212. A bill to establish a direct line of authority for the Office of Trust Reform Implementations and Oversight to oversee the management and reform of Indian trust funds and assets under the jurisdiction of the Department of the Interior and to advance tribal management of such funds and assets, pursuant to the Indian Self-Determinations Act and for other purposes; to the Committee on Indian Affairs.

Mr. MCCAIN. Madam President, today I am introducing a discussion bill intended to provide the basis for further reform of the administration and management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual Indians. I'm pleased to be joined by my two distinguished colleagues from South Dakota, Senators DASCHLE and JOHNSON.

As a result of over 300 treaties and an extensive course of dealings between the United States and Indian tribes, the Federal Government holds the legal title to lands held in trust for Indian tribes and individual tribal members. The revenues derived from the use of these lands and the resources found on trust lands, along with the proceeds from claims that have arisen from the wrongful taking or the loss of use of the assets, comprise the funds that are held in trust by the United States for the benefit of individual Indians and Indian tribes.

Today, the United States maintains approximately 1,400 trust fund accounts for 315 Indian tribes with funds in excess of $2.6 billion, and over 260,000 individual Indian money, IIM, accounts with about $400 million in funds. Approximately 45 million acres of land are held in trust by the United States for the benefit of Indian tribes and about 11 million acres are held in trust for individual Indians. These lands contain vast amounts of minerals, coal, oil and gas, water, forest resources, and agricultural resources.

These funds, lands, and resources comprise the trust estate held by the United States for the benefit of tribes and individual Indians. The Interior Department distributes leasing and sales revenues of $300 million per year to more than 225,000 individual Indian money accounts and about $800 million a year to the 1,400 tribal accounts. It manages income from more than 100,000 active leases for tribes and individual Indians.

Indian tribes depend on the revenues from these trust assets to provide basic governmental services. IIM account holders are often living at, or near, the poverty level, and they rely on these revenues for basic essentials such as housing, food, and transportation. The manner in which trust assets and trust funds are managed by the Department has very real impacts on the lives of hundreds of thousands of Indian people every day. All too often, those impacts are not positive.

The administration and management of individual Indian trust assets and funds are extremely difficult due to the problem of fractionated heirship of lands that are a continuing legacy of the misguided and discredited allotment policies of the late nineteenth and early twentieth centuries. Today, the Department and individual Indians are left with the nightmare of 1.4 million fractional interests of two percent or less involving 58,000 tracts of individually owned trust and restricted lands, each of which requires administration and often provides nothing but frustration in return for all involved. For some of these accounts, it may cost more to print and mail statements annually than the assets themselves are worth. A lasting solution needs to be found that reconsolidates these assets under Indian ownership.

Many of my colleagues are familiar with the never-ending stream of GAO reports, news accounts, and hearings detailing the deplorable history of the Federal effort to manage these trust funds. Far less is known about the condition of trust assets and the history of their management. However, it doesn't take very long to recognize that the problem of mismanagement extends far beyond trust funds to the lands and resources that generate most of the funds. The Interior Department cannot provide accurate information on the number of leases on Indian lands for any purpose or the amount of revenues that should be attributed to any parcel of trust land despite repeated attempts to develop the necessary database and record keeping systems. In addition, the records for some lands and trust accounts have been lost or destroyed for entire time periods.

In 1994, the Congress enacted the American Indian Trust Fund Management Reform Act. This law was intended to bring about a series of major reforms in the management of Indian trust funds and assets under the auspices of a Special Trustee in the Interior Department. Some positive changes have occurred. Most trust account holders now receive regular statements on their accounts. Most of the revenues derived from Indian trust assets are now posted to the correct account in a reasonable period of time.

However, the major structural reforms that were called for in the 1994

Act have not been achieved. It is still not possible to tell with complete certainty what tribal lands and resources are leased and what revenues are generated from all tribal lands and resources. The original intent of the 1994 Act was for the Special Trustee to go out of business after completing a plan for the restructuring of the day-to-day management of tribal and individual trust funds and assets.

The Special Trustee did develop a plan that called for the creation of a government sponsored enterprise to take control of the entire Indian trust estate and manage it. The tribes and individual beneficiaries of the trust were nearly unanimous in their condemnation and rejection of this plan.

The 1994 Act also established a procedure through which tribes can withdraw their trust funds from federal trust and manage them directly. Only a few tribes have taken this course. The Interior Department has not encouraged tribes to withdraw their funds and the tribes have been reluctant to do so for the simple reason that the federal trust is terminated by the act of withdrawing the funds. Anyone who is familiar with the devastation brought about by the various efforts over the years to terminate the unique relationship between the tribes and the Federal Government will not be surprised by the lack of success in the implementation of this part of the 1994 Act.

The 1994 Act also called for the completion of audits of all individual and tribal trust fund accounts. After years of effort and the expenditure of millions of dollars, in 1997, the Interior Department finally provided the tribal account holders with a ''reconciliation'' of their accounts. These reconciliation reports only covered a small fraction of the years the accounts have been maintained and the reports were not audits as was required by the 1994 Act. Some tribes accepted the results of the reconciliation of their accounts. Most did not. None of the IIM accounts were reconciled and have not been to this day, despite the requirements of the 1994 Act. There are no plans to comply with the mandate of the 1994 Act for an actual accounting for any of the trust fund accounts. Conducting such an accounting would be difficult due to the lack of records. But it can be accomplished and every reasonable effort should be made to make sure this important work gets done soon.

Last fall, Secretary Norton unveiled a proposal to take all of the trust fund and asset management functions out of the Bureau of Indian Affairs, in order to vest them in a new Bureau of Indian Trust Asset Management, BITAM. This proposal is estimated to have a price tag of about $300 million in its first year or two.

Secretary Norton's proposal was intended to respond to the short-comings of the 1994 Act and the orders of Judge Lamberth in the Cobell v. Norton litigation that has been in the Federal District Court for the District of Columbia since 1997. This litigation involves the individual trust accounts and seeks an accounting of the funds managed by the Departments of the Interior and Treasury since 1887. Past failures to reconcile accounts led to contempt orders against former Secretaries Babbitt and Rubin. Judge Lamberth is currently considering contempt orders against Secretary Norton and Assistant Secretary McCaleb for actions they have taken or have failed to take with regard to these trust funds and for misleading the court about what is actually being done.

Indian leaders across the country have condemned Secretary Norton's proposal to establish BITAM and have since offered a variety of alternative proposals. As I understand it, while the Secretary is working with tribal leaders to evaluate different options proposed by the tribes, the BITAM proposal remains the Department's preferred option.

Representatives of the Tribes have been working on a range of possible reforms through a special Task Force established by Secretary Norton at their request. We have been in contact with members of the Task Force and am somewhat heartened by the fact that they believe they are making real progress toward meaningful reforms. The bill we are introducing is not intended to undermine that process, but will hopefully assist it. In any event, we must give careful consideration to the recommendations the Task force ultimately develops and try to act on them at the appropriate time. I believe Senators DASCHLE and JOHNSON would join me in urging the Department to continue to work with the Task Force as it completes its work in the months ahead.

Even as we monitor these developments, I, and many others in Congress, continue to be concerned about the future management of trust funds and assets. We believe that further reform is necessary and that it must comport with the Interior Department's trust responsibility at the same time that it advances the self-determination policies that have been so successful in the past 30 years. The status quo is simply not acceptable.

Just to reinforce our intent, the bill we are introducing today is not intended to be the ultimate solution to the problems that have been revealed in the management of the trust funds and trust assets. However, we believe it critical to the on-going reform process to introduce a bill that focuses on two elements that are important to achieving a lasting reform in the management of these funds and assets.

First, the bill will establish a direct line-of-authority over the management of the trust funds and trust assets at the highest levels within the Department. Judge Lamberth, and other oversight agencies such as the General Accounting Office, have lamented the lack of accountability in the Interior Department and strongly recommended the designation of one official who will ultimately be responsible for the management of the trust funds and assets.

This bill addresses this issue by establishing the Office of Trust Management and Reform in the Department of the Interior. This office will be under the authority of a Deputy Secretary who will report directly to the Secretary and who will oversee the work of the Assistant Secretary for Indian Affairs, the special Trustee, the Director of the Minerals Management Service and the Director of the Bureau of Land Management with regard to trust funds and trust assets.

I am certain that many of my colleagues who are concerned about this issue will join me in ensuring that candidates nominated by the President for the Deputy Secretary position are not only qualified in financial management, natural resource management, and federal Indian policy, but also are widely supported by the tribal community.

The new Deputy Secretary will be the person ultimately responsible for the overall management of these funds and assets. The Deputy Secretary will have the authority to require the Special Trustee and the Assistant Secretary for Indian Affairs, along with the Directors of the Bureau of Land Management and the Minerals Management Service, to take the steps necessary to put into place the changes needed to ensure the proper administration and management of the trust funds and assets. The Deputy Secretary will be appointed by the President, subject to the advice and consent of the Senate, for a term of six years and may only be removed for cause. This should give the Deputy Secretary the independence necessary to bring about meaningful reform, while still ensuring accountability.

The current Tribal task force working with the Secretary is considering a structure for the management of Indian affairs that would elevate all of the current responsibilities of the Assistant Secretary for Indian Affairs, the Special Trustee, and the Deputy Commissioner, to the Deputy Secretary level in the Department. We look forward to learning more about the scope of the Task Force proposal and its costs or cost savings. As necessary, this bill can be modified to accommodate such a proposal if the Task Force concludes that doing so would be appropriate.

This Task Force has served an important role to the tribes in working with the Department on these matters and many would like to see its function continue as a collaborative component to the Department's management. In order to ensure a continuing role for the tribes in the day-to-day activities of the Department with respect to the management of the trust funds and the trust assets, this bill amends the 1994 Act to provide that the advisory board

that was established to assist the Special Trustee will be reconstituted and continue as an advisory board for the Deputy Secretary. The composition of the advisory board is broad enough to enable the Deputy Secretary to include members with expertise in the areas of trust fund management, investment, and related responsibilities of the Deputy Secretary.

The other major feature of the bill is the focus on the successful policy of self-determination. Any fair review of Federal Indian policy over the course of the last century will point to the policies of termination and assimilation through allotment as abject failures. Many of the most intractable problems the tribes and federal policy makers wrestle with today stem from the wreckage caused by these misguided policies of the past.

On the other hand, the policy of self-determination, which was first proposed by President Nixon in 1971, has shown itself to be the single most successful Federal Indian policy in the history of our Nation. The reasons for this success are many, but the core reason is one we can all recognize and relate to: self-determination involves Indian people directly in identifying and defining the problems facing the tribes, and more importantly, it empowers them to implement the solutions they know will work best. Putting it in slightly different terms, the self-determination policy recognizes the fact that the government closest to the people is the best government to recognize and resolve local problems. Indian policy made by the Federal Government for the Federal Government has never worked and never will work. Indian policy made by the tribal governments with appropriate Federal assistance has shown that it does work.

Portions of the 1994 Act and Secretary Norton's BITAM proposal have some things in common. In varying degrees, both are attempts by the Federal Government to make Indian policy for the federal government. Neither provides a proper role for tribal governments. This bill provides a framework by which tribes can become more involved in the day-to-day management of their trust assets and trust funds through the Indian Self-Determination Act. It does not dismantle the BIA. It does provide a foundation for the tribes, the Department, and the Congress to develop and implement meaningful reform over the next several years. Every major provision of this bill is based on solutions that have been proposed by the tribes.

The bill builds on the concept of beneficiary co-management of trust funds and assets. This is not a new idea. It was advanced by the tribes in the 1980's and 1990's. It is embodied in the Indian Forest Resources Management Act that Congress enacted in 1990 and the Indian Agricultural Resources Management Act enacted in 1994. It is implicit in the Indian Self-Determination Act and it is a proven formula for progress.

This bill does not deal with the issues of the past. It does not address concerns about claims for past mismanagement. It does not deal with the need for an accounting of tribal and individual trust funds. It does not deal with the condition of the trust lands and assets. These are all very serious matters.

My purpose is not to avoid these issues or indicate any disregard for them. Rather, we are simply trying to find a way to move forward on a more constructive basis. Representatives of the tribes have been working on a way to move forward on these issues a more constructive basis. We must give careful consideration to the recommendations they develop and try to act on them at the appropriate time.

Both the House and the Senate recently passed S. 1857 to deal with the statute of limitations on past claims for mismanagement of the tribal trust funds. Judge Lamberth is considering remedies for mismanagement of the individual Indian trust funds. Secretary Norton has established the Office of Historical Trust Accounting to try to produce an accounting for the individual funds. We need to monitor all of these efforts and be prepared to enact additional legislation if necessary and if sought by the tribes.

We are hopeful that we can build on the modest successes realized under the 1994 Act by providing greater accountability in the Department of the Interior and recognizing the fact that the tribes must be involved as active participants in the management and administration of the trust funds and assets without the threat of termination of the trust responsibility. It took over 100 years to create the problems we now confront with the Indian trust funds and assets. The Indian people did not create these problems. The Federal Government did. It is going to take many more years to resolve the problems. The 1994 Act was a step in the right direction. We believe this bill can lead to further progress through greater accountability and direct involvement of those who have the most at stake, the tribes and Indian people.

Once again, Senators Daschle, Johnson and I propose this legislation as a vehicle for discussion for all those concerned with ending decades of mismanagement of Indian trust funds and trust assets. We look forward to receiving comments on this legislation and call on our friend, the chairman of the Committee on Indian Affairs, to use this bill as the basis for hearings on these matters when the committee is prepared to do so.

I ask that the bill and a section-by-section summary of the bill be printed in the RECORD.

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

S. 2212

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 ''Indian Trust Asset and Trust Fund Management and Reform Act of 2002''.

SEC. 2. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

(a) DEFINITIONS.—Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended—

(1) in paragraph (1), by striking ''(1) The term'' and inserting the following:

''(8) SPECIAL TRUSTEE.—The term'';

(2) in paragraph (2), by striking ''(2) The term'' and inserting the following:

''(4) INDIAN TRIBE.—The term'';

(3) in paragraph (3), by striking ''(3) The term'' and inserting the following:

''(7) SECRETARY.—The term'';

(4) in paragraph (4), by striking ''(4) The term'' and inserting the following:

''(5) OFFICE.—The term'';

(5) in paragraph (5), by striking ''(5) The term'' and inserting the following:

''(1) BUREAU.—The term'';

(6) in paragraph (6), by striking ''(6) The term'' and inserting the following:

''(2) DEPARTMENT.—The term'';

(7) by adding at the end the following:

''(3) DEPUTY SECRETARY.—The term 'Deputy Secretary' means the Deputy Secretary for Trust Management and Reform appointed under section 307(a)(2).

''(6) REFORM OFFICE.—The term 'Reform Office' means the Office of Trust Reform Implementation and Oversight established by section 307(e).'';

(8) by moving paragraphs (1) through (8) (as redesignated by this subsection) so as to appear in numerical order; and

(9) by adding at the end the following:

''(9) TRUST ASSETS.—The term 'trust assets' means all tangible property including land, minerals, coal, oil and gas, forest resources, agricultural resources, water and water sources, and fish and wildlife held by the Secretary for the benefit of an Indian tribe or an individual member of an Indian tribe pursuant to Federal law.

''(10) TRUST FUNDS.—The term 'trust funds' means all funds held by the Secretary for the benefit of an Indian tribe or and individual member of an Indian tribe pursuant to Federal law.''.

(b) DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.—Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4041 et seq.) is amended by adding at the end the following:

''SEC. 307. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Department the position of Deputy Secretary for Trust Management and Reform.

''(2) APPOINTMENT AND REMOVAL.—

''(A) APPOINTMENT.—The Deputy Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) TERM.—The Deputy Secretary shall be appointed for a term of 6 years.

''(C) REMOVAL.—The Deputy Secretary may be removed only for good cause.

''(3) ADMINISTRATIVE AUTHORITY.—The Deputy Secretary shall report directly to the Secretary.

''(4) COMPENSATION.—The Deputy Secretary shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay prescribed for Level II of the Executive Schedule under section 5313 of title 5, United States Code.

''(b) DUTIES.—The Deputy Secretary shall—

''(1) oversee all trust fund and trust asset matters of the Department, including—

''(A) administration and management of the Reform Office; and

''(B) financial and human resource matters of the Reform Office; and

''(2) engage in appropriate government-to-government relations and consultations with Indian tribes and individual trust asset and trust fund account holders on matters involving trust asset and trust fund management and reform within the Department.

''(c) STAFF.—In carrying out this section, the Deputy Secretary may hire such staff having expertise in trust asset and trust fund management, financial organization and management, and tribal policy as the Deputy Secretary determines is necessary to carry out this section.

''(d) EFFECT ON DUTIES OF OTHER OFFICIALS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to diminish any responsibility or duty of the Assistant Secretary of the Interior for Indian Affairs or the Special Trustee relating to any duty of the Assistant Secretary or Special Trustee established under this Act or any other provision of law.

''(2) TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM.—Notwithstanding any other provision of law, the Deputy Secretary shall have overall management and oversight authority on matters of the Department relating to trust asset and trust fund management and reform.

''(e) OFFICE OF TRUST REFORM IMPLEMENTATION AND OVERSIGHT.—

''(1) ESTABLISHMENT.—There is established within the Office of the Secretary the Office of Trust Reform Implementation and Oversight.

''(2) REFORM OFFICE HEAD.—The Reform Office shall be headed by the Deputy Secretary.

''(3) DUTIES.—The Reform Office shall—

''(A) supervise and direct the day-to-day activities of the Assistant Secretary of the Interior for Indian Affairs, the Special Trustee, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service, to the extent they administer or manage any Indian trust assets or funds;

''(B) administer, in accordance with title II, all trust properties, funds, and other assets held by the United States for the benefit of Indian tribes and individual members of Indian tribes;

''(C) require the development and maintenance of an accurate inventory of all trust funds and trust assets;

''(D) ensure the prompt posting of revenue derived from a trust fund or trust asset for the benefit of each Indian tribe (or individual member of each Indian tribe) that owns a beneficial interest in the trust fund or trust asset;

''(E) ensure that monthly statements of accounts are provided to all trust fund account holders;

''(F) ensure that all trust fund accounts are audited at least annually, and more frequently as determined to be necessary by the Deputy Secretary;

''(G) ensure that the Assistant Secretary of the Interior for Indian Affairs, the Special Trustee, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service provide to the Secretary current and accurate information relating to the administration and management of trust funds and trust assets;

''(H) provide for regular consultation with trust fund account holders on the administration of trust funds and trust assets to ensure, to the maximum extent practicable in accordance with applicable law, the greatest return on those funds and assets for the trust fund account holders; and

''(I) enter into contracts and compacts under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc) to provide for the management of trust assets and trust funds by Indian tribes pursuant to a Trust Fund and Trust Asset Management and Monitoring Plan developed under section 202 of this Act.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(c) ADVISORY BOARD.—

(1) IN GENERAL.—Section 306 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4046) is amended to read as follows:

''SEC. 306. ADVISORY BOARD.

''(a) ESTABLISHMENT AND MEMBERSHIP.—Notwithstanding any other provision of law, the Deputy Secretary described in section 307 shall establish an advisory board to provide advice on all matters within the jurisdiction of the Office of Trust Reform. The advisory board shall consist of 9 members, appointed by the Deputy Secretary after consultation with Indian tribes and appropriate Indian organizations, of which—

''(1) 5 members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

''(2) 2 members shall have practical experience in trust fund and financial management;

''(3) 1 member shall have practical experience in fiduciary investment management; and

''(4) 1 member, from academia, shall have knowledge of general management of large organizations.

''(b) TERM.—Each member shall serve a term of 2 years.

''(c) FACA.—The advisory board shall not be subject to the Federal Advisory Committee Act.''.

(2) PREVIOUS ADVISORY BOARD.—The advisory board authorized under section 306 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4046) as in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 302 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4042) is amended—

(A) in the second sentence of subsection (a), by striking ''who shall'' and inserting ''who, except as provided in subsection (b)(3), shall''; and

(B) in subsection (b), by adding at the end the following:

''(3) TRUST FUND MANAGEMENT.—The Special Trustee shall report directly to the Deputy Secretary with respect to matters relating to trust fund management and reform.''.

(2) Section 303 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4043) is amended—

(A) by striking subsection (a);

(B) in subsection (b)(1), by striking ''The Special Trustee'' and inserting ''Except as provided in section 307(d), the Special Trustee'';

(C) in subsection (c)(5)(A), by striking ''or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section,'';

(D) by striking subsection (f); and

(E) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

SEC. 3. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES.

Title II of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4021 et seq.) is amended—

(1) by striking sections 202 and 203; and

(2) by inserting after section 201 the following:

''SEC. 202. PARTICIPATION IN TRUST FUND AND TRUST ASSET MANAGEMENT ACTIVITIES BY INDIAN TRIBES.

''(a) PLANNING PROGRAM.—To meet the purposes of this title, a 10-year Indian Trust Fund and Trust Asset Management and Monitoring Plan (in this section referred to as the 'Plan') shall be developed and implemented as follows:

''(1) Pursuant to a self-determination contract or compact under section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) or section 403 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 458cc), an Indian tribe may develop or implement a Plan. Subject to the provisions of paragraphs (3) and (4), the tribe shall have broad discretion in designing and carrying out the planning process.

''(2) To include in a Plan particular trust funds or assets held by multiple individuals, an Indian tribe shall obtain the approval of a majority of the individuals who hold an interest in any such trust funds or assets.

''(3) The Plan shall be submitted to the Secretary for approval pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

''(4) If a tribe chooses not to develop or implement a Plan, the Secretary shall develop or implement, as appropriate, a Plan in close consultation with the affected tribe.

''(5) Whether developed directly by the tribe or by the Secretary, the Plan shall—

''(A) determine the amount and source of funds held in trust;

''(B) identify and prepare an inventory of all trust assets;

''(C) identify specific tribal goals and objectives;

''(D) establish management objectives for the funds and assets held in trust;

''(E) define critical values of the Indian tribe and its members and provide identified management objectives;

''(F) identify actions to be taken to reach established objectives;

''(G) use existing survey documents, reports and other research from Federal agencies, tribal community colleges, and land grant universities; and

''(H) be completed within 3 years of the initiation of activity to establish the Plan.

''(b) MANAGEMENT AND ADMINISTRATION.—Plans developed and approved under subsection (a) shall govern the management and administration of funds and assets held in trust by the Bureau and the Indian tribal government.

''(c) NO TERMINATION REQUIREMENT.—Indian tribes implementing an approved Plan shall not be required to terminate the trust relationship in order to implement such Plan.

''(d) PLAN DOES NOT TERMINATE TRUST.—Developing or implementing a Plan shall not be construed or deemed to constitute a termination of the trust status of the assets or funds that are included in, or subject to, the Plan.

''(e) LIABILITY.—An Indian tribe managing and administering trust funds and trust assets in a manner that is consistent with a Plan shall not be liable for waste or loss of an asset or funds that are included in such Plan.

''(f) INDIAN PARTICIPATION IN MANAGEMENT ACTIVITIES.—

''(1) TRIBAL RECOGNITION.—The Secretary shall conduct all management activities of

funds and assets held in trust in accordance with goals and objectives set forth in a Plan approved pursuant to and in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States.

''(2) TRIBAL LAWS.—

''(A) IN GENERAL.—Unless otherwise prohibited by Federal law, the Secretary shall comply with tribal law pertaining to the management of funds and assets held in trust.

''(B) DUTIES.—The Secretary shall—

''(i) provide assistance in the enforcement of tribal laws described in subparagraph (A);

''(ii) provide notice of such tribal laws to persons or entities dealing with tribal funds and assets held in trust; and

''(iii) upon the request of an Indian tribe, require appropriate Federal officials to appear in tribal forums.

''(3) WAIVER OF REGULATIONS.—In any case in which a regulation or administrative policy of the Department of the Interior conflicts with the objectives of the Plan, or with a tribal law, the Secretary may waive the application of such regulation or administrative policy unless such waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility under Federal law.

''(4) SOVEREIGN IMMUNITY.—This section does not constitute a waiver of the sovereign immunity of the United States, nor does it authorize tribal justice systems to review actions of the Secretary.

''(5) TRUST RESPONSIBILITY.—Nothing in this section shall be construed to diminish or expand the trust responsibility of the United States toward Indian funds and assets held in trust, or any legal obligation or remedy resulting from such funds and assets.

''(g) REPORT.—

''(1) IN GENERAL.—Not later than 180 days after the enactment of this section, and annually thereafter, the Secretary shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives.

''(2) CONTENTS.—The report required under paragraph (1) shall detail the following:

''(A) The efforts of the Department to implement this section.

''(B) The nature and extent of consultation between the Department, Tribes, and individual Indians with respect to implementation of this section.

''(C) Any recommendations of the Department for further changes to this Act, accompanied by a record of consultation with Tribes and individual Indians regarding such recommendations.''.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall promulgate regulations to carry out the amendments made by this Act.

(b) ACTIVE PARTICIPATION.—All regulations promulgated in accordance with subsection (a) shall be developed with the full and active participation of Indian tribes that have trust funds and assets held by the Secretary.

SECTION-BY-SECTION SUMMARY—INDIAN TRUST ASSET AND TRUST FUND MANAGEMENT AND REFORM ACT OF 2002

SECTION 1. SHORT TITLE

This section provides that the Act may be cited as the ''Indian Trust Asset and Trust Fund Management and Reform Act of 2002.''

SECTION 2. DEPUTY SECRETARY FOR TRUST MANAGEMENT AND REFORM

Paragraph (a) of this section provides that Section 2 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001) is amended to add new definitions for the terms ''Deputy Secretary,'' ''Reform Office,'' ''Trust Assets,'' and ''Trust Funds,'' and to redesignate the paragraphs of Section 2 of the 1994 Act.

Paragraph (b) of this section amends Title III of the 1994 Act by adding provisions to establish the position of Deputy Secretary for Trust Management and Reform in the Department of the Interior. The Deputy Secretary will be appointed by the President, with the advice and consent of the Senate, for a term of six years and may only be removed for cause. The Deputy Secretary will report directly to the Secretary and will be responsible for the oversight of all trust fund and trust asset administration and management, including consultation with Indian tribes and individual Indian trust asset and trust fund account holders.

This section authorizes the Deputy Secretary to hire staff in the Reform Office with expertise in trust fund and asset management, financial organization and management and tribal policy. The existing responsibilities of the Assistant Secretary for Indian Affairs and the Special Trustee would not be affected by the duties of the Deputy Secretary, except that each will be required to report to the Deputy Secretary on matters involving trust funds and trust assets.

This section also provides for the establishment of the Office of Trust Reform Implementation and Oversight which shall be headed by the Deputy Secretary and which will be responsible for the supervision of the day-to-day activities of the Assistant Secretary, the Special Trustees, the Director of the Bureau of Land Management and the Director of the Minerals Management Service in their administration of management of any Indian trust funds or assets, consistent with the provisions of Title II of the Act, as amended.

The duties of the Office of Trust Reform include: authorization to require the development and maintenance of an accurate inventory of all trust properties, funds and other assets; ensure the prompt posting of revenues derived from trust funds, properties and assets; ensure that trust fund account holders receive monthly statements; ensure that trust fund accounts are audited at least once a year or more frequently if necessary; ensure that the Secretary receives current and accurate information relating to the administration and management of trust funds, properties and assets; provide for regular consultation with trust fund account holders to ensure the greatest return on trust assets and properties for the trust account holders; and enter into contracts and compacts under the Indian Self-Determination Act to provide for the management of trust assets and funds by Indian tribes.

Such sums as maybe necessary are authorized to be appropriated to carry out the provisions of Section 307 of the Act.

Paragraph (c) of Section 2 amends Section 306 of the 1994 Act to reconstitute the Advisory Board for the Special Trustee as the Advisory Board for the Deputy Secretary. The Advisory Board will be comprised of nine members, five of whom shall be representative of tribal and individual trust fund account holders; two of the Board members shall have experience in trust fund and financial management; one Board member shall be experienced in fiduciary investment managements and one member shall be from academia and shall have knowledge of management of large organizations. Each member of the Advisory Board will serve for a term of two years. The Board will not be subject to the Federal Advisory Committee Act.

Paragraph (d) of Section 2 sets forth conforming amendments to Section 302 and Section 303 of the 1994 Act.

SECTION 3. INDIAN PARTICIPATION IN TRUST FUND ACTIVITIES

Section 3 amends the 1994 Act by striking Sections 202 and 203 of the Act relating to the withdrawal of trust funds and the termination of the trust responsibility. It inserts a new Section 202 to provide for the development and implementation of Indian Trust Fund and Trust Asset Management and Monitoring Plans by the Secretary and Indian tribes pursuant to the Indian Self-Determination Act. Indian tribes are to be afforded broad discretion in designing and carrying out the planning process. Funds and assets held in trust for multiple individuals may be included in a Tribal Plan with the consent of a majority of the individuals who hold an interest in any such assets or funds.

If a Tribe chooses not to develop or implement a plan, the Secretary is required to do so in close consultation with the affected Tribe.

Each plan is required to: determine the amount and source of funds held in trust; identify and prepare an inventory of all trust assets; identify specific tribal goals and objectives; establish management objectives for the funds and assets held in trust; define the critical values of the Indian tribe and provide identified management objectives; use existing surveys, reports and other research from Federal agencies, tribal community colleges and land grant universities; and, be completed within three years after the start of activity to establish a plan.

Approved plans will govern the management and administration of funds and assets held in trust by the Secretary and the Indian Tribes. The development and implementation of a plan by an Indian Tribe or the Secretary does not require the termination of the trust responsibility and shall not be construed or deemed to constitute a termination of the trust status of the assets or funds that are included in or subject to the Plan. An Indian tribe shall not be liable for waste or loss of a trust asset or trust funds if it is acting in accordance with an approved plan.

The Secretary is required to conduct all trust fund and trust asset management activities in accordance with tribal law and to provide assistance in the enforcement of tribal law unless doing so is prohibited by Federal law or would be contrary to the trust responsibility of the United States. The Secretary may waive any regulations or administrative policies of the Department of the Interior that are in conflict with Tribal law or an approved plan unless such a waiver would constitute a violation of a Federal statute or judicial decision or would conflict with the Secretary's trust responsibility.

This Section of the Act does not constitute a waiver of the sovereign immunity of the United States or authorize Tribal justice systems to review actions of the Secretary. Nothing in this Section shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust funds and assets held in trust.

Not later than 180 days after the date of enactment, and annually thereafter, the Secretary is required to file a report with the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives.

The report shall detail: the efforts of the Department to implement this Section; the nature and extent of the consultation between the Department, Tribes and individual Indians with respect to the implementation of this section; and, any recommendations of the Department for further changes to the Act, along with a record of the Department's consultation with Tribes and individual Indians regarding such recommendations.

SECTION 4. REGULATIONS

Section 4 requires the Secretary to promulgate regulations for the implementation

of the amendments to the Act within one year after enactment, with the full and active participation of the Indian tribes that have trust funds and assets held by the Secretary.

Mr. DASCHLE. Madam President, today I am joining with Senators JOHN MCCAIN and TIM JOHNSON to introduce a legislation that is intended to focus attention on the need to address and correct the longstanding problem of inefficient management of the assets and funds held by the United States in trust for federally recognized Indian tribes and individual American Indians.

Indian Country has faced many challenges over the years. Few, however, have been more important, or more difficult, than ending the mismanagement of the Indian trust fund and restoring integrity to this administrative process.

For over 100 years, the Department of Interior has managed a trust funded with the proceeds of leasing of oil, gas, land, and mineral rights for the benefit of Indian people. Today, the trust fund may owe as much as $10 billion to as many as 500,000 Indians.

To give some perspective, the 16 tribes of the Great Plains in South Dakota, North Dakota, and Nebraska comprise 10 million acres of trust lands representing over one-third of the trust accounts. Many enrolled members of the nine South Dakota tribes have trust accounts.

How these trust funds have been and will be managed is being litigated in Cobell versus Norton, and the resolution of this lawsuit will have far-reaching implications throughout Indian country. It is impossible not to evaluate potential solutions in the context of this lawsuit.

There is clear consensus in Indian Country that the current administration of the trust fund is a failure. The daunting question has always been how to reform it.

Last fall, the Secretary of the Interior unveiled plans to reorganize the Bureau of Indian Affairs, BIA and segregate the oversight and accounting of trust-related assets in a new Bureau of Indian Trust Asset Management, BITAM. In testimony before the U.S. District Court, she acknowledged that, ''We undoubtedly do have some missing data—and we are all going to have to find a way to deal with the fact that some information no longer exists.''

The Secretary's controversial reorganization proposal was presented to the court in a hasty effort to avoid being held in contempt of court with minimal consultation with the tribes or individual Indian account holders, not to mention Congress. In South Dakota, tribal leaders communicated to Tim Johnson and me their concern that the Secretary's solution appeared to be a fait accompli, conceived without meaningful participation of the stakeholders most directly affected by it. They felt strongly that this proposal should not be implemented without further consultation with the tribes.

Earlier this year, in the face of administration assurances that its reorganization plan was not set in stone, the Interior Department requested that $200 million from the BIA and $100 million from the Office of the Special Trustee, be reprogrammed to ''a single organization that will report to the Secretary through an Assistant Secretary, Indian Trust.'' This contradiction set off red flags in Congress, and a clear and direct message was sent to Secretary Norton by Senators INOUYE, CAMPBELL, BYRD, JOHNSON and others that no action should be taken to implement her proposed reorganization plan administratively.

Given these developments, Senators MCCAIN, JOHNSON, and I felt that Congress should be more assertive in forcing discussing about what role Congress might play in ensuring that tribes and individual Indian account holders have a voice on shaping trust reform policy. It is our hope that this bill will stimulate better dialogue among the Congress, the Interior Department, and Indian Country on this problem.

With that goal in mind, the bill has been reviewed by representatives of the Great Plains tribes at a meeting in Rapid City. Mike Jandreau, chairman of the Lower Brule Sioux Tribe, has been an effective advocate and champion of trust reform, not only for his tribe, but also for all Indian people. Mike and Flandreau-Santee Sioux Tribal chairman and Great Plains Tribal chairman's association president, Tom Ranfranz led a very impressive and productive working session with tribal leaders from South Dakota, North Dakota, Nebraska, Montana, and Wyoming that both raised awareness of the stakes of this issue and built support for the bill that is being introduced today.

I commend the willingness of these participating tribal leaders to be a part of a public process that will hopefully not stop until Indian country feels comfortable with a final product they create. The McCain-Johnson-Daschle bill is intended to be a starting point for promoting greater understanding of what needs to occur to achieve meaningful trust reform.

At this point, I would like to share with my colleagues some initial observations on this proposal that were raised yesterday by participating South Dakota treaty tribes and tribes of the Great Plains and Rocky Mountain regions. These comments demonstrate how thoughtfully Indian leaders are approaching the trust problem, and I fully expect that their suggestions will be considered and incorporated as the bill moves through the committee process.

The following issues are of great importance to the Great Plains Tribal Chairman's Association.

Providing the Deputy Secretary with sufficient authority to ensure that reform of the administration of trust assets is permanent; They do not believe the bill at present gives the Deputy Secretary the full and unified authority needed.

Including cultural resources as a trust asset for management purposes.

Incorporating the Office of Surface Mining and Bureau of Reclamation and other related agencies within the Department of Interior and the Federal government under the purview of the Deputy Secretary.

Assuring that the legislation not infringe on tribal sovereignty by interfeering with tribal involvement in the management of individual trust assets or tribal assets, or both.

Maintaining the Bureau of Indian Affair's role as an advocate for tribe.

Maintaining current levels of Bureau of Indian Affairs employment.

Applying Indian employment preference to all positions created by the legislation.

Providing in law that Bureau of Indian Affairs funds not be used to fund the Deputy Secretary appointed by the legislation.

Stressing the importance of appropriating adequate funding allow reform to succeed.

Reflecting in the legislative history that much of the funding needed for real trust reform be allocated at the local agency and regional levels of the Bureau of Indian Affairs.

Placing more tribal representatives, including tribal resources managers, from the various Bureau of Indian Affairs regions on the advisory board to the Office of Trust Reform.

The issues of trust reform and reorganization within the Bureau of Indian Affairs are nothing new to us here on Capitol Hill, or in Indian Country. Collectively, we have endured many efforts, some well intentioned and some clearly not, to fix, reform, adjust, improve, streamline, downsize, and even terminate the Bureau of Indian Affairs and its trust activities.

These efforts have been pursued in both Republican and Democratic administrations. Unfortunately, they have rarely sought meaningful involvement from tribal leadership, or recognized the Federal Government's treaty obligation to tribes.

Both meaningful consultation and acceptance of tribal status are critical if we expect to find a workable solution to the very real problem of trust management. The bill Senators MCCAIN, JOHNSON, and I are introducing today reflects this conviction.

There is no more important challenge facing the tribes and their representatives in Congress than that of restoring accountability and efficiency to trust management. And nowhere do the bedrock principles of self-determination and tribal sovereignty come more into play than in the management and distribution of trust funds and assets.

This measure recognizes that the only effective long-term solution to the trust problem must be based on government-to-government dialog. I

believe the discussion the bill generates will not only provide the catalyst for meaningful tribal involvement in the search for solutions but also form the basis for true trust reform. I look forward to participating with tribal leaders in pursuit of this important objective.

Mr. JOHNSON. Madam President, I rise today to join my colleagues, Senator JOHN MCCAIN and Senator TOM DASCHLE, as sponsors of the Indian Trust Asset and Trust Fund Management and Reform Act of 2002. This legislation we are introducing today is intended as simply the first step in the legislative process as we continue to work closely with tribes to address the need for further reform of the management of the trust funds and assets that have been mismanaged for decades. I am hopeful that by taking this action today, we will begin to further the discussion of this critical issue, knowing full well that there will be ongoing consultation and input from tribal leaders and tribal members all across the country.

As many of my colleagues are aware, the issue of trust fund mismanagement is one of the most urgent problems we are faced with in Indian Country. Of all the extraordinary circumstances we find in Indian Country, and especially in South Dakota, I do not think there is any more complex, more difficult and more shocking than the circumstances we have surrounding trust fund mismanagement.

This problem has persisted literally for generations, and continues today. Administrations of both political parties have been inadequate in their response, and the level of direction and the resources provided by Congresses over past decades has also been sadly inadequate. The Federal Government, by law, is to be the trustee for Native American people. When the Trust Fund Management Act of 1994 was passed, I was hopeful that this accounting situation would at last be remedied. Unfortunately, this has not been the case.

Last year's attempt by Secretary Norton and the Department of the Interior to address this ongoing problem has also fallen far short of what is needed. In fact, Indian leaders all across the country widely opposed the plan released by the Secretary last November to create a new Bureau of Indian Trust Asset Management, BITAM. Unfortunately, the Secretary released the Department's plan without seeking input and consulting with the very people who are supposed to benefit from these trust fund accounts.

Many tribal leaders have offered counter proposals to the Department's plan, however, Secretary Norton continues to stand behind and defend BITAM as the best alternative to addressing this problem. I believe it is now time for Congress to attempt once again to make real progress on this issue. As I stated earlier, the bill my colleagues and I have introduced today is not intended to be a final product, but rather the beginning of a process that will lead to further improvements, revisions and refinements based on the continued input of tribal leadership.

One of the main provisions of our legislation is to establish the position of a Deputy Secretary for Trust Management and Reform in the Department of the Interior. The Deputy Secretary will be appointed by the President, with the advice and consent of the Senate, for a term of 6 years and may only be removed for cause. The Deputy Secretary will report directly to the Secretary and will be responsible for the oversight of all trust fund and trust asset administration and management, including consultation with Indian tribes. It is my hope that the Deputy Secretary is provided the adequate authority to administer the trust assets and to ensure that reform of the administration of trust assets is permanent.

In addition, we must maintain and strengthen the integrity of services of the Bureau of Indian Affairs, BIA, as the primary agency providing trust services directly to tribes. This reorganization should not by any means diminish the BIA in it's role as advocate for tribes and must include the necessary funding to allow for real trust reform to be implemented at the regional and agency levels.

We have already benefitted from the input of the many tribal officials in South Dakota, including the input of the Great Plains Tribal Region and Montana Wyoming Tribal Leaders' Council. I would like to take this opportunity to thank Mike Jandreau, chairman of the Lower Brule Sioux Tribe and a member of the Interior Department's Tribal Task Force, as well as Tom Ranfranz, president of the Flandreau Santee and chairman of the Great Plains Tribal Chairman's Association for their advice and counsel as we attempt to address the many challenges facing trust reform. Their important insight into the trust fund management issues and their leadership, along with the other tribal chairs in the Great Plains and Rocky Mountain Regions who have been very helpful to me as we to address the shortcomings of the Department's plan and try to find a legislative approach that will finally begin to improve this situation,.

Madam President, I have high hopes that this issue may finally be laid to rest. It is crucial that the first Americans of this proud country be treated with the dignity and respect that has been so sadly lacking for far too long. This legislation provides a new foundation from which we may once again begin to rebuild the trust that the U.S. Government has, in the eyes of the Indian people, let crumble into the rubble of a bureaucratic maze.

By Mr. CORZINE (for himself, Mr. TORRICELLI, Mr. SCHUMER, and Mrs. CLINTON):

S. 2214. A bill to provide compensation and income tax relief for the individuals who were victims of the terrorist-related bombing of the World Trade Center in 1993 on the same basis as compensation and income tax relief is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; to the Committee on Finance.

Mr. CORZINE. Madam President, today along with Senators TORRICELLI, SCHUMER and CLINTON, I am introducing legislation to ensure that the families of the victims of the 1993 World Trade Center terrorist bombing receive the same compensation for their devastating losses as those whose loved ones perished in the horrific attacks of September 11. They too deserve aid in rebuilding their lives and it is up to Congress to make certain their needs are met and their losses acknowledged. I am pleased to join my colleague Representative Robert Menendez of New Jersey, who has introduced this legislation in the House of Representatives.

On February 26, 1993, a car bomb exploded on the second level of the World Trade Center parking basement. The blast injured over 1,000 people working in the towers and left 6 individuals dead. Among those lost was 57-year-old William Macko of Bayonne, NJ.

I recently met with the Macko family to discuss their loss and their struggle for recovery. Though it has been nearly a decade since William's death, it is clear that they are still suffering from the unimaginable pain of his loss. And as though this tragedy is not enough for them to bear, the family was dealt yet another blow when Carol, William's widow, was diagnosed with cancer just nine months after losing her husband.

Congress has responded with tremendous generosity to the tragedy of September 11, creating a Victim Compensation Fund to compensate those injured and the families of those deceased for economic and non-economic losses, as well as providing substantial Federal income tax relief.

These programs should also be made available to those who lost loved ones in the World Trade Center bombing of 1993. They too should be compensated for the unbearable pain and sorrow they endured at the hands of terrorists. That is why I am introducing the 1993 World Trade Center Victims Compensation Act, which would include those injured or killed in the 1993 bombing in both the Victim Compensation Fund and Victims Tax Relief.

When I met with the Macko family, they asked that William's death not be forgotten or dismissed. They asked for Congress to ensure that their suffering and that of the other families who lost loved ones on that cold February day be recognized as well. Their request was clear and simple, and we must not let them down.

I urge my colleagues to show their support for these families and cosponsor this legislation.

By Mrs. BOXER (for herself and Mr. SANTORUM):

S. 2215. A bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil and by so doing hold Syria accountable for its role in the Middle East, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Madam President, today Senator SANTORUM and I are proud to introduce the Syria Accountability Act, a bill that will ensure that Syria is held accountable for its actions in the Middle East and for its support of international terrorism.

As a state-sponsor of terrorism, Syria has supported and provided safe haven to several terrorist groups, such as Hizballah, Hamas, and the Popular Front for the Liberation of Palestine. This is in violation of U.N. Security Council resolutions that call on U.N. member states to refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts.

Syria is also in violation of U.N. Security Council Resolutions that call for the sovereignty and political independence of Lebanon. More than 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon and it is time for them to leave.

The legislation we are offering today would expand sanctions on Syria until the President certifies that Syria has met four conditions.

First, that it does not support international terrorist groups;

Second, that it has withdrawn all military, intelligence, and other security personnel from Lebanon;

Third, that it has stopped developing ballistic missiles and has stopped the development and production of biological and chemical weapons; and

Fourth, that it no longer in violation of relevant U.N. Security Council Resolutions.

To give maximum flexibility to the President, we have included a ''menu'' of sanctions for the President to choose from and a provision that would waive sanctions should the President find that it is in the national security interest of the United States.

I hope my colleagues can support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2215

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 ''Syria Accountability Act of 2002''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) On September 20, 2001, President George Bush stated at a joint session of Congress that ''[e]very nation, in every region, now has a decision to make . . . [e]ither you are with us, or you are with the terrorists . . . [f]rom this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime''.

(2) United Nations Security Council Resolution 1373 (September 28, 2001) mandates that all states ''refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts'', take ''the necessary steps to prevent the commission of terrorist acts'', and ''deny safe haven to those who finance, plan, support, or commit terrorist acts''.

(3) The Government of Syria is currently prohibited by United States law from receiving United States assistance because it is listed as state sponsor of terrorism.

(4) Although the Department of State lists Syria as a state sponsor of terrorism and reports that Syria provides ''safe haven and support to several terrorist groups'', fewer United States sanctions apply with respect to Syria than with respect to any other country that is listed as a state sponsor of terrorism.

(5) Terrorist groups, including Hizballah, Hamas, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine–General Command maintain offices, training camps, and other facilities on Syrian territory and operate in areas of Lebanon occupied by the Syrian armed forces and receive supplies from Iran through Syria.

(6) United Nations Security Council Resolution 520 (September 17, 1982) calls for ''strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the Government of Lebanon through the Lebanese Army throughout Lebanon''.

(7) More than 20,000 Syrian troops and security personnel occupy much of the sovereign territory of Lebanon exerting undue influence upon its government and undermining its political independence.

(8) Since 1990 the Senate and House of Representatives have passed seven bills and resolutions which call for the withdrawal of Syrian armed forces from Lebanon.

(9) Large and increasing numbers of the Lebanese people from across the political spectrum in Lebanon have mounted peaceful and democratic calls for the withdrawal of the Syrian Army from Lebanese soil.

(10) Israel has withdrawn all of its armed forces from Lebanon in accordance with United Nations Security Council Resolution 425 (March 19, 1978), as certified by the United Nations Secretary General.

(11) Even in the face of this United Nations certification that acknowledged Israel's full compliance with Resolution 425, Syria permits attacks by Hizballah and other militant organizations on Israeli outposts at Shebaa Farms, under the false guise that it remains Lebanese land, and is also permitting attacks on civilian targets in Israel.

(12) Syria will not allow Lebanon—a sovereign country—to fulfill its obligation in accordance with Security Council Resolution 425 to deploy its troops to southern Lebanon.

(13) As a result, the Israeli–Lebanese border and much of southern Lebanon is under the control of Hizballah which continues to attack Israeli positions and allows Iranian Revolutionary Guards and other militant groups to operate freely in the area, destabilizing the entire region.

(14) The United States provides $40,000,000 in assistance to the Lebanese people through private nongovernmental organizations, $7,900,000 of which is provided to Lebanese–American educational institutions.

(15) In the State of the Union address on January 29, 2002, President Bush declared that the United States will ''work closely with our coalition to deny terrorists and their state sponsors the materials, technology, and expertise to make and deliver weapons of mass destruction''.

(16) The Government of Syria continues to develop and deploy short and medium range ballistic missiles.

(17) The Government of Syria is pursuing the development and production of biological and chemical weapons.

(18) United Nations Security Council Resolution 661 (August 6, 1990) and subsequent relevant resolutions restrict the sale of oil and other commodities by Iraq, except to the extent authorized by other relevant resolutions.

(19) Syria, a non-permanent United Nations Security Council member, is receiving between 150,000 and 200,000 barrels of oil from Iraq in violation of Security Council Resolution 661 and subsequent relevant resolutions.

(20) Syrian President Bashar Assad promised Secretary of State Powell in February 2001 to end violations of Security Council Resolution 661 but this pledge has not been fulfilled.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Government of Syria should immediately and unconditionally halt support for terrorism, permanently and openly declare its total renunciation of all forms of terrorism, and close all terrorist offices and facilities in Syria, including the offices of Hamas, Hizballah, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine–General Command;

(2) the Government of Syria should immediately declare its commitment to completely withdraw its armed forces, including military, paramilitary, and security forces, from Lebanon, and set a firm timetable for such withdrawal;

(3) the Government of Lebanon should deploy the Lebanese armed forces to all areas of Lebanon, including South Lebanon, in accordance with United Nations Security Council Resolution 520 (September 17, 1982), in order to assert the sovereignty of the Lebanese state over all of its territory, and should evict all terrorist and foreign forces from southern Lebanon, including Hizballah and the Iranian Revolutionary Guards;

(4) the Government of Syria should halt the development and deployment of short and medium range ballistic missiles and cease the development and production of biological and chemical weapons;

(5) the Government of Syria should halt illegal imports and transshipments of Iraqi oil and come into full compliance with United Nations Security Council Resolution 661 and subsequent relevant resolutions;

(6) the Governments of Lebanon and Syria should enter into serious unconditional bilateral negotiations with the Government of Israel in order to realize a full and permanent peace; and

(7) the United States should continue to provide humanitarian and educational assistance to the people of Lebanon only through appropriate private, nongovernmental organizations and appropriate international organizations, until such time as the Government of Lebanon asserts sovereignty and control over all of its territory and borders and achieves full political independence, as called for in United Nations Security Council Resolution 520.

SEC. 4. STATEMENT OF POLICY.

It should be the policy of the United States that—

(1) Syria will be held responsible for all attacks committed by Hizballah and other terrorist groups with offices or other facilities in Syria, or bases in areas of Lebanon occupied by Syria;

(2) the United States will work to deny Syria the ability to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction;

(3) the Secretary of State will continue to list Syria as a state sponsor of terrorism until Syria ends its support for terrorism, including its support of Hizballah and other terrorist groups in Lebanon and its hosting of terrorist groups in Damascus, and comes into full compliance with United States law relating to terrorism and United Nations Security Council Resolution 1373 (September 28, 2001);

(4) the full restoration of Lebanon's sovereignty, political independence, and territorial integrity is in the national security interest of the United States;

(5) Syria is in violation of United Nations Security Council Resolution 520 (September 17, 1982) through its continued occupation of Lebanese territory and its encroachment upon its political independence;

(6) Syria's obligation to withdraw from Lebanon is not conditioned upon progress in the Israeli-Syrian or Israeli-Lebanese peace process but derives from Syria's obligation under Security Council Resolution 520;

(7) Syria's acquisition of weapons of mass destruction and ballistic missile programs threaten the security of the Middle East and the national interests of the United States;

(8) Syria is in violation of United Nations Security Council Resolution 661 (August 6, 1990) and subsequent relevant resolutions through its continued purchase of oil from Iraq; and

(9) the United States will not provide any assistance to Syria and will oppose multilateral assistance for Syria until Syria withdraws its armed forces from Lebanon, halts the development and deployment of weapons of mass destruction and ballistic missiles, and complies with Security Council Resolution 661 and subsequent relevant resolutions.

SEC. 5. SANCTIONS.

(a) SANCTIONS.—Until the President makes the determination that Syria meets the requirements described in paragraphs (1) through (4) of subsection (c) and certifies such determination to Congress in accordance with such subsection—

(1) the President shall prohibit the export to Syria of any item, including the issuance of a license for the export of any item on the United States Munitions List or Commerce Control List of dual-use items in the Export Administration Regulations (15 C.F.R. part 730 et seq.);

(2) the President shall prohibit United States Government assistance, including loans, credits, or other financial assistance, to United States businesses with respect to investment or other activities in Syria;

(3) the President shall prohibit the conduct of programs of the Overseas Private Investment Corporation and the Trade and Development Agency in or with respect to Syria; and

(4) the President shall impose two or more of the following sanctions:

(A) Prohibit the export of products of the United States (other than food and medicine) to Syria.

(B) Prohibit United States businesses from investing or operating in Syria.

(C) Restrict Syrian diplomats in Washington, D.C., and at the United Nations in New York City, to travel only within a 25-mile radius of Washington, D.C., or the United Nations headquarters building, respectively.

(D) Reduce United States diplomatic contacts with Syria (other than those contacts required to protect United States interests or carry out the purposes of this Act).

(E) Block transactions in any property in which the Government of Syria has any interest, by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) WAIVER.—The President may waive the application of either paragraph (2) or (3) (or both) of subsection (a) if the President determines that it is in the national security interest of the United States to do so.

(c) CERTIFICATION.—A certification under this subsection is a certification transmitted to the appropriate congressional committees of a determination made by the President that—

(1) the Government of Syria does not provide support for international terrorist groups and does not allow terrorist groups, such as Hamas, Hizballah, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine–General Command to maintain facilities in Syria;

(2) the Government of Syria has withdrawn all Syrian military, intelligence, and other security personnel from Lebanon;

(3) the Government of Syria has ceased the development and deployment of ballistic missiles and has ceased the development and production of biological and chemical weapons; and

(4) the Government of Syria is no longer in violation of United Nations Security Council Resolution 661 and subsequent relevant resolutions.

SEC. 6. REPORT.

(a) REPORT.—Not later than 6 months after the date of the enactment of this Act, and every 12 months thereafter until the conditions described in paragraphs (1) through (4) of section 5(c) are satisfied, the Secretary of State shall submit to the appropriate congressional committees a report on—

(1) Syria's progress toward meeting the conditions described in paragraphs (1) through (4) of section 5(c); and

(2) connections, if any, between individual terrorists and terrorist groups which maintain offices, training camps, or other facilities on Syrian territory, or operate in areas of Lebanon occupied by the Syrian armed forces, and the attacks against the United States that occurred on September 11, 2001, and other terrorist attacks on the United States or its citizens, installations, or allies.

(b) FORM.—The report submitted under subsection (a) shall be in unclassified form but may include a classified annex.

SEC. 7. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

In this Act, the term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 246—DEMANDING THE RETURN OF THE USS ''PUEBLO'' TO THE UNITED STATES NAVY

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 246

Whereas the USS Pueblo, which was attacked and captured by the North Korean Navy on January 23, 1968, was the first United States Navy ship to be hijacked on the high seas by a foreign military force in over 150 years;

Whereas 1 member of the USS Pueblo crew, Duane Hodges, was killed in the assault while the other 82 crew members were held in captivity, often under inhumane conditions, for 11 months;

Whereas the USS Pueblo, an intelligence collection auxiliary vessel, was operating in international waters at the time of the capture, and therefore did not violate North Korean territorial waters;

Whereas the capture of the USS Pueblo resulted in no reprisals against the Government or people of North Korea and no military action at any time; and

Whereas the USS Pueblo, though still the property of the United States Navy, has been retained by North Korea for more than 30 years, was subjected to exhibition in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the capital city of North Korea: Now, therefore, be it

Resolved, That the Senate—

(1) demands the return of the USS Pueblo to the United States Navy; and

(2) directs the Secretary of the Senate to transmit copies of this resolution to the President, the Secretary of Defense, and the Secretary of State.

Mr. CAMPBELL. Madam President, I am pleased to introduce this resolution which recognizes and demands that the government of North Korea return the ship the USS *Pueblo* to the United States Navy.

On January 23, 1968, while in international waters, the USS *Pueblo* was attacked and illegally captured by the North Korean Navy. This engagement marked the first time in over 150 years a United States Navy ship was hijacked on the high seas by a foreign military force. This naked act of aggression resulted in 82 crew members being held in captivity as Prisoners of War for eleven months in inhumane conditions with one casualty, Duane Hodges who was killed during the initial assault. On December 23, 1968, the USS *Pueblo* crew was finally released. At the time of its capture, the USS *Pueblo* was operating as an intelligence collection auxiliary vessel, and did not pose a threat.

According to the Navy Department Office of the Chief of Naval Operations Ships' Histories Section, the name USS *Pueblo* has enjoyed a long and proud history prior to January 23, 1968. Currently, the environmental research vessel USS *Pueblo*, AGER–2, is the third ship of the fleet to bear the name of the City and County of Pueblo, CO. Originally the armored cruiser *Colorado* was renamed the *Pueblo* in 1916 when a new battleship named *Colorado* was authorized. That ship served from 1905 to 1927. The second vessel named the *Pueblo*, PF–13, was a city class frigate which proudly served from 1944 to 1946. She was later sold to the Dominican Republic where she serves today. The third and current *PUEBLO*, AGER–2, was built by the Kewaunee Shipbuilding and Engineering Corporation, Kewaunee, WI. A general purpose supply vessel designed especially for service in the U.S. Army Transportation Corps, she was launched 16 April 1944 and later redesignated as an environmental research vessel.

To date, the capture of the USS *Pueblo* has resulted in no reprisal against the government or people of North

Korea and although the USS *Pueblo* still remains property of the United States Navy, the North Korean Government displays it as a traveling museum in the North Korean cities of Wonsan and Hungham, and is now on display in Pyongyang, the Capital city of North Korea. This is unacceptable to me and a number of my colleagues. At issue here, isn't the value of the ship. At issue is the honor of America and the record of those who proudly served and were illegal captives by North Korea, a nation which seeks the destruction of America.

I stand with my fellow legislators back home in the Sixty-third Colorado State General Assembly in demanding the return of the USS *Pueblo* to the United States Navy.

I urge my colleagues here in the U.S. Senate to join me in supporting passage of this important resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3142. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3143. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3144. Mr. GRAMM (for himself and Mr. KYL) proposed an amendment to amendment SA 2999 proposed by Mr. KERRY (for himself, Mr. MCCAIN, Ms. SNOWE, Mr. SMITH of Oregon, Ms. COLLINS, and Mr. CHAFEE) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3145. Mr. REID proposed an amendment to amendment SA 3008 proposed by Mr. DAYTON (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3146. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3147. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3148. Mr. BINGAMAN (for Ms. CANTWELL) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3149. Mr. BINGAMAN (for Mr. REID) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3150. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3151. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3152. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3153. Mr. BINGAMAN (for Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3154. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3155. Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3156. Mr. BINGAMAN (for Mr. MURKOWSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3157. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3158. Mr. CONRAD (for himself and Mr. SMITH, of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3159. Mr. MURKOWSKI proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 3160. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL) proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes.

SA 3161. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3162. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3163. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3164. Mr. BYRD proposed an amendment to the bill H.R. 3525, supra.

SA 3165. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3166. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3167. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3168. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3169. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3170. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3171. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3173. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3174. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3175. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3176. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3142. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16, and insert the following:

SEC. 1901. PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking ''In the case of taxable years beginning during 2002 or 2003, the'' and inserting ''The''.

SEC. 1901A. 3-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM POULTRY WASTE.

(a) IN GENERAL.—Subparagraph (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''January 1, 2004'' and inserting ''January 1, 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity sold after the date of the enactment of this Act in taxable years ending after such date.

SA 3143. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 17, line 9, strike all through page 55, line 7, and insert the following:

SEC. . PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking ''In the case of taxable years beginning during 2002 or 2003, the'' and inserting ''The''.

SA 3144. Mr. GRAMM (for himself and Mr. KYL) proposed an amendment to amendment SA 2999 proposed by Mr. KERRY (for himself, Mr. MCCAIN, Ms. SNOWE, Mr. SMITH of Oregon, Ms. COLLINS, and Mr. CHAFEE) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Strike all beginning page 2 line 1 and insert the following:

SEC. . PERMANENT REPEAL OF DEATH TAXES.

Section 901 of the Economic Growth and Tax Reconciliation Act of 2001 is amended—

(1) by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than Title V) shall not apply to taxable, plan, or limitation years beginning after December 31, ''2010'', and

(2) by striking '',estates, gifts, and transfers'' in subsection (b).

SA 3145. Mr. REID proposed an amendment to amendment SA 3008 proposed by Mr. DAYTON (for himself and Mr. GRASSLEY) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

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

SEC. 8___. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is available at a competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol (or the highest available percentage of ethanol), rather than nonethanol-blended gasoline, for use in vehicles used by the agency.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which biodiesel-blended diesel fuel is available at a competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

''(c) EXEMPTION FOR MILITARY VEHICLES.—This section does not apply to fuel used in vehicles used for military purposes that the Secretary of Defense certifies to the Secretary must be exempt for national security reasons.''.

SA 3146. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title XI and insert the following:

TITLE XI—NATIONAL GREENHOUSE GAS REGISTRY

SEC. 1101. SHORT TITLE.

This amendment may be cited as the ''National Climate Registry Initiative.''

SEC. 1102. PURPOSE.

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

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

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

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

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

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

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

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

SEC. 1103. DEFINITIONS.

In this title—

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

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

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

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

(5) ''greenhouse gas'' means—

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

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

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

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

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

SEC. 1104. ESTABLISHMENT.

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

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

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

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

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

(d) CONFIDENTIALITY OF REPORTS.—Trade secret and commercial or financial information that is privileged and confidential submitted pursuant to activities under this title shall be provided in section 552(b)(4) of title 5, United States Code.

SEC. 1105. IMPLEMENTATION.

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

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

such participants under past Federal programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1106. VOLUNTARY AGREEMENTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 1107. MEASUREMENT AND VERIFICATION.

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

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

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

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

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

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

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

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

(A) organic soil carbon sequestration practices;

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

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

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

SEC. 1108. CERTIFIED INDEPENDENT THIRD PARTIES.

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

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

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on

the amount of emissions reductions verified; and

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

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

SEC. 1109. REPORT TO CONGRESS.

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

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

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

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

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

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

SEC. 1110. NATIONAL ACADEMY REVIEW.

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

SA 3147. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17___. FEASIBILITY REPORT ON COMMERCIAL NUCLEAR ENERGY PRODUCTION AND REGIONAL EDUCATION CONSORTIA AT DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

(a) DEFINITIONS.—In this section:

(1) COMMERCIAL NUCLEAR ENERGY PRODUCTION.—The term ''commercial nuclear energy production'' means electric power generated by for profit, private firms, public cooperatives, and municipal utilities.

(2) DEPARTMENT FACILITY.—The term ''Department facility'' means a Department of Energy nuclear facility.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) STUDY.—The Secretary shall conduct a study to determine the feasibility of—

(1) developing commercial nuclear energy production facilities at Department facilities in existence on the date of enactment of this Act, including—

(A) options for how and where commercial nuclear power plants can be developed at Department facilities;

(B) estimates of cost savings to the United States that may be realized by locating new commercial nuclear power plants at Department facilities;

(C) the feasibility of incorporating new technology into commercial nuclear power plants at Department facilities;

(D) potential improvements in the licensing and safety oversight procedures of commercial nuclear power plants at Department facilities;

(E) an assessment of the effects of nuclear waste management policies and projects as a result of locating commercial nuclear power plants at Department facilities;

(F) the appropriate amounts of contributions of public and private funds; and

(G) other appropriate factors; and

(2) establishing regional education consortia at Department facilities, including—

(A) strategies for strengthening partnerships among the Department of Energy, engineering and science institutions of higher learning, other schools providing vocational training to the nuclear power industry, and commercial nuclear power producers;

(B) contributions that such consortia could make to the program goals of relevant provisions of this Act; and

(C) other actions that could optimize civilian and military education in nuclear education at Department facilities that would enhance electric power production in the United States.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subsection (b).

SA 3148. Mr. BINGAMAN (for Ms. CANTWELL) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 403, after line 12, insert the following:

SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.

The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SA 3149. Mr. BINGAMAN (for Mr. REID) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 403, after line 12, insert the following:

''SEC. 1215. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.

''The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysis, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, though national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.''.

SA 3150. Mr. BINGAMAN proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of title XVII, add the following:

SEC. 17 . REPORT ON ENERGY SAVINGS AND WATER USE.

(a) REPORT.—The Secretary of Energy shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and waste water treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring, and reporting; and public education.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than two years from the date of enactment of this section.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SA 3151. Mr. BINGAMAN (for Mr. SCHUMER) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of subtitle A of title IX add the following:

SEC. 9 . ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible state'' means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term ''State program'' means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the Senate will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocations to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.

SA 3152. Mr. BINGAMAN (for Ms. LANDRIEU) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 301, line 22, strike ''organizations.'.'' and insert the following:

''organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.'.''.

SA 3153. Mr. BINGAMAN (for Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end of subtitle D of title IX, add the following:

SEC. 937. CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), as amended by section 934, is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (L), by striking the period at the end and inserting ''; and'';

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.''.

SEC. 938. ENERGY-EFFICIENT APPLIANCES.

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

SEC. 939. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002''.

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; and

(iv) by adding at the end the following:

(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''life-cycle cost basis'' and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

SEC. 940. ENERGY STRATEGY FOR HUD.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective Energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) ENERGY MANAGEMENT OFFICE.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management, energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.

SA 3154. Mr. BINGAMAN (for Mr. KENNEDY) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 183, line 15, strike ''and'' and all that follows through line 19, and insert the following:

(2) the term ''idling'' means not turning off an engine while remaining stationary for more than approximately 3 minutes; and

(3) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.

(k) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.

SA 3155. Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through

technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 123, after line 17, insert the following:

SEC. 514. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northeast Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

SA 3156. Mr. BINGAMAN (for Mr. MURKOWSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 443, after line 8, insert the following:

SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.

There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC22–91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

SA 3157. Mr. THURMOND submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which were ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

SEC. 17 . REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to—

(1) the production of hydrogen; or

(2) the use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.

SA 3158. Mr. CONRAD (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 2104 and insert the following:

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

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

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

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

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

''(A) QUALIFIED FUEL CELL PROPERTY.—

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

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

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

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

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

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

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

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

''(B) QUALIFIED MICROTURBINE PROPERTY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) CONFORMING AMENDMENTS.—

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

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

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

SA 3159. Mr. MURKOWSKI proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE—IRAQ OIL IMPORT RESTRICTION

SECTION ___1. SHORT TITLE AND FINDINGS.

(a) This Title can be cited as the 'Iraq Petroleum Import Restriction Act of 2001.'

(b) FINDINGS.—Congress finds that—

(1) the government of the Republic of Iraq:

(A) has failed to comply with the terms of United Nations Security Council Resolution 686 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction.

(B) routinely contravenes the terms and conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions.

(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 661 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people.

(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States and United Kingdom-enforced ''No-Fly Zones'' in effect in the Republic of Iraq.

(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States.

(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians.

(2) Further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.

SEC. ___2. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.

The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.

SEC. ___3. TERMINATION/PRESIDENTIAL CERTIFICATION.

This Title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that:

(a) (1) Iraq is in substantial compliance with the terms of

(A) UNSC Resolution 687 and

(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the ''Oil-for-Food'' program; and

(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that

(b) resuming the important of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.

SEC. ___4. HUMANITARIAN INTERESTS.

It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate non-governmental health and humanitarian organizations and individuals within Iraqi of food, medicine and other humanitarian products.

SEC. ___5. DEFINITIONS.

(A) ''661 committee.'' The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the UN Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.

(b) ''UNSC Resolution 661.'' The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.

(c) ''UNSC Resolution 687.'' The term UNSC Resolution 986 means United Nations Security Council Resolution 687, adopted April 3, 1991.

(d) ''UNSC Resolution 986.'' The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.

SEC. ___6. EFFECTIVE DATE.

The prohibition on important of Iraqi origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.

SA 3160. Mr. KENNEDY (for himself, Mr. BROWNBACK, Mrs. FEINSTEIN, and Mr. KYL) proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 2, line 4, strike ''2001'' and insert ''2002''.

On page 2, in the table of contents, strike the item relating to title IV and insert the following:

''TITLE IV—INSPECTION AND ADMISSION OF ALIENS''.

On page 3, between lines 15 and 16, insert the following:

(3) CHIMERA SYSTEM.—The term ''Chimera system'' means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).

On page 3, line 16, strike ''(3)'' and insert ''(4)''.

On page 4, line 15, strike ''(4)'' and insert ''(5)''.

On page 4, line 19, strike ''(5)'' and insert ''(6)''.

On page 5, line 4, strike ''(6)'' and insert ''(7)''.

On page 5, line 16, strike ''2002'' and insert ''2003''.

On page 6, line 1, strike ''2002'' and insert ''2003''.

On page 6, strike lines 17 through 20.

On page 6, line 21, strike ''(c)'' and insert ''(b)''.

On page 7, line 2, insert ''effective October 1, 2002'' after ''basic pay''.

On page 8, line 1, strike ''(d)'' and insert ''(c)''.

On page 8, line 10, strike ''and''.

On page 8, line 21, strike ''(e)'' and insert ''(d)''.

On page 15, line 11, strike ''one year'' and insert ''15 months''.

On page 15, line 13, strike ''six months'' and insert ''one year''.

On page 16, line 12, before the period insert the following: ''(also known as the 'Chimera system')''.

On page 20, line 13, insert ''the'' after ''about''.

On page 21, line 7, insert ''Central'' after ''Director of''.

On page 22, line 2, strike ''in this title'' and insert ''in section 202''.

On page 22, line 24, strike ''against''.

On page 23, between lines 14 and 15, insert the following new sections:

SEC. 204. PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) IN GENERAL.—Notwithstanding any other provision of law relating to position classification or employee pay or performance, the Attorney General may hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the ''Chimera system'').

(b) LIMITATION ON RATE OF PAY.—Except as otherwise provided by law, no employee compensated under subsection (a) may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.

(c) LIMITATION ON TOTAL CALENDAR YEAR PAYMENTS.—Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees under section 5307 of title 5, United States Code.

(d) OPERATING PLAN.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on Appropriations, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives an operating plan—

(1) describing the Attorney General's intended use of the authority under this section; and

(2) identifying any provisions of title 5, United States Code, being waived for purposes of the development and implementation of the Chimera system.

(e) TERMINATION DATE.—The authority of this section shall terminate upon the implementation of the Chimera system.

SEC. 205. PROCUREMENT OF EQUIPMENT AND SERVICES FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM ("CHIMERA SYSTEM").

(a) EXEMPTION FROM APPLICABLE FEDERAL ACQUISITION RULES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the ''Chimera system''), the Attorney General may use any funds available for the Chimera system to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—

(A) there is an exigent need for the equipment, related items, or services in order to support interagency information sharing under this title;

(B) the equipment, related items, or services required are not available within the Department of Justice; and

(C) adherence to that Federal acquisition rule would—

(i) delay the timely acquisition of the equipment, related items, or services; and

(ii) adversely affect interagency information sharing under this title.

(2) DEFINITION.—In this subsection, the term ''Federal acquisition rule'' means any provision of title III or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency of the Federal Government.

(b) NOTIFICATION OF CONGRESSIONAL APPROPRIATIONS COMMITTEES.—The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.

On page 23, line 25, strike ''an alien'' and insert ''each alien''.

On page 24, line 16, strike ''202(a)(3)(B)'' and insert ''202(a)(4)(B)''.

On page 26, line 2, insert ''and authentication'' after ''biometric comparison''.

On page 26, line 5, strike ''each report'' and insert ''the report required by that paragraph''.

On page 26, line 15, insert ''other'' after ''visas and''.

On page 26, line 18, insert ''document authentication standards and'' after ''tablish''.

On page 26, line 19, insert ''other'' after ''visas and''.

On page 27, line 3, insert ''and authentication'' after ''biometric comparison''.

On page 27, line 4, insert ''other'' after ''visas and''.

On page 27, line 13, strike ''and''.

On page 27, line 16, strike the period and insert ''; and''.

On page 27, between lines 16 and 17, insert the following:

(iii) can authenticate the document presented to verify identity.

On page 27, line 22, strike ''202(a)(3)(B)'' and insert ''202(a)(4)(B)''.

On page 28, lines 9 and 10, strike ''identifiers that comply with applicable biometric identifiers'' and insert ''and document authentication identifiers that comply with applicable biometric and document identifying''.

On page 28, line 17, insert ''under section 217 of the Immigration and Nationality Act'' after ''program''.

On page 29, line 4, insert ''to a foreign country'' after ''United States mission''.

On page 29, line 23, strike ''The committee'' and insert ''Each committee established under subsection (a)''.

On page 30, line 1, strike ''The committee'' and insert ''Each committee established under subsection (a)''.

On page 30, line 2, strike ''quarterly'' and insert ''monthly''.

On page 30, line 5, strike ''quarter'' and insert ''month''.

On page 30, line 1, strike ''PERIODIC REPORTS'' and insert ''PERIODIC REPORTS TO THE SECRETARY OF STATE''.

On page 30, between lines 5 and 6, insert the following new subsection:

(f) REPORTS TO CONGRESS.—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).

On page 30, line 6, strike ''(f)'' and insert ''(g)''.

On page 35, strike lines 1 and 2 and insert the following:

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

On page 35, lines 10 and 11, strike ''officials specified in subsection (a)'' and insert ''President''.

On page 37, line 2, strike ''(i)'' and insert ''(j)''.

On page 37, strike lines 3 and 4 and insert the following:

(3) by striking ''SEC. 231.'' and inserting the following:

''SEC. 231. (a) ARRIVAL MANIFESTS.—For

On page 37, lines 9 and 10, strike ''an immigration officer'' and insert ''any United States border officer (as defined in subsection (i)''.

On page 37, line 19, strike ''an immigration officer'' and insert ''any United States border officer (as defined in subsection (i)''.

On page 39, line 9, insert a comma immediately after ''that''.

On page 39, lines 9 and 10, strike '', aircraft, or land carriers'' and insert ''or aircraft''.

On page 40, line 5, strike '', aircraft, or land carrier'' and insert ''or aircraft''.

On page 40, line 16, strike the quotation marks and the second period.

On page 40 between lines 16 and 17, insert the following:

''(i) UNITED STATES BORDER OFFICER DEFINED.—In this section, the term 'United States border officer' means, with respect to a particular port of entry into the United States, any United States official who is performing duties at that port of entry.''.

On page 40, beginning on line 17, strike ''Not'' and all that follows through the end of line 18 and insert the following:

(1) STUDY.—The

On page 41, between lines 2 and 3, insert the following:

(2) REPORT.—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).

On page 41, after line 22, add the following new section:

SEC. 404. JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.

(a) IN GENERAL.—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.

(b) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).

(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the ''Administrative Procedure Act'') and chapter 35 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act'') shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.

On page 48, line 16, strike ''or'' and insert ''and''.

On page 54, lines 24 and 25, strike ''proceeding'' and insert ''proceedings''.

SA 3161. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 49, beginning on line 4, strike ''The'' and all that follows through ''reviews'' on line 7 and insert ''Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review''.

On page 49, lines 22 and 23, strike ''The Secretary of State shall conduct periodic reviews'' and insert ''Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review''.

On page 50, line 16, strike ''(c) EFFECT OF FAILURE TO COMPLY.—Failure'' and insert ''(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure''.

Beginning on page 50, line 24, strike ''may'' and all that follows through the period on line 5 of page 51 and insert the following: ''shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.''.

SA 3162. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

Beginning on page 32, strike line 23 and all that follows through line 5 on page 33 and insert the following:

(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

''(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country.''; and

(2) in subsection (c)(5)(A)(i), by striking ''5 years'' and inserting ''2 years''; and

(3) by adding at the end of subsection (f) the following new paragraph:

''(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.''.

SA 3163. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 25, line 21, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 26, lines 12 and 13, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 26, lines 24 and 25, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 28, line 2, strike ''October 26, 2003'' and insert ''October 26, 2004''.

On page 28, line 16, strike ''October 26, 2003'' and insert ''October 26, 2004''.

SA 3164. Mr. BYRD proposed an amendment to the bill H.R. 3525, to enhance the border security of the United States, and for other purposes; as follows:

On page 39, line 25, strike ''$300'' and insert ''$1,000''.

SA 3165. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ENERGY CREDIT FOR WIND ENERGY PROPERTY.

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

''(v) qualified wind energy property,''.

(b) QUALIFIED WIND ENERGY PROPERTY.—Subsection (a) of section 48, as amended by

this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

''(A) QUALIFIED WIND ENERGY PROPERTY.—The term 'qualified wind energy property' means a qualifying wind turbine if the property carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for property that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

''(B) QUALIFYING WIND TURBINE.—The term 'qualifying wind turbine' means a wind turbine of 75 kilowatts of rated capacity or less which meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(20) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(6) may be carried back to a taxable year ending before January 1, 2003.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(6)(C)'' and inserting ''section 48(a)(7)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(6)(C)'' and inserting ''section 48(a)(7)(C)''.

(C) Section 48(a)(3)(C) is amended by inserting ''(other than property described in subparagraph (A)(v)),'' before ''with respect''.

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

SA 3166. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2008''.

On page 189, line 5, strike ''2004'' and insert ''2008''.

On page 189, line 8, strike ''2004'' and insert ''2008''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2007.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2007 through 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2007 through 2011''.

On page 193, line 10, strike ''2004'' and insert ''2008''.

On page 194, line 21, strike ''2004'' and insert ''2008''.

On page 196, line 17, strike ''2004'' and insert ''2008''.

On page 197, line 4, strike ''2004'' and insert ''2008''.

On page 199, line 4, strike ''2004'' and insert ''2008''.

On page 199, line 17, strike ''2004'' and insert ''2008''.

SA 3167. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2011''.

On page 189, line 5, strike ''2004 THROUGH'' and insert ''2011 AND''.

On page 189, line 8, strike ''2004 through'' and insert ''2011 and''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2010.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2010 and 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2010 and 2011''.

On page 193, line 10, strike ''2004 through'' and insert ''2011 and''.

On page 194, line 21, strike ''2004'' and insert ''2011''.

On page 196, line 17, strike ''2004'' and insert ''2011''.

On page 197, line 4, strike ''2004'' and insert ''2011''.

On page 197, line 12, strike ''2008'' and insert ''2011''.

On page 199, line 4, strike ''2004'' and insert ''2011''.

On page 199, line 17, strike ''2004'' and insert ''2011''.

SA 3168. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 21, add the following:

SEC. ___. PHASEOUT OF TAX SUBSIDIES FOR ETHANOL FUEL AS MARKET SHARE OF SUCH FUEL INCREASES.

(a) IN GENERAL.—Not later than December 15 of 2002, and each subsequent calendar year, the Secretary of the Treasury shall determine the percentage increase (if any) of the ethanol fuel market share for the preceding calendar year over the highest ethanol fuel market share for any preceding calendar year and shall, notwithstanding any provision of the Internal Revenue Code of 1986, reduce by the same percentage the ethanol fuel subsidies under sections 40, 4041, 4081, and 4091 of such Code beginning on January 1 of the subsequent calendar year.

(b) ETHANOL FUEL MARKET SHARE.—For purposes of this section, the ethanol fuel market share for any calendar year shall be determined from data of the Energy Information Administration of the Department of Energy.

(c) ETHANOL FUEL.—For purposes of this section, the term 'ethanol fuel' means any fuel the alcohol in which is ethanol.

(d) FLOOR STOCK TAXES.—

(1) IMPOSITION OF TAX.—In the case of ethanol fuel which is held on any tax increase date by any person, there is hereby imposed a floor stocks tax in an amount determined by the Secretary to equal the reduction in ethanol fuel subsidies described in subsection (a) beginning on such date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding ethanol fuel on any tax increase date to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 6 months after such tax increase date.

(3) DEFINITIONS.—For purposes of this subsection—

(A) TAX INCREASE DATE.—The term ''tax increase date'' means any January 1 on which begins a reduction in ethanol fuel subsidies described in subsection (a).

(B) HELD BY A PERSON.—Ethanol fuel shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to ethanol fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4041, 4081, or 4091 of the Internal Revenue Code of 1986 is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on ethanol fuel held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on ethanol fuel held on any tax increase date by any person if the aggregate amount of ethanol fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group of corporations shall be treated as 1 person.

(II) CONTROLLED GROUP OF CORPORATIONS.—The term ''controlled group of corporations'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of

this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SA 3169. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2006''.

On page 189, line 5, strike ''2004'' and insert ''2006''.

On page 189, line 8, strike ''2004'' and insert ''2006''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 and 2005.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2005 through 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2005 through 2011''.

On page 193, line 10, strike ''2004'' and insert ''2006''.

On page 194, line 21, strike ''2004'' and insert ''2006''.

On page 196, line 17, strike ''2004'' and insert ''2006''.

On page 197, line 4, strike ''2004'' and insert ''2006''.

On page 199, line 4, strike ''2004'' and insert ''2006''.

On page 199, line 17, strike ''2004'' and insert ''2006''.

SA 3170. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

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

''(B) PETITIONS FOR WAIVERS.—

''(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

SA 3171. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2007''.

On page 189, line 5, strike ''2004'' and insert ''2007''.

On page 189, line 8, strike ''2004'' and insert ''2007''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2006.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2006 through 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2006 through 2011''.

On page 193, line 10, strike ''2004'' and insert ''2007''.

On page 194, line 21, strike ''2004'' and insert ''2007''.

On page 196, line 17, strike ''2004'' and insert ''2007''.

On page 197, line 4, strike ''2004'' and insert ''2007''.

On page 199, line 4, strike ''2004'' and insert ''2007''.

On page 199, line 17, strike ''2004'' and insert ''2007''.

SA 3172. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 21, add the following:

SEC. ___. ELIMINATION OF TAX SUBSIDIES FOR ETHANOL FUEL.

(a) ELIMINATION OF CREDIT FOR ALCOHOL USED AS FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking section 40 (relating to alcohol used as fuel).

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking paragraph (3) and by redesignating paragraphs (4) through (23) as paragraphs (3) through (22), respectively.

(B) Paragraph (3) of section 38(d) (relating to credits no longer listed) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the credit allowable by section 40, as in effect on the day before the date of the enactment of this subparagraph (relating to alcohol used as fuel) shall be treated as referred to after the last paragraph of subsection (b) and after any credits treated as referred to by reason of subparagraph (A).''

(C) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking the item relating to section 40.

(D)(i) Part II of subchapter B of chapter 1 is amended by striking section 87 (relating to alcohol fuel credit).

(ii) The table of sections for part II of subchapter B of chapter 1 is amended by striking the item relating to section 87.

(iii) Subsection (a) of section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by striking paragraph (7) (relating to section 87 not applicable).

(E) Subsection (c) of section 196 (relating to qualified business credits), as amended by this Act, is amended by striking paragraph (3) and redesignating paragraphs (4) through (12) as paragraphs (3) through (11), respectively.

(F) Section 6501(m) (relating to deficiencies attributable to election of certain credits), as amended by this Act, is amended by striking ''40(f),''.

(b) REDUCTIONS OF OTHER INCENTIVES FOR ETHANOL FUEL.—

(1) REPEAL OF REDUCED RATE ON ETHANOL FUEL NOT PRODUCED FROM PETROLEUM OR NATURAL GAS.—Subsection (b) of section 4041 is amended to read as follows:

''(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

''(1) IN GENERAL.—No tax shall be imposed by subsection (a) or (d)(1) on liquids sold for use or used in an off-highway business use.

''(2) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

''(3) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(e)(2); except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train.''

(2) REPEAL OF REDUCED RATE ON ETHANOL FUEL PRODUCED FROM NATURAL GAS.—

(A) Paragraph (1) of section 4041(m) is amended by striking ''or ethanol'' in the material preceding subparagraph (A).

(B) Clause (i) of section 4041(m)(1)(A) is amended by striking ''2005—'' and all that follows and inserting ''2005, 9.15 cents per gallon, and''.

(C) Clause (ii) of section 4041(m)(1)(A) is amended by striking ''2005—'' and all that follows and inserting ''2005, 2.15 cents per gallon, and''.

(D) Paragraph (2) of section 4041(m) is amended—

(i) by striking ''or ethanol'' each place it appears in the heading and text,

(ii) by striking '', ethanol,'' and

(iii) by inserting ''(other than ethanol)'' after ''alcohol''.

(c) TAX OF FUEL ALCOHOL TO SAME EXTENT AS OTHER MOTOR FUELS.—

(1) TREATMENT AS TAXABLE FUEL.—Paragraph (1) of section 4083(a) (defining taxable fuel) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following:

''(D) fuel alcohol.''

(2) DEFINITION OF FUEL ALCOHOL.—Subsection (a) of section 4083 is amended by adding at the end the following new paragraph:

''(4) FUEL ALCOHOL.—The term 'fuel alcohol' means any alcohol (including ethanol and methanol)—

''(A) which is produced other than from petroleum, natural gas, or coal (including peat), and

''(B) which is withdrawn from the distillery where produced free of tax under chapter 51 by reason of section 5181 or so much of section 5214(a)(1) as relates to fuel use.''

(3) RATE OF TAX.—Clause (i) of section 4081(a)(2)(A) is amended by striking ''(other than aviation gasoline)'' and inserting ''(other than aviation gasoline) and fuel alcohol''.

(4) SPECIAL RULES FOR IMPOSITION OF TAX.—Paragraph (1) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULES FOR FUEL ALCOHOL.—In the case of fuel alcohol—

''(i) the distillery where produced shall be treated as a refinery, and

''(ii) subparagraph (B) shall be applied by including transfers by truck or rail in excess of such minimum quantities as the Secretary shall prescribe.''

(5) REPEAL OF REDUCED RATES ON ALCOHOL FUELS.—

(A) Section 4041 is amended by striking subsection (k).

(B) Section 4081 is amended by striking subsection (c).

(C) Section 4091 is amended by striking subsection (c).

(6) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 4041(a)(2) is amended—

(i) by inserting ''other than fuel alcohol'' after ''any product'', and

(ii) by adding at the end the following flush sentence:

''No tax shall be imposed by this paragraph on the sale or use of any fuel alcohol if tax was imposed on such alcohol under section 4081 and the tax thereon was not credited or refunded.''

(B) Section 6427 is amended by striking subsection (f).

(C) Subsection (i) of section 6427 is amended by striking paragraph (3).

(D) Paragraph (2) of section 6427(k) is amended by striking ''(3),''.

(E)(i) Paragraph (1) of section 6427(l) is amended by striking ''or'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) any fuel alcohol (as defined in section 4083) on which tax has been imposed by section 4041 or 4081, or''.

(ii) Paragraph (2) of section 6427(l) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) in the case of fuel alcohol (as so defined), any use which is exempt from the tax imposed by section 4041(a)(2) other than by reason of a prior imposition of tax, and''.

(iii) The heading of subsection (l) of section 6427 is amended by inserting '', FUEL ALCOHOL,'' after ''KEROSENE''.

(F) Sections 9503(b)(1)(D) and 9508(b)(2) are each amended by striking ''and kerosene'' and inserting ''kerosene, and fuel alcohol''.

(G) Subsection (e) of section 9502 is amended by striking paragraph (2).

(H) Paragraph (4) of section 9503(b) is amended by adding ''and'' at the end of subparagraph (C), by striking the comma at the end of subparagraph (D) and inserting a period, and by striking subparagraphs (E) and (F).

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ELIMINATION OF SECTION 40 CREDIT.—The amendments made by subsection (a) shall apply to alcohol produced after the date of the enactment of this Act.

(e) FLOOR STOCK TAXES.—

(1) IMPOSITION OF TAX.—In the case of fuel alcohol which is held on the date of the enactment of this Act by any person, there is hereby imposed a floor stocks tax of 18.4 cents per gallon.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding fuel alcohol on the date of the enactment of this Act to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the date which is 6 months after the date of the enactment of this Act.

(3) DEFINITIONS.—For purposes of this subsection—

(A) FUEL ALCOHOL.—The term ''fuel alcohol'' has the meaning given such term by section 4083 of the Internal Revenue Code of 1986, as amended by this section.

(B) HELD BY A PERSON.—Fuel alcohol shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(4) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to fuel alcohol held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 of the Internal Revenue Code of 1986 is allowable for such use.

(5) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on fuel alcohol held in the tank of a motor vehicle or motorboat.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on fuel alcohol held on the date of the enactment of this Act by any person if the aggregate amount of fuel alcohol held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (4) or (5).

(C) CONTROLLED GROUPS.—For purposes of this paragraph—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group of corporations shall be treated as 1 person.

(II) CONTROLLED GROUP OF CORPORATIONS.—The term ''controlled group of corporations'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of clause (i) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section 4081.

SA 3173. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2009''.

On page 189, line 5, strike ''2004'' and insert ''2009''.

On page 189, line 8, strike ''2004'' and insert ''2009''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2008.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2008 through 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2008 through 2011''.

On page 193, line 10, strike ''2004'' and insert ''2009''.

On page 194, line 21, strike ''2004'' and insert ''2009''.

On page 196, line 17, strike ''2004'' and insert ''2009''.

On page 197, line 4, strike ''2004'' and insert ''2009''.

On page 197, line 12, strike ''2008'' and insert ''2009''.

On page 199, line 4, strike ''2004'' and insert ''2009''.

On page 199, line 17, strike ''2004'' and insert ''2009''.

SA 3174. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2012''.

On page 189, lines 5 and 6, strike ''YEARS 2004 THROUGH 2012'' and insert ''YEAR 2012''.

On page 189, lines 7 and 8, strike ''any of calendar years 2004 through 2012'' and insert ''calendar year 2012''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2011.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''calendar year 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''calendar year 2011''.

On page 193, lines 9 and 10, strike ''each of calendar years 2004 through 2012'' and insert ''calendar year 2012''.

On page 194, line 21, strike ''2004'' and insert ''2012''.

On page 196, line 17, strike ''2004'' and insert ''2012''.

On page 197, line 4, strike ''2004'' and insert ''2012''.

On page 197, line 12, strike ''2008'' and insert ''2012''.

On page 199, line 4, strike ''2004'' and insert ''2012''.

On page 199, line 17, strike ''2004'' and insert ''2012''.

SA 3175. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and

for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert ''in any of calendar years 2004 through 2012'' after ''States''.

On page 189, strike lines 4 through 6 and insert the following:

''(B) APPLICABLE VOLUME.—For the purpose of subparagraph

Beginning on page 189, strike line 11 and all that follows through page 190, line 11.

SA 3176. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 189, line 3, strike ''2004'' and insert ''2010''.

On page 189, line 5, strike ''2004'' and insert ''2010''.

On page 189, line 8, strike ''2004'' and insert ''2010''.

On page 189, in the table between lines 10 and 11, strike the items relating to calendar years 2004 through 2009.

On page 190, lines 13 and 14, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2009 through 2011,''.

On page 190, line 19, strike ''each calendar year, through 2011,'' and insert ''each of calendar years 2009 through 2011''.

On page 193, line 10, strike ''2004'' and insert ''2010''.

On page 194, line 21, strike ''2004'' and insert ''2010''.

On page 196, line 17, strike ''2004'' and insert ''2010''.

On page 197, line 4, strike ''2004'' and insert ''2010''.

On page 197, line 12, strike ''2008'' and insert ''2010''.

On page 199, line 4, strike ''2004'' and insert ''2010''.

On page 199, line 17, strike ''2004'' and insert ''2010''.

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold 2 days of hearings on the subcommittee's 10-month investigation into gasoline prices entitled ''Gas Prices: How Are They Really Set?''

In the spring and early summer of 2001, most parts of the country experienced a dramatic increase in the price of gasoline. Numerous consumer groups expressed concern over price gouging. The oil companies responded that there were problems with supply. This series of hearings by the Permanent Subcommittee on Investigations will explore how gasoline prices are set and why they have become so volatile.

The hearing will take place on Tuesday, April 30, and Thursday, May 2, 2002, at 9:30 a.m., each day, in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the subcommittee staff at 224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 18, 2002, at 9:30 a.m., on pending committee business.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 18, 2002, at 9:30 a.m., to hear testimony on corporate governance and executive compensation.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, April 18, 2002, at 9:30 a.m., for the purpose of holding a hearing entitled ''The State of Public Health Preparedness for Terrorism Involving Weapons of Mass Destruction: A Six-Month Report Card.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions be authorized to meet for a hearing on ''Over One Year Later: Inadequate Progress On America's Leading Cause Of Workplace Injury,'' during the session of the Senate on Thursday, April 18, 2002, at 10 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 18, 2002, at 10 a.m., in Dirksen Room 226.

Agenda

I. Nominations

Jeffrey Howard for the United States Court of Appeals for the First Circuit; Percy Anderson for the United States District Court for the Central District of California; Michael M. Baylson United States District Court for the Eastern District of Pennsylvania; William C. Griesbach for the United States District Court for the Eastern District of Wisconsin; Joan E. Lancaster for the United States District Court for the District of Minnesota; Cynthia M. Rufe for the United States District Court for the Eastern District of Pennsylvania; and John F. Walter for the United States District Court for the Central District of California.

To be Deputy Directors of the Office of National Drug Control Policy: Mary Ann Solberg and Barry Crane.

To be United States Attorney: Frank DeArmon Whitney for the Eastern District of North Carolina and Debra W. Yang for the Central Dist of California.

II. Bills

H. Con. Res. 243, expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001. [Crowley]

S. Con. Res. 66, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001. [Stevens]

S. Con. Res. 75, a concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue and recovery efforts in the aftermath of those attacks. [Harkin]

S. 864, Anti-Atrocity Alien Deportation Act of 2001, with Leahy/Hatch substitute. [Leahy/Lieberman/Levin]

S. 2031, Intellectual Property Protection Restoration Act of 2002. [Leahy/Brownback]

S. 2010, Corporate and Criminal Fraud Accountability Act of 2002. [Leahy/Daschle/Durbin]

S. 1615, Federal-Local Information Sharing Partnership Act of 2001. [Schumer/Clinton/Leahy/Hatch]

III. Resolution

S. Res. , Designating the Week of May 5 through May 11, 2002 as ''National Occupational Safety and Health Week.''

IV. Committee Business

Committee Resolution to Authorize Antitrust Subpoena.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. REID. 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 Thursday, April 18, at 3 p.m., to conduct a hearing.

The purpose of the hearing is to receive testimony on the following bills: S. 1441 and H.R. 695, to establish the Oil Region National Heritage Area; S. 1526, to establish the Arabia Mountain National Heritage Area in the State of

Georgia, and for other purposes; S. 1638, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the French Colonial Heritage Area in the State of Missouri as a unit of the National Park System, and for other purposes; S. 1809 and H.R. 1776, to authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas; S. 1939, to establish the Great Basin National Heritage Area, Nevada and Utah; and S. 2033, to authorize appropriations for the John H. Chafee Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. SANTORUM. Madam President, I ask unanimous consent that Sara Louise Berk from my staff be permitted to be on the floor for debate on this amendment.

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent floor privileges be granted to John Carter of the Immigration Subcommittee staff for the duration of this bill's consideration.

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

MAKING TECHNICAL AMENDMENTS TO SECTION 10 OF TITLE 9, UNITED STATES CODE

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 287, H.R. 861.

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

The legislative clerk read as follows:

A bill (H.R. 861) to make technical amendments to section 10 of title 9, United States Code.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time, and passed; that the motion to reconsider be laid on the table, with no intervening action or debate, and that any statements related thereto be printed in the RECORD.

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

The bill (H.R. 861) was read the third time and passed.

DESIGNATING THE WEEK OF APRIL 21–28, 2002, AS ''NATIONAL BIOTECHNOLOGY WEEK''

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 243 and the Senate proceed to its consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 243) designating the week of April 21 through April 28 National Biotechnology Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution and the preamble be agreed to and that any statements thereto be printed in the RECORD.

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

The resolution (S. Res. 243) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 243

Whereas biotechnology is a strategic industry and is increasingly important to the research and development of products that improve health care, agriculture, industrial processes, environmental remediation, and biological defense;

Whereas biotechnology has been responsible for medical breakthroughs that have benefited millions of people worldwide through the development of vaccines, antibiotics, and other drugs;

SEC. 2. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF DOMESTIC TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking ''of this title''; and

(2) by inserting before the semicolon the following: ''or an act of domestic terrorism (as defined in section 2331(5))''.

SEC. 3. MANDATORY IMPRISONMENT FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking ''or imprisonment'' and inserting ''and imprisonment''; and

(2) by striking ''or both,''.

ENHANCED PENALTIES FOR ENABLING TERRORISTS ACT OF 2002

Mr. REID. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. 1981 and that the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1981) to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Madam President, I ask unanimous consent that the bill be read the third time, and passed, the motion to reconsider be laid on the table; that any statements relating to the bill be printed in the RECORD as if given, all without any intervening action or debate.

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

The bill (S. 1981) was read the third time and passed, as follows:

S. 1981

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 ''Enhanced Penalties for Enabling Terrorists Act of 2002''.

SEC. 2. PENALTIES FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF DOMESTIC TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking ''of this title''; and

(2) by inserting before the semicolon the following: ''or an act of domestic terrorism (as defined in section 2331(5))''.

SEC. 3. MANDATORY IMPRISONMENT FOR FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION USED IN ACTS OF TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended—

(1) by striking ''or imprisonment'' and inserting ''and imprisonment''; and

(2) by striking ''or both,''.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 347, H. Con. Res. 243.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 243) expressing the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to the public safety officers who have perished and select other public safety officers who deserve special recognition for outstanding valor above and beyond the call of duty in the aftermath of the terrorist attacks in the United States on September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LEAHY. Madam President, today in the Senate Judiciary Committee we passed en bloc by unanimous consent three Sense of Congress resolutions introduced by Representative JOE CROWLEY, Senator TOM HARKIN, and Senator TED STEVENS, respectively, to honor the police officers, firefighters and emergency personnel who responded to the terrorist attacks on September 11, 2001. I am pleased that the full Senate is now taking up these resolutions for final passage.

I thank Senator SCHUMER, and, in particular, the Fraternal Order of Police and its president, Steve Young, for their leadership and strong support for honoring the fallen September 11 first responders.

There were so many examples of bravery and courage on September 11 and there is no doubt that the extraordinary heroism of our police officers,

firefighters and emergency personnel should be recognized.

Last year, I was proud to work with Senator STEVENS, Senator HATCH and other members of the committee to enact legislation, which I cosponsored, to authorize the President to award and present the Medal of Valor to public safety officers, upon the selection and recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty.

Well before the terrorist attacks, Congress and the President decided that the award would have the most meaning if firefighters and police and other public safety officers themselves—the peers of those who will be honored—made the selections of candidates.

All 11 members of the Medal of Valor Review Board have now been appointed and the Board met for the first time last month. I have full faith that the Medal of Valor Review Board members will work quickly to award the Medal of Valor to their fellow public safety officers involved in the September 11 terrorist attacks. As chairman of the Senate Judiciary Committee, I certainly support awarding the Public Safety Medal of Valor to the fallen heros of September 11.

Since my time as a Chittenden County States' Attorney in Vermont, I have taken a keen interest in law enforcement in my home State and around the country. Vermont has the reputation of being one of the safest states in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us. We should do all we can to support and protect them and all public safety officers nationwide.

I am proud of my legislative record in support of the public safety officers in Vermont and the Nation. For example, Senator CAMPBELL and I authored the Bulletproof Vest Partnership Grant Acts of 1998 and 2000 to create and then expand the $25 million Department of Justice program to provide grants to law enforcement officers to buy bulletproof vests. This grant program has funded almost 1,000 lifesaving vests for Vermont officers and more than 300,000 vests for officers across the country.

Specifically in response to the terrorists attacks of September 11, I negotiated a retroactive $100,000 increase in the total benefit under the Public Safety Officers' Benefits Program as part of the USA PATRIOT Act. Congress needed to act immediately to provide much-needed relief for the families of the brave men and women of law enforcement who sacrificed their own lives for their fellow Americans. Although an increase in the PSOB benefits can never be a substitute for the loss of a loved one, it was the right thing to do for the families of our fallen heros. In addition, I helped draft legislation to create the September 11 Victims Compensation Fund to provide fair and quick compensation to terrorist victims and their families.

I look forward to continuing to work in a bipartisan manner with my Senate colleagues on legislation to support our Nation's public safety officers who put their lives at risk every day to protect us.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 243) was agreed to.

The preamble was agreed to.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 349, S. Con. Res. 75.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 75) to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue, and recovery efforts in the aftermath of those attacks.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 75) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 75

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of them into the towers of the World Trade Center in New York City, a third into the Pentagon, and a fourth in rural southwest Pennsylvania;

Whereas thousands of innocent Americans and many foreign nationals were killed and injured as a result of the surprise terrorist attacks, including the passengers and crews of the 4 aircraft, workers in the World Trade Center and the Pentagon, firefighters, law enforcement officers, emergency assistance personnel, and bystanders;

Whereas hundreds of public safety officers were killed and injured as a result of the terrorist attacks, many of whom would perish when the twin towers of the World Trade Center collapsed upon them after they rushed to the aid of innocent civilians who were imperiled when the terrorists first launched their attacks;

Whereas thousands more public safety officers continued to risk their own lives and long-term health in sifting through the aftermath and rubble of the terrorist attacks to rescue those who may have survived and to recover the dead;

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107–12, 115 Stat. 20) authorizes the President to award and present in the name of Congress, a Medal of Valor to public safety officers for extraordinary valor above and beyond the call of duty;

Whereas the Attorney General of the United States has discretion to increase the number of recipients of the Medal of Valor under that Act beyond that recommended by the Medal of Valor Review Board in extraordinary cases in any given year;

Whereas the terrorist attacks against the United States on September 11, 2001 and their aftermath constitute the single most deadly assault on our American homeland in our Nation's history; and

Whereas those public safety officers who perished and were injured, and all those who participated in the efforts to rescue whomever may have survived the terrorist attacks and recover those whose lives were taken so suddenly and violently are the first casualties and veterans of America's new war against terrorism, which was unanimously authorized by the Authorization for Use of Military Force (Senate Joint Resolution 23, enacted September 14, 2001): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should award and present in the name of Congress a Public Safety Officer Medal of Valor to every public safety officer who was killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to deserving public safety officer who participated in the search, rescue, and recovery efforts in the aftermath of those attacks; and

(2) such assistance and compensation as may be needed should be provided to the public safety officers who were injured or whose health was otherwise adversely affected as a result of their participation in the search, rescue, and recovery efforts undertaken in the aftermath of the terrorist attacks of September 11, 2001.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE PUBLIC SAFETY OFFICER MEDAL OF VALOR

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 348, S. Con. Res. 66.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 66) to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table; and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 66) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 66

Whereas the Public Safety Officer Medal of Valor Act of 2001 (Public Law 107–12, 115 Stat. 20)—

(A) allows the President to award, and present in the name of Congress, a Medal of Valor to a public safety officer cited by the Attorney General of the United States, upon the recommendation of the Medal of Valor Review Board, for extraordinary valor above and beyond the call of duty; and

(B) provides that the Public Safety Officer Medal of Valor shall be the highest national award for valor by a public safety officer;

Whereas on September 11, 2001, terrorists hijacked and destroyed 4 civilian aircraft, crashing 2 of the planes into the towers of the World Trade Center in New York City, and a third into the Pentagon in suburban Washington, DC;

Whereas thousands of innocent Americans were killed or injured as a result of these attacks, including rescue workers, police officers, and firefighters at the World Trade Center and at the Pentagon;

Whereas these attacks destroyed both towers of the World Trade Center, as well as adjacent buildings, and seriously damaged the Pentagon;

Whereas police officers, firefighters, public safety officers, and medical response crews were thrown into extraordinarily dangerous situations, responding to these horrendous events and acting heroically, without concern for their own safety, trying to help and to save as many of the lives of others as possible in the impact zones, in spite of the clear danger to their own lives; and

Whereas these attacks were by far the deadliest terrorist attacks ever launched against the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) because of the tragic events of September 11, 2001, the limit on the number of Public Safety Officer Medals of Valor should be waived, and a medal should be awarded under the Public Safety Officer Medal of Valor Act of 2001 to any public safety officer, as defined in that Act, who was killed in the line of duty; and

(2) the Medal of Valor Review Board should give strong consideration to the acts of bravery by other public safety officers in responding to these events.

ORDERS FOR MONDAY, APRIL 22, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. on Monday, April 22; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 2 p.m., the Senate resume consideration of the energy reform bill; that Senators have until 1:30 p.m. on Monday to file first-degree amendments to the energy reform bill, and that the live quorum under rule XXII be waived.

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

PROGRAM

Mr. REID. Madam President, the Senate will vote on cloture on the Daschle-Bingaman substitute amendment to the energy reform bill on Tuesday. The Senate will not be in session tomorrow and there will be no rollcall votes on Monday.

Madam President, I congratulate the Senate in its entirety for the work we did this week. We accomplished a great deal, even though our time was compressed and the days were very long.

ADJOURNMENT UNTIL 1 P.M. MONDAY, APRIL 22, 2002

Mr. REID. 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 8:40 p.m., adjourned until Monday, April 22, 2002, at 1 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 18, 2002:

THE JUDICIARY

LEGROME D. DAVIS, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA.