

As previously announced, the Senate will recess from 12:30 p.m. to 2:15 p.m. for the Democratic Party luncheon. Following that recess, there will be 20 minutes remaining for debate before the vote on the adoption of the Department of Defense authorization conference report. Immediately following that vote, the Senate will vote on the adoption of the military construction appropriations conference report.

As the majority leader stated previously, tonight we will begin an extended debate on judicial nominations. All Senators are encouraged to participate in this very important process.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2861, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2861) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

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

The PRESIDENT pro tempore. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I know the distinguished Senator from Missouri is going to make an opening statement. Senator MIKULSKI, in an effort to move this bill forward, even though she had a longstanding commitment in Maryland this morning, asked that I represent her this morning, which I am happy to do.

However, her statement will be made at a later time at her convenience. She should be here in a relatively short period of time. As I indicated, she would not want to hold the bill up in any way. There is a lot of business going on today, as everyone knows, not the least of which Senator BOND and I are the chairman and ranking member of the Transportation Subcommittee of the Environment and Public Works Committee, and we are trying to move that bill along, too. That meeting started 5 minutes ago. I appreciate everyone's understanding, and I look forward to

working as quickly and expeditiously as we can on this legislation.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Missouri.

Mr. BOND. Madam President, I thank the minority whip. I look forward to working with him on many issues, but the highway bill, which comes up once every 6 years, is being marked up in our subcommittee and full committee today. This is the perfect storm for me.

I understand Senator MIKULSKI's commitments today. I intend to make an opening statement, and then I have an amendment to lay down. I am going to have to turn over the floor to the Presiding Officer.

As always, VA-HUD is a challenging measure to produce, but this time it is particularly difficult because of the constraints in the budget. We have had to make some very hard decisions on how to fund almost every program in the bill. No one will be completely happy with this bill, but ultimately the decisions the distinguished ranking member, Senator MIKULSKI, and I have made with our committee have been the right ones, and the American taxpayers should be happy since our job is not only to fund programs, but to do so wisely, and that is what we have tried to do.

Ultimately, this is a good bill. It balances the needs and priorities of Members with requirements of the budget request of the administration. The bill also meets our discretionary budget allocation of \$91.334 billion, and we are under our outlay allocation as well.

My compliments, once again, to my colleague and ranking member, Senator MIKULSKI, on her hard work, cooperation, and commitment to making this bill a balanced and good piece of legislation. I know that Senator MIKULSKI has a number of concerns about certain aspects of the bill, mostly regarding the funding level of certain programs. I share her concerns. But I believe we both understand we are drafting a bill with significant funding constraints. She and I worked hard to ensure the funding is targeted to key programs and priorities that we both strongly support, and we think most Members support as well.

To be clear, our most pressing and important priority in the VA-HUD 2004 appropriations bill is funding for our Nation's veterans and, most importantly, funding to provide quality and accessible medical care services from the Department of Veterans Affairs. I am proud to say our bill meets our commitments to our Nation's veterans and ensures the VA medical care system has adequate resources to meet its current and ongoing needs, especially for VA's core constituents, such as those with service-connected disabilities, low incomes, or needs for specialized services.

It is critical that we ensure VA can provide a safety net for our veterans, especially during a time when our Armed Forces are mobilized across the globe maintaining the peace and fighting the war against terrorism.

While we expect the brave men and women serving in Iraq, Afghanistan, the Philippines, Bosnia, and other places to face dangers on a daily basis, they should not expect to face the danger of inadequate medical services when they return from duty. This bill ensures that they have peace of mind, meaning the Government will be there for them when they return.

Further, our bill meets the funding agreement for the VA under the fiscal year 2004 budget resolution by providing \$30.6 billion in discretionary spending, an increase of \$2.9 billion over the fiscal year 2003-enacted level.

Consistent with the budget resolution, nearly all of the discretionary spending increase is for medical care. Further, the bill does not include the administration's request to impose new enrollment and higher prescription drug fees on certain veterans. We have not included the administration's proposal because I believe it is unfair to ask our Nation's veterans to bear too heavy a burden for the cost of the medical care they rightly deserve. The proposal has proposed a new \$250 enrollment fee and an increase in prescription copays from \$7 a month to \$15 a month.

The administration also requested funds to implement its controversial outsourcing program. According to VA, if these were not enacted, it would need \$1.3 billion to meet its projected medical care needs in fiscal year 2004. Therefore, we have rejected these new fees and have included an additional \$1.3 billion to make up for the lost revenues from those fees.

Let's be clear. Without these funds, the VA would be forced to deny care to about 585,000 veterans. During a time when our troops are deployed, fighting in Iraq, Afghanistan, and other places, it is not just necessary to include the additional funds; it is our moral duty to include those funds.

For medical care, the VA/HUD bill before us provides \$26.8 billion in funds without collections, representing a \$1.57 billion increase over the request. With third party insurance collections, the medical care account will have over \$28.3 billion in funds. That is about \$3.1 billion over fiscal year 2003's enacted level and represents a 12.3 percent increase over fiscal year 2003, the largest increase in VA medical care history.

Let me illustrate the urgent and pressing needs. Several of us went to the VA hospital in Washington yesterday to thank the veterans and wish them happy Veterans Day. But on our visits around the system, we found that there are tremendous needs.

According to a recent VA analysis, 15,000—almost 16,000 service members who served in Operation Iraqi Freedom have separated from military duty, and among these service members almost 2,000 had sought VA health care during 2003. I point out, these numbers do not include those military men and women who are returning from Afghanistan

and other parts of the world, fighting the war on terrorism.

Every day in the news we hear the unfortunate, sad news of American soldiers killed in Iraq. However, as illustrated by the VA analysis and scores of news reports, we have found that our new medical care in the field has enabled us to save many service members who might not have survived. They come back with very serious wounds and perhaps disabilities.

USA Today, on October 1, said at least seven times as many men and women have been wounded in battle as those killed in battle. The good news is we have kept these people alive. But as these wounded service members are discharged, they confront new and challenging hardships in piecing together their lives. Most of them will be depending on the VA to meet their needs. Further, we know the demand for VA medical care is not going to lessen. We have already seen the VA medical care system overwhelmed by the staggering increase in demand for medical services.

Since 1996, the VA has seen a 54 percent growth, 2 million patients, in total users for the system. Further, the VA projects its enrollments will grow by another 2 million patients from the current level of 7 million to 9 million in 2009.

The other major highlight of VA funding is construction funding for VA's medical care infrastructure. The bill provides almost \$525 million for minor and major construction projects. A significant portion of that is dedicated to the Department's Capital Asset Realignment for Enhanced Services, or CARES, initiative.

I want everybody to remember this because this CARES initiative is important. To jump-start the program, the bill includes authority for the Secretary to transfer up to \$400 million from medical care to the CARES program. This transfer authority is provided because buildings that are no longer suitable for the delivery of modern health care cost the VA money out of medical care. Instead of spending these important resources on obsolete facilities, these funds could be used to provide quality care to more veterans closer to where they live. The GAO has concluded that the VA wastes \$1 million a day on sustaining the obsolete and out-of-date, unused facilities. The CARES program is designed to move VA health care into the 21st century. It depends on a modernized infrastructure system located in areas where most of our veteran population lives.

Many veterans today have to travel hundreds of miles to receive care. I visited the VA hospitals in my home State of Missouri and found they all have great need for infrastructure improvements, such as modernized surgical suites, intensive care units, and research space. Most of the VA system was created right after World War II. It is outdated and located in areas that are not always easily accessible to vet-

erans. That is why I strongly support the CARES initiative and believe Secretary Principi is on the right track in realigning the health care system.

As for HUD, we provide adequate funding for all programs either at last year's level or the budget request, and usually the higher of the two. However, there are several points to be made about funding for two programs: Section 8, and HOPE 6.

The administration proposed funding section 8 vouchers through a new account, Housing Assistance for Needy Families, which would have allocated section 8 certificates through a State block grant program. Under the budget request, section 8 project-based housing assistance would have continued to be funded through HUD. This program has been uniformly criticized and could have placed a number of families at risk of losing their housing over the next few years.

Instead, we funded the section 8 certificate fund at \$18.4 billion, consistent with the budget request, without the new program structure. Many groups say this appropriation is inadequate and could result in the loss of housing. I share these concerns with several qualifications.

First, in previous bills we restructured the account to provide funding to PHAs only for the families actually using vouchers and then with the central reserve at HUD, to ensure additional funds would be available to fund vouchers for additional families up to the PHA—that is, public housing authority—authorized contract level.

This is new. The data is incomplete. There is a risk that there are not enough funds in the appropriation to meet all the needs of all families. But we do not know what that number will be.

In past years, HUD has found additional excess section 8 funding to meet all section 8 needs, and no doubt will next year and the year after until this new funding system is in place and data is reliable.

Nevertheless, we made it clear in the report that we expect the administration to alert us to any shortfalls and that we expect any shortfalls to be funded fully in a supplemental appropriations request.

Second, the administration eliminated the HOPE VI Program, which was funded last year at \$570 million. This program has been a tremendous boost to the quality of housing for many low-income families. It has allowed PHAs to take down obsolete public housing, where we essentially warehouse the poor, and replace that housing with mixed income and public housing that has anchored new investments in distressed communities.

I have a personal interest in this program because we started this change. We made this change initially in St. Louis, MO, with one project which was totally uninhabitable, unsafe, and unfit to raise a family. It has been replaced with new, modern, mixed-income fam-

ily housing. This program is working. This is one of the best things that has happened in public housing.

Does there need to be a change? Certainly we can look at it, but we need a discussion, a debate, and a decision before we try to shut down HOPE VI. We have not been able to fund this program fully, but we have provided \$195 million for HOPE VI in fiscal year 2004 and provide limited authority to recapture funds from old projects unable to use their HOPE VI funding.

For the Corporation for National and Community Service, the bill provides \$484 million for fiscal year 2004, about \$100 million above the fiscal year 2003-enacted level and \$113.6 million below the request. The dollar increase is the largest increase in the corporation's history, and the total amount provides the highest level of funding for the corporation. While our funding level does not meet the President's request, along with additional flexibilities we provided in the bill, it will support the President's goal of enrolling up to 75,000 new AmeriCorps members.

We have provided a robust appropriation for the corporation. I strongly believe the bill contains the necessary controls to ensure that the corporation does not continue to repeat the highly publicized mismanagement problems of the past. The bill ensures accountability, addresses the AmeriCorps enrollment problems, without penalizing the thousands of volunteers who want to serve and serve well.

Further, with the current chief financial officer in place, and Chairman Steve Goldsmith at the helm of the corporation's board of directors, I am very confident the corporation can correct its longstanding management problems.

I am a believer in tough love, and I can say with confidence this bill represents that philosophy. The promise of the corporation is too great to allow it to be derailed by inappropriate, inadequate mismanagement and the inability to count, which has perplexed the corporation in previous years.

For the Environmental Protection Agency, the bill provides \$8.2 billion, some \$552 million more than the budget request. The funding represents a number of tough decisions balancing Member priorities with the budget request. In particular, we were able to fund fully the clean water State revolving fund at the fiscal year 2003 level, which is \$500 million more than the budget request. We also fully funded the drinking water State revolving fund at \$850 million, which is equal to the budget request in the fiscal year 2003 level.

I know there will be some concerns about Superfund, which is funded at \$1.265 billion, the same as fiscal year 2003, and \$125 million less than the budget request. This is one of the tough choices, but this funding level reflects a level of funding consistent with the last few years.

We have included requirements to help push EPA toward more Superfund

closeouts. There is a contentious issue in the count. Language has been included to clarify an existing exemption in the Clean Air Act that engines that are used in farming and construction and are smaller than 175 horsepower are exempt from State regulation for emissions but remain subject to EPA regulations.

The problem we face today is that California is on the verge of issuing new regulations that would drastically change the emission requirements for small engines, whether they are used for lawn and garden or farm and construction. This California Air Resources Board threatens 17,000 jobs in other States and 5,000 jobs in Missouri.

Before the board acted, I specifically requested them to find a resolution to the issue which would not force U.S. manufacturers to move their plants offshore because I think Government-required export of jobs is unacceptable. The California Air Resources Board had an opportunity to adopt a rule supported by the entire industry to provide the environmental gains needed and protect the public from the risk of burn and explosion from catalytic converters on small engines, but they chose not to go this route. Unfortunately, the proposed regulations raise great threats to safety of lives and the health of consumers.

I will be addressing that in an amendment I will be offering which will clarify the purpose of these provisions and also respond to concerns raised by a number of Senators. I hope we can support this measure to assure that we can clean up our environment, and we do so in a way that does not bring additional risk of explosion and fire. We have seen what tragedies fires caused in California. We do not want to see fires caused by small engines, and we do not want to see 22,000 manufacturing jobs exported directly as a result of a regulation.

The underlying bill itself also includes \$5.586 billion for the National Science Foundation, an increase of \$276 million over the current funding level. It is an increase of only 5.2 percent, which is far short of the funding path, which I think an overwhelming majority of this Senate supports, to put NSF on a path to double in 5 years. To keep us from losing jobs to overseas, we have to have the high technology science that the NSF can provide.

In addition, people working in the National Institutes of Health tell us that continued gains in NIH, which we have so generously doubled, is being held back by the failure of the hard sciences in NSF, which are necessary to support the medical advances. I am pleased we are funding the priorities of nanotechnology, plant genome, and EPSCoR above the requested levels and continue to support research at all levels, from elementary school to post-docs and beyond.

Finally, we continue our support of minority-serving institutions, including such programs as historically

Black-serving institutions and the Louis Stokes Alliance for Minority Participation, with \$22 million in additional funds over the President's request.

NASA is funded at \$15.3 billion, consistent with the 2003 level. We have funded the space shuttle program at the President's requested level of \$3.97 billion. The Columbia Investigation Accident Board recently issued a final report, and the response of NASA has developed an implementation plan as a foundation for return to flight.

Nevertheless, NASA is facing a crossroads in its human space program and we need to understand the extent of the administration's commitment to the shuttle, the International Space Station, and human space flight.

The need to define this commitment has become even more important in recent weeks with the successful launch of a Chinese taikonaut and after the disturbing news that Russia will be unable to fund the next scheduled launch of a Progress to the ISS, meaning the current crew on the ISS will not return to Earth until next year.

The bill does have to necessarily reduce the budget for the International Space Station by \$200 million, reflecting the current state of the ISS, with its reduced crew and the inability of NASA and international partners to continue its construction of the ISS, as well as the obvious risks of relying on Russia and Russian vehicles to supply the ISS for an indeterminate amount of time.

There are many constraints within this bill. We must consider all the current uses for funds versus a program that in some respects is on hold. We will gladly reconsider this action as NASA and the administration present a plan that will restart the construction of the ISS to reach core complete.

The bill also provides for some minor programmatic changes within the science aeronautics and exploration account. We do provide for an additional \$50 million beyond the President's request in the area of aeronautics.

Europe has made it clear they intend to dominate the commercial aviation market, and we intend not to let that happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. I thank the Chair.

Madam President, I thank Senator BOND and the distinguished Senator from California for her graciousness as we proceed on both the bill and an amendment of Senator BOND and her advocacy in behalf of the State of California. Her advocacy on the issue is well known, but I know she also has pragmatic solutions. I also appreciate that she did not object to bringing this bill forward. We thank her very much.

The veterans need this bill. We need it to protect America's environment. We need it to empower communities, and we need to invest in science and technology that helps us come up with

new ideas for the new products that are going to lead to new jobs right here in the United States of America.

The Presiding Officer knows about the loss of jobs in our country and the way we are going to not only have the jobs today, but also the jobs of tomorrow, is by coming up with these new products. We know we win the Nobel Prizes, but now we have to start winning the markets.

I am so pleased to bring the VA-HUD bill to the Senate floor with my dear colleague, Senator BOND. This is truly a bipartisan bill. I thank Senator BOND for his cooperation and collegiality in developing the framework for this legislation, as well as Senator STEVENS and Senator BYRD who worked with us as we tried to deal with a very spartan and frugal allocation in these tough economic times. We really appreciate Senator STEVENS trying to problem-solve with us on how we can meet the compelling needs that are in this legislation.

One of the most compelling needs is VA. During the August recess, I traveled to VA clinics all over Maryland, from the rural parts of my State all the way up to metropolitan areas, meeting with doctors and nurses, but also with veterans. What did I see? Outpatient clinics at capacity, waits to see specialists, and, at times, driving long distances to travel in rural areas. Everywhere I went, they all said they were being swamped by new veterans seeking care.

They are anticipating the return of the Iraqi war veterans, not only Jessica Lynch, but others who come back bearing the permanent wounds of war knowing that they are going to need the permanent help of the VA. We want to be on their side to stand up for that help.

We also saw that many people who had health care but lost their jobs or were forced into early retirement turning to the VA. When we took a look at the VA budget, we found that the President's request was about \$1.5 billion under what we needed to deal with the waiting lines, the new Iraqi vets coming back, and also the fact that we need to take care of those category 7 veterans, those World War II veterans. So we need more money in VA. We tried to take care of this on the Iraqi supplemental, but that was not the time nor the place, and we count on working with the leadership, under Senator STEVENS, to solve this problem. We have come a long way in this VA-HUD budget in dealing with this issue.

While we stand up for our veterans, we also want to stand up for our communities. This is why the HUD budget offers promise to the area of housing and community development. We continue our commitment to core housing programs. We particularly are enthusiastic about the Community Development Block Grant Program because it goes to local communities; it is flexible funding where the local community decides where the public investment

needs to go to leverage jobs or to rebuild communities. This is why we like CDBG, whether it goes to North Carolina, to those small rural communities in Alaska, or to a big city such as Baltimore. Because of what we have done, we have helped retain over 100,000 jobs nationwide.

It is also the same for a program called HOME, which has created in the past 10 years over 700,000 affordable housing units. We are going to continue in this bill the longstanding commitment to renew all section 8 vouchers and also to keep the HOPE VI program going. So we are looking out for building housing, building hope, and providing access to the American dream.

We are also in this bill fighting to protect our environment. We are helping EPA by providing the right funds to clean up brownfields, improve air quality, and fix water and sewer systems. I am particularly proud of the way we have continued on a bipartisan basis to fully fund the Chesapeake Bay Program.

Where we would like to do more is in the water and sewer program. Every Senator has come to us, along with every Governor, to say: Increase water and sewer money. The communities need it to protect public health and the environment, but we also need it, say the Governors and the local officials, because this will also create jobs. We are under so many EPA-unfunded mandates that essentially this will push problems onto the local ratepayer.

We have funded water and sewer projects, but I am going to be offering an amendment to increase it even by \$3 billion more.

We also have to have very strong enforcement of environmental laws. So we must not skimp on enforcement, and I will be supporting an amendment by Senator LAUTENBERG on this issue.

Then we go to national service. This bill also empowers communities through national service. Working with Senator BOND, we cleaned up a terrible accounting mess. The President has responded and given us new leadership, but right now we are working to increase the volunteer program. We continue to need additional funds and better management.

At the same time, we are working on NASA to return our space program to flight, but we want to ensure, as always, the safety of our astronauts, and we are absolutely committed to implementing the Gay-Min commission report so that when we go back to space, our astronauts will be safe.

Space science: This is where we look at big breakthroughs, whether it is Earth science, work at NASA Goddard, or the Hubbard telescope, but also Senator BOND and I worked to increase funding of aeronautics by \$50 million.

In 1980, the U.S. had 90 percent of the commercial aviation market. Now we are down to 50 percent. This is unacceptable. We have to make sure we make airplanes in this country, and we

come up with the best ideas and the breakthrough technology, not only for smart weapons of war, but where this is translated into the commercial airline business where we can fly and ensure that passengers are safe, but also maintain this manufacturing base. So Senator BOND and I put in \$50 million for increased aeronautical research.

At the same time, we have put money into the National Science Foundation to make sure we have that farm team of the next generation of scientists and engineers, but also in breakthrough technologies, investment in biotech, infotech, and a marvelous new field called nanotech that could create thousands of new jobs.

Imagine that wonderful wedding ring the Chair has on, that our former colleague Senator Dole gave. As she looks at that ring, just know that that is the size of a supercomputer when we move our nanotechnology further ahead, that the entire Library of Congress will be in something less than the size of my earring. Is this not phenomenal?

There will come a day when someone will be able to take one little pill-like item a day, or even a month, and that nanotechnology will be an ongoing monitor for the diabetic, for the high blood pressure person, for the stroke-prone person and be able to send alerts to a doctor's office. This is what lies ahead.

We will not only be saving lives or collecting information, but what we will be doing is winning the Nobel Prizes and winning the markets and these products will be manufactured in this country and will revolutionize the world.

This is what VA-HUD is all about, standing up for our veterans, rebuilding communities, protecting the environment, answering a call to national service, making public investments in science and technology. So I am pleased to support this bill, along with my colleague, the chairman of the subcommittee, Senator BOND. This is a bipartisan bill. This is not a Democratic bill or a Republican bill. This is a red, white, and blue bill. We hope it moves expeditiously through the Senate with a few of the amendments we are proposing.

I yield the floor.

AMENDMENT NO. 2150

Mr. BOND. I call up an amendment at the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 2150.

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

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BOND. Mr. President, this amendment before us is the one I de-

scribed in my opening statement which will save 22,000 manufacturing jobs in 23 States. Let me repeat so that all will know what we are debating today, and that is whether we will decide to kill 22,000 manufacturing jobs in 23 States across America.

With this amendment, we will decide whether to close at least three American manufacturing plants. We will decide today whether we will send thousands of jobs to China. We will decide today whether we will kill thousands of jobs of manufacturing parts suppliers. We will decide today whether we will kill thousands of jobs of those dependent on a manufacturing paycheck. We will decide all of this with this very important amendment. Our answers must be a resounding no to killing 22,000 manufacturing jobs. Our answer must be a resounding no to sending more jobs to China by a State regulation. Our answers must be a resounding no to closing manufacturing plants. A "no" vote on this proposal and the underlying proposal is a vote to send thousands of jobs abroad.

Why are these jobs at risk? Quite simply a single agency in a single State has its own ideas of how to solve problems in the environment. The problem is they do so without a care in the world as to the consequences of their actions—the loss of jobs and the danger that it entails.

At issue is the desire of the California Air Resources Board to impose new air pollution reductions by imposing a massive redesign on small engines used in lawnmowers, generators, blowers, chain saws, and marine vessels. The California redesign would be so massive that it will force the use of expensive and dangerous technologies like super hot catalytic converters on hand-held equipment.

The California market and those States that may follow suit will be forced to do so because major chains that sell these small engines will not be able to make one kind of engine for a California market and another kind of engine for other markets. Instead of manufacturers rebuilding plants in the United States, they will rebuild them in China where it is cheaper and fill them with cheap labor. These workers will not be subject to U.S. wage, work, or environmental regulations.

This is not a question of what the company does in terms of its profit and loss statement. They can maintain the same profits by probably raising prices and sending their manufacturing to China. This is a question of U.S. jobs of the men and women who work in those plants.

I visited workers at a Poplar Bluffs, MO, plant which makes small engines. They are good people, hard-working people. They are supporting their families and their communities. They cannot understand why we would let a regulation of one State send their jobs to China. But they are not alone. Closure of these plants will have a ripple effect across the country.

When you include the direct loss from parts suppliers and payroll dependents, 22,000 jobs in 23 States from Minnesota to Florida, from Massachusetts to Texas and Arizona will be lost.

This map shows where those losses occur. They are significant losses—not only in my State but in Wisconsin, in Georgia, in Illinois, in Alabama, and in Texas. These are the States that will bear the burden.

I ask my colleagues: Can we afford to lose more than 22,000 manufacturing jobs? I think the answer is no.

The need to save these 22,000 jobs is so important that I have made changes in my small engines provision to address concerns of stakeholders and members. I believe and trust that these changes are appropriate and will assure that we have targeted our amendment to meet the real dangers.

First, the requirement that EPA establish new small engine standards to achieve additional pollution reduction for small engines.

Let me make it clear: EPA, under the Clean Air Act, already regulates small engines and has done at least two rounds of small engine air pollution reductions.

In this amendment, we direct them to within a year do another round of new standards so that the entire Nation benefits from cleaner small engines. In other words, we are going to get the cleanup that California wants in California, and which other States in the Nation need in their States. My own State of Missouri needs pollution reductions in Kansas City and St. Louis. In Missouri, we can't issue those regulations. I say to the occupant of the Chair, North Carolina can't issue those regulations on its own. But by directing EPA to enforce those standards nationally, we will get the cleanup that we need in every single one of our States. All 50 States will benefit from nationwide air pollution reductions.

While we are concerned about the loss of 22,000 jobs, changes in the amendment will also address vital safety concerns with the California rule. Safety professionals and the organizations they serve fear that the California rule will force unsafe changes to small engines that will increase the risk of fire, burn, and even explosion. This California regulation contains the requirement that would force small engine makers to install superheated catalytic converters.

Anybody who has been around them should know that catalytic converters reach extremely high temperatures when chemically breaking down air pollution. In fact, catalytic converters meeting California's standard can reach temperatures of 1,100 degrees Fahrenheit or more. Dry grass burns at just over 500 degrees Fahrenheit, and certainly human skin burns at much lower temperatures.

Keep in mind that were this California regulation to go into effect, you would be required to hold an 1,100-degree Fahrenheit catalytic converter at-

tached to your weed whacker, chain saw, or lawnmower only inches from your hands and legs.

Keep in mind the California regulation would require you to wave around a 1,100-degree catalytic converter in the dry grass you are mowing or the dry brush you are cutting or in the dry leaves you are blowing. This is a safety hazard. There are basic safety warnings—avoiding the use of hot mufflers or use of equipment in dry grass or brush conditions must be avoided. The California rule ignores them. Not only did they not address these concerns, but in one example they provided misleading information to their own California Fire Chiefs Association. Initially, the California Fire Chiefs believed that the California combination of leaking fuel from overly pressurized tanks and excessive temperatures from a hot catalyst is a disaster waiting to happen. The fire chiefs thought the rule poses an unacceptable risk to the people of their State.

After promises from the Air Regulation Board were made to the fire chiefs that they change their regulations, the fire chiefs dropped their concerns. Unfortunately, they were misled, according to the fire chiefs.

This is an enlarged copy of the letter that was sent by the California Fire Chiefs Association. It documents how the operation of this new regulation would be a great danger.

I ask unanimous consent a copy of the letter be printed in the RECORD.

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

CALIFORNIA FIRE  
CHIEFS ASSOCIATION,

*Rio Linda, CA, November 6, 2003.*

Hon. CHRISTOPHER BOND,  
*Russell Senate Office Building,  
Washington, DC.*

DEAR SENATOR BOND: The California Fire Chiefs Association represents fire chiefs from over 1,100 fire departments operating in the state of California. Member organizations consist of municipal fire service agencies, fire districts, state and federal government agencies, and corporate fire brigades.

Earlier this year in oral and written communications to the California Air Resources Board (CARB), our association expressed serious concerns about the CARB's plans to require catalytic converters on lawnmowers and other lawn and garden power equipment. Firefighters have far too much experience suppressing fires caused by catalytic converters on automobiles carelessly parked on combustible grass and leaves.

After this past month of fighting wildland fires, we are almost too tired to think about catalytic converters on lawnmowers which, after all, are intended for use on grass. California does not need yet another way of igniting fires.

Several weeks ago, the CARB's staff informed our representative, Assistant Chief Jim Medich of the West Sacramento Fire Department, that the catalytic converter requirement had been removed and the outdoor power equipment industry was now in support of the measure. Believing that statement to be true, we had no further objection to the CARB rule and have since been quoted in support of the regulation.

Unfortunately, we were misled. The catalytic converter provision was not dropped,

and we cannot find any evidence of industry support. As such, we wish to go on record that we categorically do not support the proposed regulation, because we believe it will lead to a substantial increase in residential and wildland fires.

These are complex issues that are not simply solved by manufacturers according to an arbitrary regulatory schedule. Similar challenges exist with catalytic converters on board boats, and it may be years before they are resolved.

We are saddened an agency that exists only to protect the health and safety of Californians would choose to ignore fire safety and misrepresent the facts. Our hope is that, as this matter proceeds to the federal government, it will be managed with more integrity. As always, we stand ready to work with our many friends in the environmental protection community who so well understand that effective fire prevention saves lives and protects the environment.

Sincerely,

Chief WILLIAM J. MCCAMMON,  
*President.*

Mr. BOND. Madam President, the California Fire Chiefs Association say they categorically do not support the proposed regulation because it will lead to a substantial increase in residential and wildland fires.

They state:

We are saddened an agency that exists only to protect the health and safety of Californians would choose to ignore fire safety and misrepresent the facts.

Not surprisingly, other agencies are very much concerned.

The National Association of State Fire Marshals remains very concerned that the California rule cannot be safely met.

The United States Consumer Products Safety Commission has concerns over the potential for burn fire material hazards that remain unaddressed.

The Missouri State Fire Marshal remains concerned that the California rules create a significant threat to the safety of people, property, and the environment.

The National Marine Manufacturing Association is concerned that California's activities create marine safety issues that must be evaluated further before they are imposed on industry. That is right. This rule can even make boats unsafe. Generators and engines kept in boats in enclosed spaces with poor ventilation requiring these superheated catalytic converters is a boat-igniting disaster waiting to happen.

I ask unanimous consent that copies of these letters be printed in the RECORD.

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

NATIONAL ASSOCIATION OF STATE  
FIRE MARSHALS, EXECUTIVE COM-  
MITTEE,

*Washington, DC, October 7, 2003.*

Re California's new emission regulations for lawn and garden equipment and request for a safety study.

Mr. JEFFREY R. HOLMSTEAD,  
*U.S. Environmental Protection Agency, Penn-  
sylvania Avenue, NW., Washington, DC.*

DEAR MR. HOLMSTEAD: The National Association of State Fire Marshals (NASFM) represents the most senior fire safety officials

in the 50 states and the District of Columbia. Our mission is to protect life, property and the environment from fire and other hazards. We receive virtually all of our resources from federal and state government agencies.

NASFM became aware of the proposed emission regulation being proposed by the California Air Resources Board (CARB) for lawn and garden equipment earlier this summer. Out of concern that the very hot catalytic converters and pressurized fuel tanks required by this rule would pose a risk for additional garage fires, wildland fires and operator burns, NASFM submitted the enclosed July 29, 2003, and September 12, 2003, correspondence to CARB. In this correspondence, NASFM urged the CARB Board "not to proceed with [its proposed emission] regulation at this time, given the high probability that lives and property will be at risk if catalytic converters and pressurized fuel tanks are required before all critical safety parameters have been identified and before the industry can implement the proper safety measures."

NASFM urged CARB to participate in a safety test program to evaluate and respond to the unresolved safety concerns with CARB's proposal to apply extremely hot catalysts and pressurized fuel systems to lawn and garden equipment. We are aware that a similar safety study is being undertaken with U.S. EPA, the U.S. Coast Guard and industry to research the effects of applying catalytic converters to marine engines. However, by moving forward with the adoption of regulations at its Board hearing on September 25, the CARB Board has effectively rejected the proposed safety study, thus denying NASFM (and other safety organizations) the needed time and therefore the ability to participate as a stakeholder in the CARB regulatory development process. Additionally, CARB has failed to identify and objectively explain to the public the risks and substantially unresolved safety issues associated with its regulatory program. For example, CARB's August 8 Staff Report failed to mention—or even cite to—the correspondence submitted to CARB by the California Fire Chiefs Association on July 18, comments of NASFM submitted on July 29, or the correspondence from the U.S. Consumer Product Safety Commission, all of which raised valid safety concerns with CARB's proposal.

CARB has indicated that manufacturers will simply respond to the increased heat from catalysts by adding more heat shielding and insulation—despite documentation by manufacturers that the installation of additional heat shielding and insulation to protect the operator from burns will inherently result in much longer cool-down periods, increasing the risk of fires during refueling and fires from retained grass clippings after the equipment is parked in the garage.

NASFM remains very concerned that the requirements adopted by the CARB Board at its September 25 Hearing cannot safely be met, particularly by the relatively small, unsophisticated equipment manufacturers that dominate the lawn and garden industry. Consequently, NASFM's suggested safety study is needed more than ever to accurately determine how much heat catalysts will generate; whether the added heat from a catalyst exhaust system can safely be mitigated through heat shielding; and how much pressurization a fuel tank can safely withstand.

NASFM also is concerned that other states are likely to "opt into" the California program if they are authorized by U.S. Environmental Protection Agency (U.S. EPA) under Section 209(e) of the Clean Air Act. Because of fundamental unresolved safety issues, the U.S. EPA must ensure that consumers across the country are adequately protected as re-

quired by the Clean Air Act. We urge U.S. EPA to evaluate, accurately identify for the public, and address the substantial unresolved safety issues presented by the CARB regulation. If EPA authorizes the CARB regulation without conducting a thorough and meaningful safety evaluation, then NASFM and its members will request substantial additional federal funding to respond to a dramatic expected increase in fires in and around people's homes, as well as an increase in operator burn injuries. We believe the additional costs in fire suppression—and the potential loss of life and property, as well as damage to the environment—that will result from CARB's regulations as currently written would dwarf the relatively small costs of conducting a meaningful safety study prior to the EPA decision on whether to authorize the regulations.

NASFM has established relationships with the EPA as well as with environmental non-governmental organizations, other fire service organizations and the Building and Fire Research Lab at the National Institute of Standards and Technology. We stand ready to participate in a safety study on this issue if authorized by EPA.

Thank you for your consideration.

Sincerely,

DONALD P. BLISS,  
*President.*

U.S. CONSUMER PRODUCT  
SAFETY COMMISSION,  
*Washington, DC, August 4, 2003.*

ALAN C. LLOYD, Ph.D.,  
*Chairman, Air Resources Board, California Environmental Protection Agency, Telstar Avenue, El Monte, CA.*

DEAR DR. LLOYD: A staff representative of the U.S. Consumer Product Safety Commission (CPSC) attended the Small Off-Road Engine Workshop held by the California Air Resources Board (CARB) in Sacramento on July 2, 2003. Part of that workshop included the discussion of potential safety issues associated with proposed air quality requirements in California. We understand that these proposed air quality requirements might require additional emissions control equipment on outdoor power equipment such as lawn mowers. The CPSC staff has conducted an initial review of potential safety issues that may arise as a result of the promulgation of these requirements and believes that these issues merit further consideration and discussion in the regulatory process conducted by CARB. Specifically, the CPSC staff recognizes the potential for burn, fire, or materials hazards that additional emissions control equipment could present.

The CPSC engineering staff requests an opportunity to discuss proposed emissions control requirements for outdoor power equipment with the appropriate CARB staff to learn more about the proposed requirements and their implications on consumer product safety. Hugh McLaurin, the Director for Engineering Sciences at the CPSC, will contact the appropriate authority at CARB to arrange further discussions.

Sincerely,

JACQUELINE ELDER,  
*Assistant Executive Director.*

NATIONAL MARINE  
MANUFACTURERS ASSOCIATION,  
*Washington, DC.*

Hon. KAY BAILEY HUTCHISON,  
*U.S. Senate, Russell Building,  
Washington, DC.*

DEAR SENATOR HUTCHISON: The National Marine Manufacturers Association (NMMA) is the nation's largest recreational marine trade association representing manufacturers of recreational boats, marine engines and

marine accessories. NMMA has over 1500 members, many which are either located or conduct business in the state of Texas.

NMMA would like to inform you of recent actions by the California Air Resources Board that raises marine safety issues for recreational vessels equipped with generator sets. The recent rules for spark-ignited small off-road engines adopted by the California Air Resources Board would impose both new exhaust and evaporative controls on vessels equipped with these devices. This action was taken without consultation with NMMA, its members or the U.S. Coast Guard.

NMMA, the California Air Resources Board and the U.S. Coast Guard have a test program underway at Southwest Research in San Antonio to test catalysts on sterndrive/inboard engines. The purpose of this test program is to assure the performance, durability and safety of catalysts in this application. Nevertheless, California adopted regulations that would require catalysts on marine generators before completion of this study. The California rules would also require changes to the fuel systems on any vessel equipped with a marine generator. NMMA, our fuel tank and boat builder members and the U.S. Coast Guard have been actively engaged with the U.S. Environmental Protection Agency for several years in the development of regulations to control evaporative emissions from recreational vessels. It is our understanding that the requirements included in California's rules are similar to those which have raised safety issues in the EPA rulemaking. Like the exhaust rules, these requirements were adopted without consultation with the U.S. Coast Guard, and the boat building industry.

NMMA is concerned that California's activities create marine safety issues that must be evaluated further before they are imposed on this industry. For this reason, NMMA urges you to support Sen. Bond's provision included in the VA-HUD FY 2004 Appropriations bill which would limit California's ability to impose requirements on these devices and marine vessels.

Sincerely yours,  
THOMAS J. DAMMRICH,  
*President.*

DEPARTMENT OF PUBLIC SAFETY,  
DIVISION OF FIRE SAFETY,  
*Jefferson City, MO, October 24, 2003.*

Senator CHRISTOPHER S. BOND,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR BOND: I write both as Missouri State Fire Marshal and as a director of the National Association of State Fire Marshals (NASFM). NASFM represents the most senior fire safety official in each of the 50 states and District of Columbia. NASFM's mission is to protect life, property and the environment from fire and other hazards. We receive virtually all of our resources from state and federal government sources, although we pride ourselves on the many productive relationships with industries that share our commitment to public safety.

First, I wish to thank you for giving serious consideration to serving as a sponsor of the American Home Fire Safety Act. This legislation has the potential to save two lives a day from the leading causes of fire in the home. As you know, I have lost family members in a fire involving the products contained in this bill. It would mean a lot to the Missouri fire service if you would help in this worthy effort.

But just as we seem to conquer one fire safety challenge, others take their place. We are especially concerned that a proposed California environmental regulation might move forward nationally and create a significant threat to the safety of people, property and the environment.

The issue is whether we have a sufficient understanding of how air emissions requirements for the small engines used with lawnmowers, snow-blowers and other small-engine outdoor power equipment might affect the number and severity of fires in residential garages and in rural communities most affected by wildland fires. We do not regard these potential fire hazards to be more important than air quality, but they certainly are no less important.

We stand ready to work with you, the environmental protection authorities and the manufacturers of these products to determine a common-sense approach to a complex series of questions about how best to have outdoor power equipment that is safe and clean. This is an attainable goal if we work together.

Most recently, the California Air Resources Board (CARB) has proposed air emission rules for these purposes. In cooperation with the California Fire Chiefs Association, and after consultation with the outdoor power equipment manufacturers and others with knowledge of these issues, NASFM urged CARB to give greater consideration to fire safety. While CARB acknowledged the concerns, the proposed rule does not.

The scenario is not hard to imagine—especially given the many garage and wildland fires that take lives, destroy property and spoil the environment every year. The CARB has not adequately examined the probability of increased gasoline leakage of the pressurized fuel tanks its rule will require. Nor has CARB considered the very high temperatures emitted by catalytic converters its rule will mandate.

Regulators have lost so much credibility over the years by forcing people to do illogical things. The combination of leaking fuel tanks and high temperatures is not something we wish to introduce into a residential garage with a gas water heater, discarded newspapers and rags, and combustible paints and solvents. Nor do we wish to see such power equipment left idle for even a minute on top of combustible vegetation. The forest fires that consume hundreds of thousands of acres and scores of homes can be ignited by a single, discarded cigarette. This could be far worse, and for that reason we have alerted the United States Department of the Interior to look into this matter.

As we understand the process, the CARB may proceed if it receives a federal waiver from the United States Environmental Protection Agency (US EPA), and that such waivers may be granted with little oversight. Once a waiver is granted, other states are likely to follow the CARB's lead. Even with the federal government's help, we cannot purchase enough fire apparatus and equipment or train enough firefighters to protect the public from the fires we now have. Prevention is the only answer. Creating new hazards—through regulation, no less—is unacceptable.

We will appeal directly to US EPA to give this matter very serious attention, but we would encourage you to use your good offices to encourage the US EPA to use this opportunity to protect the environment and human life from residential and wildland fires in the future. NASFM is not against states' acting to protect the environment from harmful emissions.

However, these fire safety issues will be a factor no matter where such measures are considered, and they are best dealt with on a national level for the benefit of all.

Best personal regards,

WILLIAM FARR,  
Missouri State Fire  
Marshal, and  
BOARD OF DIRECTORS,

National Association  
of State Fire  
Marshals.

Mr. BOND. Madam President, in the face of all of these concerned safety groups, I asked California to provide any kind of evidence or any kind of testing or any kind of analysis that these safety concerns were not true. They could not.

CARB failed to provide safety data or testing results using test procedures approved or witnessed by safety efforts.

CARB failed to provide any data testing or analysis of the danger of liquid or vapor fuel released from a pressurized tank used to comply with the rule lighting on fire after coming in contact with superheated catalytic converters used to comply with the rule.

CARB admitted that grass clippings can ignite if they come into contact with surfaces above 518 degrees Fahrenheit. CARB failed to provide any data showing that the shields were capable of protecting against temperatures of 1,026 degrees Fahrenheit. They admitted they failed to conduct standard testing applied to all internal combustion engines. This is a problem requiring us to act to solve it.

We are being asked to do something to protect 22,000 jobs, 3 manufacturing plants being moved to China. My provision would enable those jobs to stay in the United States. We are asking to prevent the risk of burn, fire, and explosion to millions of consumers, fires in our homes and in our wildlands. The provision to have EPA do a national rule instead of California will ensure that national environmental issues are met and that it will take into concern issues such as the safety in achieving the pollution reductions we need.

I made several changes in my amendment to address Member concerns. We made it clear that this would not have prevented their States from regulating existing or end-use engines. We made it clear this provision only applies to new engines. Some Members thought the initial language would prevent States from regulating diesel engines. We have specified these are limited to spark-only engines. They do not cover diesel engines because the State of California could continue to regulate them, and we have also seen that the EPA has issued regulations with respect to diesel engines.

Some Members were concerned that the original language would prevent their State from regulating mid- and large-sized engines such as airport tugs, forklifts, and cranes. We have no intention of limiting those. The amendment specifically applies only to small engines under 50 horsepower.

These are numerous changes that are well worth saving 22 manufacturing jobs. We will protect the environment. We are providing the air quality improvements to all 50 States. We are protecting public safety by assuring that the concerns of all of the safety interested groups I have indicated are taken into account by EPA in issuing

their regulations. I don't want to be the one to go home and tell our workers we are sending their jobs to China. I don't want to tell our families they cannot have a breadwinner earning a good living in those factories. We want to tell communities that we will not cripple their tax base, their school systems, and cripple their services. We will protect the environment. We will protect public safety and the jobs.

I urge my colleagues to support this amendment.

I yield the floor.

THE PRESIDING OFFICER. The Senator from North Carolina.

Mr. DORGAN. Madam President, as a member of the Appropriations Committee, let me compliment my colleague from Missouri and my colleague from Maryland, the chair and ranking member of this subcommittee. They have offered the Senate a good piece of legislation. While there may be some areas for discussion where we might have some disagreements about one level or another that has been proposed, by and large, Senator BOND and Senator MIKULSKI have done an excellent job bringing this appropriations subcommittee bill to the Senate. I appreciate their work.

The amendment just offered will spark some significant debate this morning. I believe my colleague from Idaho is also preparing to offer an amendment, and my hope is to be involved in that discussion when my colleague from Idaho offers his amendment this morning.

I would like to make a comment about another appropriations bill we will be dealing with this afternoon. I don't want to be in violation of the rule.

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

TRANSPORTATION/TREASURY APPROPRIATIONS  
CONFERENCE

Mr. DORGAN. Madam President, this afternoon at 5 o'clock, the Transportation, Treasury, and General Government appropriations conference will meet. I am one of the conferees on that conference. We meet at 5 o'clock this afternoon.

In the appropriations bill that comes from both the House and the Senate to that conference at 5 o'clock this afternoon, there are provisions that deal with travel to Cuba. I mention that because something important will happen today. We have identical amendments in the House and the Senate bills that prohibit the enforcement of the provision that prohibits travel to Cuba by the American citizens. No money in the bill shall be used to enforce that travel ban.

I am particularly interested in this because, for example, the Treasury Department earlier this year denied a license to the Farm Bureau and other farm organizations to help organize a trade show in Cuba to promote the sale of U.S. agricultural products.

I find that unfathomable. Why would we want to prohibit the promotion of

the sale of U.S. agricultural products to Cuba? Cuba must pay cash for those products they have been purchasing from our country because of an amendment I was involved in getting passed that allows U.S. companies to sell agricultural products to Cuba. There was a 40-year embargo, but we are now able to sell in Cuba. But inexplicably, the farm organizations, including the Farm Bureau, were denied a license to go to Cuba to promote the agricultural sales. That makes no sense to me. I hope we will have people who think more clearly about that.

What prompted me to talk about it this morning is a visit I had yesterday from a young woman who came to talk to me about a problem she has. I am going to show a picture of the young woman. Her name is Joni Scott. She went to Cuba 4 years ago. She is from Indiana. She went to Cuba 4 years ago, and she distributed free Bibles in Cuba. She and a group of folks from her church traveled to Cuba to distribute free Bibles. Last month, 4 years later, she received from the U.S. Government a fine of \$10,000 for having traveled to Cuba to distribute free Bibles.

Yes, that is right, the Office of Foreign Assets Control at the Department of the Treasury tracked her down. It took them 4 years. I don't know why it took 4 years. They tracked her down and said: For the act that you have committed, traveling to Cuba to distribute free Bibles, we will fine you \$10,000.

I have written to the Department of Treasury saying this does not make any sense. Is there no reservoir of common sense there, or at least some level below which they will not sink? Fining somebody \$10,000 for distributing free Bibles in Cuba, what on Earth are we thinking about? This woman went with a church group to distribute Bibles free of charge to the Cuban people. Now she is being tracked down by our Government and levied a \$10,000 fine. It makes no sense.

I also was contacted recently by another organization, the Disarm Education Fund. They donate medicine and medical supplies to Cuban health clinics. But more importantly, they send United States doctors to Cuba to teach advanced medical techniques to Cuban doctors. One of their projects involves a procedure called something called mandibular distraction, building new jaws for kids born without jaws. This is highly technical surgery. They have been not only doing this for children but teaching Cuban doctors the techniques of this intricate surgery.

This year, Disarm had to discontinue its programs because OFAC at the Treasury Department would not renew the license they had held since 1994. This went on for 6 months and they could not go to Cuba to help these children by distributing medicine and by performing intricate surgery and teach and train Cuban doctors.

On October 17, less than a month ago, after 6 months of consideration, OFAC

issued a new license that allows the Disarm Education Fund to resume some of its programs in Cuba. However, the new license specifically prohibits this organization's doctors from training Cuban doctors. Do you know why? Because OFAC says training of Cuban doctors in this very intricate surgery constitutes an export of service to Cuba.

So they can now go down and perform this surgery on Cuban children. It is very intricate surgery. They can perform the surgery, but they cannot have a Cuban doctor around to be trained because OFAC recently decided that educating Cuban doctors is illegal. What in the world is this Administration thinking?

Mr. CRAIG. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. CRAIG. On the legislation that became law a couple years ago, with your backing and my backing, that is that agricultural goods and medical supplies could be traded and sold to Cuba without United States taxpayer credit, maybe we need to add the words and "related medical services."

That is really picking the flyspecks out of the pepper here down at the Department of the Treasury. Shame on them for standing in the way of a humanitarian effort to make kids healthier.

But behind you is the picture of Miss Scott. She also visited my office yesterday. I must say to this administration: Do not fight us on this issue. We are giving you the right way out. The House and the Senate, in a strong bipartisan voice—the loudest and the strongest vote we have ever had here on the floor of the Senate—said: Let's begin to back away from this travel embargo with Cuba. It does not work any longer. It is a 40-year-old failed policy. Now you are being arbitrary. Now you are being selective. We ought to get away from that.

So I hope this afternoon in conference the House and the Senate's bipartisan voice is heard. Frankly, the administration ought to view it as a gift. We are not abolishing the law that puts in that embargo. We are simply disallowing the expenditure of levying a \$10,000 fine against a woman passing out Bibles because she trafficked through Canada and did not fill out the right form. That is what we are doing.

Let OFAC track down drug traffickers and terrorists and leave Ms. Scott alone. That is what we ought to be about. Somehow this has gotten very confused and very skewed.

I thank the Senator for bringing up this point. Please prevail in conference this afternoon.

Mr. DORGAN. Mr. President, the Senator from Idaho was part of a group, a bipartisan group, in the Senate. Then-Senator John Ashcroft, for example, was also a key part of that group. We changed the law with respect to trade with Cuba so that we could sell agricultural products into the

Cuban marketplace. We did not open it very wide, but we opened it.

Last year, for the first time in 42 years, 22 train carloads of dried peas left North Dakota to go to the Cuban people. Cuba paid cash for it. Our farmers were able to sell into the Cuban marketplace. Good for them.

But this issue of travel and denying farm organizations, including the Farm Bureau, the right to go to Cuba to promote food sales is just unbelievable.

There are times, not very often, but there are times when I am profoundly embarrassed by the actions of this Government. Yesterday was one of them, when this young lady came to see me to say: I am really concerned and upset about this because I went to Cuba to distribute free Bibles, and now my Government is slapping me with a \$10,000 fine.

That is an unforgivable policy, in my judgment. But it is not just her. It is not just this young lady who thought she was doing the world some good, and clearly she was. She was pursuing her faith and her interest in distributing Bibles to the Cuban people.

There is so much more than just her. I mentioned the doctors who have been denied the opportunity to travel to Cuba to do this intricate facial surgery on Cuban children and to train Cuban doctors to do the same surgery. Now, after 6 months, they are able to go do the surgery, but they are not able to train the Cuban doctors because that is the prohibited export of a service to Cuba. Again, that is an embarrassing decision on the part of this Government.

But let me just describe a couple more, if I might.

This young lady is named Joni Scott. She traveled to Cuba, as I said, 4 years ago. It took them 4 years to track her down.

Cevin Allen, from the State of Washington, wanted to bury the ashes of his father, who was a Pentecostal minister in prerevolutionary Cuba. He died, and his last wish was that his ashes would be buried on the church grounds where he served in Cuba. Well, his son, true to the faith in his father, took his ashes to Cuba to bury them, and what happened to him was he received a notice from the Federal Government. They were fining him \$20,000 for taking the ashes of his dead father to be buried on the church grounds where he served as a minister in prerevolutionary Cuba.

Marilyn Meister was a 72-year-old Wisconsin schoolteacher. She bicycled in Cuba. She received a \$7,500 fine.

I have shown the picture previously of Joan Slote, whom I also know. She is a Senior Olympian. She bicycles all around the world. She is in her midseventies. She went with a Canadian bicycle group to take a bicycle trip to Cuba. She was fined \$7,630. I said to OFAC: You ought to be embarrassed about that. OFAC then reduced her fine to \$1,900, and she paid it. I don't think she should have, but she paid it. Then she got a note from the Department of

the Treasury, after she paid it, that they were going to garnish her Social Security, and they sent a collection agency after her because, they said: Well, we never received it. She had the canceled check.

It is one thing for an agency to be incompetent; it is another thing for it to make fundamentally bad judgments about what it is going to do with its time. OFAC's should be chasing terrorists, not visitors to Cuba.

This is not a Republican or a Democrat issue; this went on under Democratic administrations as well, although I must say it has been ratcheted up—over double the effort—under this administration. And the President just announced, a month ago, on October 10: I have instructed the Department of Homeland Security to increase inspections of travelers and shipments to and from Cuba. He said: We will also target those who travel to Cuba illegally through third countries. He talks about using the investigative capability of the Department of Homeland Security to track down American travelers so we can levy fines against them.

My colleague from Idaho is right. It is ludicrous for OFAC to be tracking down some young woman who has distributed free Bibles in Cuba, so we can levy a fine. This is not, in my judgment, injuring Fidel Castro. This policy is attempting to take a slap at Fidel Castro, and it injures Americans and their right to travel freely.

I hope this afternoon, at 5 o'clock, when we go to this conference, with the identical provisions coming from the House and the Senate, that my colleagues, Republicans and Democrats, will support this policy of allowing travel to Cuba.

We long ago concluded with China, a Communist country, and Vietnam, a Communist country, that trade and travel and engagement is a constructive way to move forward. I believe that. I believe that is true with Cuba. The only voice Cubans hear is Fidel Castro's voice. I would much prefer they hear the voice of this young lady who travels to Cuba to talk to them about her faith and to talk to them about the Bible. I would much prefer they hear the voice of thousands and thousands of tourists who tell the Cubans what is happening in the rest of the world. The Cuban people deserve that. That is the quickest and the most effective way, I believe, to effect a change in the Government in Cuba.

So at 5 o'clock this afternoon, in the conference of Transportation-Treasury Appropriations bill, we will be making a very important decision, and because there are identical provisions in both the House and the Senate bills which will prohibit the enforcement of this travel ban in the future, I hope the conference will keep those provisions.

But the White House, as they have done in other areas, threatens a veto. I do not think they would veto this appropriations bill over this issue. But

let them threaten. I believe very strongly, as my colleague from Idaho just suggested, that we ought to hold tight on this provision in conference this afternoon.

My intention of bringing this up now, and describing this young lady and her experience, is to ask my colleagues again: Let's do the right thing. Let's not be embarrassed by actions of the Government that fine the American people for traveling someplace to distribute free Bibles. That is outrageous, and it has to stop.

Madam President, I yield the floor.

THE PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to respond to the comments made by the Senator from Missouri, the chairman of the committee, in placing legislation, a rider, if you will, into the appropriations bill.

If ever there was a special interest provision in an appropriations bill, this is the mother and father of such a rider. I rise in opposition to what is called the small engine provision in the 2004 VA-HUD appropriations bill. I note that the Senator from Missouri did not send to the desk an amendment he plans to introduce to change the underlying amendment that was introduced in the Appropriations Committee markup. So I am going to try to address both pieces of legislation and indicate my opposition to both. Although the amendment that he says he is going to introduce is better than the language in the underlying bill, it is still unacceptable because it would effectively block any State regulation of small road engines anywhere in America. This provision was inserted into the chairman's mark at the request of a single engine manufacturing company, Briggs & Stratton from Missouri.

As originally written, the underlying bill would effectively preempt any State regulation of pollution from off-road engines smaller than 175 horsepower. I understand the Senator from Missouri now wants to narrow his provision to block any regulation of spark engines under 50 horsepower and not include diesel engines. This new provision is better but, as I said, still unacceptable.

Since the beginning, section 209 of the Clean Air Act has recognized that States, with extraordinary or extreme pollution, need flexibility to reduce pollution and protect public health. A California law actually served as the model for the original Clean Air Act. I think that is interesting. As a result, the Clean Air Act has always allowed California to set its own standards for some sources of pollution. Later changes in the law allowed other States to adopt the California standards, if they so chose.

The 1990 Clean Air Act amendments gave California the right to regulate emissions from off-road engines smaller than 175 horsepower, except for agricultural and construction equipment. So other States are currently free to

adopt the California standards or not. The right of States to regulate small engines would quickly be taken away if the Bond provision is allowed to remain in this bill. Mr. President, individual States should have the right to regulate these small engines as they choose.

That is what States rights is all about. Many States have benefitted from the process established in section 209, and California's regulations often serve as models for the rest of the Nation. The small engine provision would amend section 209 and remove important rights from States. I oppose using the appropriations process to take away States rights under the Clean Air Act. This kind of change to a major law like the Clean Air Act deserves a full debate, hearing, and review in the Environment and Public Works Committee. It has had none of the above.

It is important for all of my colleagues to understand that one company is behind this so-called small engine provision. We are having this debate simply because Briggs & Stratton disagrees with a recently adopted California regulation which, incidentally, does not go into effect for another 5 years. I will explain why that becomes relevant later.

On September 25 of this year, California adopted a regulation reducing emissions from off-road engines smaller than 25 horsepower, mainly lawn and garden equipment. This is the interesting thing: This regulation is the equivalent of removing 1.8 million automobiles from California's roads by 2020. That is how big an item this is in my State. Once again, let me make it clear that we are talking about the equivalent of 1.8 million automobiles.

But the issue here is not whether we should support any particular regulation from the California Air Resources Board. The issue is whether we should permanently take away States rights to regulate these engines, period. Briggs & Stratton is using opposition to a single California regulation to block every State's efforts to regulate these engines anywhere in the future. I do not believe we should take such important changes to the Clean Air Act lightly, especially when such changes have been included in an appropriations bill without having adequately looked at the crucial stakes involved.

Briggs & Stratton has made a series of arguments in opposition to the California regulation. We heard the Senator from Missouri say the regulation would force the company to close plants, threaten thousands of American jobs, and for jobs to be moved to China. I don't know how the Senator from Missouri knows that they would move jobs to China unless Briggs & Stratton have told him that is what they plan to do.

At the very same time that Briggs & Stratton is lobbying this Senate to preempt California regulations, the company was telling the Securities and Exchange Commission an entirely different thing. On September 11 of this

year, while lobbying the Senate in support of the small engine provision, Briggs & Stratton filed their annual 10-K report with the Securities and Exchange Commission. Here is what they say in their report:

While Briggs & Stratton believes the cost of the proposed regulation on a per engine basis is significant, Briggs & Stratton does not believe that the [California Air Resources Board] staff proposal will have a material effect on its financial condition or results of operations, given that California represents a relatively small percentage of Briggs & Stratton's engine sales and that increased costs will be passed on to California consumers.

So point 1, California is just a small part of the Briggs & Stratton market. Point 2, it will not affect the financial viability of that market. And point 3, they would only pass on the costs of retrofitting these engines to whomever would buy it, something that is fairly typical. Now why all this talk about moving 22,000 jobs to China if, in fact, what they said on their SEC statement is correct? The SEC statement is the be-all-and-end-all for a company's integrity and credibility.

If you lie on your SEC statement, you get into a lot of trouble with the Securities and Exchange Commission.

Section 209 of the Clean Air Act gives California the right to regulate these engines. The company is free to pass along these costs to Californians. My State will accept those costs because we need cleaner air. As far as I am concerned, this is the way regulations should work.

Since we brought the annual report to the attention of the public, Briggs & Stratton has argued that the annual report was simply discussing the company's bottom line and that sending jobs overseas would not affect the bottom line. But that is not what the company's annual report says. The report says, again, California is but a small share of the Briggs & Stratton market. Increased costs will simply be passed along to California consumers. It does not say that any increased costs will force jobs overseas.

So Briggs & Stratton is telling the Securities and Exchange Commission that everything is fine and at the same time telling the media, the public, and this body that the sky is falling.

Senator BOXER and I have asked the Securities and Exchange Commission to investigate whether Briggs & Stratton has broken any securities laws by telling such drastically different stories. We are still waiting for a response.

In terms of jobs, my colleagues should also know that Briggs & Stratton's SEC report is referring to the original regulation proposed by the Air Resources Board. Since the SEC report was filed, the California Air Resources Board has continued to work with the industry to modify the regulation to correct fire safety concerns and to reduce costs, and I believe they will get there. They have 5 years to do so.

Madam President, what I am going to be doing in this portion of my remarks

is essentially showing that Briggs & Stratton really is an isolated company asking for this. By so asking for it, they are going to cause additional costs to other industries. So I hope to make that argument now.

Last month, the Outdoor Power Equipment Institute, the small engine industry's leading trade group of which Briggs & Stratton is a member issued a press release which said that the industry's input into the adopted regulation made the regulation acceptable. This press release details the concessions made by the State and said that the Air Resources Board largely adopted the industry's counterproposal. In other words, the industry trade council, of which Briggs & Stratton is a member, had their counterproposal adopted by the State Air Resources Board and yet Briggs & Stratton is still opposing the action.

I quote the release:

For the past 2 years, the Outdoor Power Equipment Institute has been working proactively with the staff of the California Air Resources Board to improve proposed catalyst base exhaust standards for real problems.

The press release goes on to say:

In direct response to the Outdoor Power Equipment Institute's advocacy, the California Air Resources Board unanimously adopted on September 25 a modified framework which, one, relaxes the stringency of the California Air Resources Board's staff's proposed tier 3 exhaust standards and, secondly, substantially improves the overall general framework for the still-to-be-defined evaporative regulations.

I ask unanimous consent that the text of the Outdoor Power Equipment Institute's press release be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Additionally, I have a September 26, 2003, letter from Alan Lloyd, the chairman of the California Air Resources Board, to the Senator from Missouri, detailing revisions that were made to the regulation. Referring to the modified regulation, Mr. Lloyd states as follows:

I believe the action taken by the Air Resources Board is a win/win situation. We achieved our emission reduction goal. The adopted regulation, based on an industry proposal, will reduce costs, simplify compliance and avoid job losses.

So the Air Resources Board took the industry's proposal, the industry association of which Briggs & Stratton is a member. That is why this thing is so unfair.

I ask unanimous consent that the text of this letter from Mr. Lloyd to the Senator from Missouri be printed in the RECORD following my statement.

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

(See exhibit 2.)

Mrs. FEINSTEIN. Briggs & Stratton also raised concerns about fire safety. The Senator from Missouri has placed a November 6 letter from the California

Association of Fire Chiefs in the RECORD. That letter expressed concerns about the proposed California regulation. I take these concerns very seriously. The last thing I want to do is increase the risk of fire. So we need to make sure these engines are safe, and the regulation has 5 years to make adjustments before it goes into effect, ample time to make such changes as replacing heat shields and doing whatever else is necessary to ensure these engines are fire safe.

There is apparently some miscommunication between the fire chiefs and the Air Resources Board. I have just received a letter dated November 11. I want to read from this letter:

The fire safety issues we raised [and that would be the November 6 letter that Senator Bond printed in the Record] need more attention and require independent assessment before engineering and production decisions are made [which they have not been up to this time]. In our most recent discussions with [the Air Resources Board], they support the idea of an independent study, and have proposed moving forward with a study, much the same as what is now underway with catalytic converters being used in marine applications. We enthusiastically support this idea, and will be working closely with [the California Air Resources Board], the State Fire Marshal, and the U.S. Environmental Protection Agency to ensure that all fire safety concerns are addressed. We wish to make clear that we regard fire safety and environmental quality as being equally important, and wish to make it clear that we support without reservation the air quality goals of the proposed requirements. We support the regulation moving forward as we have received assurances from CARB [the California Air Resources Board] that our safety concerns will be addressed through this independent study.

So I think the concerns of the Senator from Missouri are a bit overstated in view of the fact that the fire chiefs, the fire marshal, and anyone else will work closely with CARB in the ensuing 5 years to correct any safety problems that might exist. The letter goes on, and this is important:

Finally, we understand that, as a separate matter, the Senate is debating the question of whether States are free to develop safety and environmental standards. We were never asked to comment on this matter but, for the record, we do not support legislation that would interfere with a State's ability to protect its own citizens. To the contrary, we have had to count on the State of California to develop fire safety standards for upholstered furniture, mattresses and bedding, because the Federal Government has failed to do so. The issues of air quality, as they relate to outdoor power equipment, can be addressed, and I believe that working closely with the Air Resources Board, we will find a solution that will provide a high degree of fire safety while maintaining the Board's goals for air quality.

I would like to work with the Senator from Missouri, the Air Resources Board, fire safety officials, and the small engine industry to make sure the California regulation is fire safe. We have 5 years to do so. It is possible to do so. But what we cannot do is take away the State's rights to be concerned

about its citizens, and that is exactly what Senator BOND is trying to do.

He gives jurisdiction, for the regulation of small engines, to the EPA. What the fire chiefs have just said is the EPA has refused to move on areas such as bedding and other areas which cause fires, so the State has had to do it for themselves.

States rights are a major part of this issue and I thought these rights were part of everything we believed in—letting a State, where it can, regulate for itself. Again, I think it is unfortunate that Briggs and Stratton is using safety concerns about a single regulation to block all future efforts to reduce pollution from these engines in any State.

Let me tell you why this is so big for California. We have the worst air quality in the Nation. We have seven ozone nonattainment areas. That is more than any other State. Los Angeles is the Nation's only extreme ozone nonattainment area. The San Joaquin Valley is not far behind. This year has been the worst year for smog in southern California since 1997, and the San Joaquin Valley is in a similar situation.

This pollution has severe consequences for public health and for our economy in California. Let me tell you what the Air Resources Board says will be the result of the efforts of the Senator from Missouri. They say Senator BOND's provision could lead to 340 premature deaths per year in California due to deteriorating air quality.

I believe States with serious pollution problems need to be able to reduce emissions wherever possible. This small engine provision would place a very important source of pollution off limits to State regulation.

I understand a modifying amendment is going to be introduced on behalf of Senator BOND that will change the current bill language, which currently blocks the regulation of off-road engines smaller than 175 horsepower. All told, these engines alone emit as much pollution as 18 million automobiles. Can you believe that? Small off-road engines emit as much pollution as 18 million automobiles. That is a big number for California and any reduction in this pollution would benefit California greatly.

The narrower version of this provision, which has yet to be introduced but I trust will be, would still block State regulation of spark engines smaller than 50 horsepower, which represents the majority of small engines that exist and operate in my home State. According to the California Air Resources Board, engines under 50 horsepower emit as much pollution as 4 million cars, just in California. This is more than 100 tons of smog-forming pollutants per day in my State alone.

The modifying amendment that we understand will be sent to the desk will essentially mandate 1,500 more tons of smog-producing pollutants a day in California—all to benefit one company

that is not telling the truth on its SEC statement. These off-road engines are also among the least regulated and dirtiest engines around.

According to the California Air Resources Board again, operating the average gas-powered lawnmower for just 1 hour produces as much pollution as driving a car for 13 hours. I would hazard a guess that no one in this Senate knew that operating a lawnmower for 1 hour produces as much smog as operating a car for 13 hours. Keep in mind that the lawnmower is only about 5 horsepower and the car engine is far larger.

Even running a small string trimmer for an hour produces as much pollution as driving a car for 8 hours. Again, I hazard a guess that no one in this Senate knows that operating a small string trimmer for an hour produces as much pollution as 8 hours of driving a car. The bottom line: These are very dirty engines.

California is already struggling to comply with national air quality standards. We need every industry to do their fair share. According to the Air Resources Board, the State has to reduce emissions from these engines in order to achieve compliance with national air quality standards. In other words, if California is not allowed to proceed with the regulations they put forward on September 25, we will be violating clean air standards. What happens if we do it? What happens is that California loses \$2.4 billion in highway transportation moneys. That is how important this issue is for the State of California and that is how dastardly this amendment—an authorization on an appropriations bill—really is.

California cannot afford to remain out of compliance with national standards. We also can't afford to take tools away from States that are in this situation. If we can't reduce emissions from off-road engines, then we will have to cut pollution from other sources. What does that mean? Other sources are already facing heavier regulation, so cutting their pollution will be more expensive and place more burden on other industries.

On this point I would like to quote a September 25 letter from the Environmental Council of the States. That is an organization that represents environmental agencies in all 50 States. Let me read what they say:

Removal of this ability to regulate a substantial part of a State's inventory, means that States will have to obtain reductions from the stationary source area [key, from the stationary source area], an area that is already heavily regulated at substantially higher cost. Businesses facing global competition will opt to either shift work to offshore facilities or to simply close, with concomitant negative consequences on the local and national economy.

It is critical that this language be eliminated from the HUD-VA appropriations bill.

This is the environmental council to which every State belongs.

What does this mean? This means that every oil refinery will have to have tough requirements and that every utility will have to have tough requirements. The cost of gas will rise, and the cost of energy will rise. Every stationary source, if we can't tackle this area because it is so big, will have to have their standards tightened.

This is all for one company. Every other company that makes small engines has said they can comply, except one company in Missouri that says in their SEC report, no problem, and comes here and says, we are going to move our jobs to China. A whole series of companies will be disadvantaged, but one Missouri company will suffer no financial consequences.

I ask unanimous consent that the full text of this September 25 letter from the Environmental Council of States be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mrs. FEINSTEIN. Mr. President, the debate over the small engine provisions is focused on California for this point. But it is also clear that the effects go far beyond California.

Remember that under the Clean Air Act, once California passes the regulation, other States can then replicate that to any degree they so choose. This is where it begins to affect a number of other States. The small engine provision in the VA/HUD appropriations bill is a problem for every State and for every Senator who believes individual States should be able to adopt their own rules and regulations on issues such as these. States with serious pollution problems include Texas, Tennessee, Pennsylvania, Illinois, North Carolina, New York, New Jersey, Maryland, and many others know they need to be able to reduce pollution from every possible source. Some States have already moved forward with regulations affecting off-road engines.

This legislation—the underlying bill, as well as the amendment that we understand will be sent to the desk shortly—will cut this off, remove the right from a State and give it to the EPA that historically has been a slow mover in this area.

According to the associations representing State and local pollution control officials, the original version of the small engine provision would have blocked the current program in seven States—Alaska, Connecticut, Massachusetts, Nevada, Texas, and Wisconsin.

The 175-horsepower engine would also block programs in at least eight States that are considering future regulations: Alabama, Illinois, Nebraska, New Jersey, Pennsylvania, South Carolina, Tennessee, and Virginia, in addition to the District of Columbia.

The States recognize this threat to their rights. I have already quoted a letter from Environmental Council of

the States. We have also received letters in opposition to the Bond provision from the National Conference of State Legislatures, the Southeastern State Air Resources Managers representing State air pollution control agencies in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, and the associations representing State and local air pollution control officials from all 50 States.

I ask unanimous consent that the letters from these organizations be printed in the RECORD.

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

SOUTHEASTERN STATES AIR  
RESOURCE MANAGERS, INC.,  
Forest Park, GA, November 20, 2003.

Re Bond Provision of S. 1584—Fiscal Year  
2004 VA, HUD and Independent Agencies  
Appropriations Bill.

Hon. ZELL MILLER,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR MILLER: Southeastern States Air Resource Managers, Inc. (SESARM), representing the directors of the southeastern state air pollution control agencies in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, is writing this letter to encourage your support of the removal of a provision introduced by Senator BOND in S. 1584, the Fiscal Year 2004 VA, HUD and Independent Agencies Appropriations Bill. The provision would amend Section 209(e)(1)(A) of the Clean Air Act to curtail state's authority to reduce emissions from diesel and gasoline off-road equipment and engines.

While Senator Bond's proposed provision regarding the off-road engines apparently was intended to address rules adopted only in California, it will limit the ability of all states to solve serious public health-related air quality problems. Senator Bond's proposal revises a very important provision of the Clean Air Act which allows states to adopt engine emission standards more stringent than the federal standards as long as appropriate federal review processes are followed. Congress wisely put this provision into the Act to give states the ability to deal with serious air quality problems across the country. SESARM opposes the impact of the Bond proposal on this important provision.

Please note that other compromise amendments which fall short of fully restoring Section 209(e)(1)(A) are, in our opinion, unacceptable and will constrain states as discussed above. SESARM and your state air pollution control agency would appreciate your support of removal of the Bond Amendment from S. 1584.

Sincerely,

HON. E. HORNBACK,  
Executive Director.

NATIONAL CONFERENCE OF  
STATE LEGISLATURES,  
Washington, DC, October 29, 2003.

Re S. 1584, FY2004 VA, HUD and Independent  
Agencies Appropriations Clean Air Act  
Amendment.

DEAR SENATOR: On behalf of the National Conference of State Legislatures, I write to urge your support for amendments that would strike a provision of S. 1584 that amends Section 209(e)(1)(A) of the Clean Air Act and curtails state authority to regulate diesel and gasoline off-road equipment and engines. Emissions from off-road sources

contribute to ozone and fine particulate matter pollution. They pose a threat to public health and to state achievement and maintenance of national ambient air quality standards for ozone and particulate matter.

NCSL strongly believes that federal environmental policy should be addressed in substantive committee deliberations and not made through riders to appropriations bills. The amendatory language in S. 1584 would strip states of long-standing authority to exceed federal standards. It compromises state and local government capacity to determine the most effective means to address specific air pollution problems. It also has implications for agriculture and natural resource management none of which are addressed through the use of an appropriations rider.

The Clear Air Act appropriately recognizes that states are best suited to determine which sources, including off-road equipment and engines, contribute most significantly to air pollution and which strategies are most effective in addressing pollution-related problems. I again urge your support of amendments that strike the aforementioned off-road provision from S. 1584. Thank you for your consideration of NCSL's concerns.

Sincerely,

WILLIAM POUND,  
Executive Director.

Mrs. FEINSTEIN. Mr. President, the States also propose compromise language that would still place some of these engines off limits. To quote the letter from the Southeastern States Air Managers:

Please note that other compromise amendments which fall short of fully restoring section 209(e)(1)(a) are, in our opinion, unacceptable and will constrain States as discussed above. This association and your State air pollution control agencies would appreciate your support of removal of the Bond amendment from S. 1584, the HUD VA appropriations bill.

Many other States are just beginning to realize the importance of this small engine provision. As we move forward with more protective air quality standards, more and more States will need to reduce emissions to comply with national standards. Those States will also need to reduce pollution from these very engines because there are so many of them and they are so very dirty. I strongly believe we should protect a State's right to do so.

We should not use this appropriations bill to take rights away from the States without knowing what we are doing, without a hearing, and without review by the authorizing committee.

As I said, this rider is the mother and father of all riders because it authorizes a major reduction in States rights with no hearings whatsoever, no ability to question Briggs & Stratton, and no ability to ask them why they said on their SEC report that this would cause no financial disadvantage to the company, that California is such a small portion of their market, and they would just pass on any additional costs to the consumer.

Why would they tell the Senate or the Senator from Missouri they would move jobs to China if this passed? The statements of Briggs & Stratton make me very suspicious.

The Clean Air Act has long recognized that States with serious air pol-

lution problems need to be able to set strong standards to protect public health. The hard-fought 1990 Clean Air Act amendments give the States the ability to regulate these off-road engines.

With respect to the California regulation, I will work with fire officials, air resources boards, the industry, and the Senator from Missouri to ensure that the final regulation is safe. But I believe it is clear that this should not be a debate about a specific State regulation. That is our problem. We will handle it. California is entirely able and capable of handling this problem. We don't need someone else to tell us what to do.

This is a debate about making sure the States have the flexibility necessary to protect the public health.

It is hard for me to understand why anyone would do this on an appropriations bill when the consequences are so dire, with over 300 premature deaths likely to be caused by worsening air pollution, or if the State moves to further tighten stationary sources and really send a whole magnitude of companies offshore.

I don't think in an appropriations bill we should take well-earned States rights away from every State in this Union to benefit one company. Remember, every other manufacturer of small engines is going along with what California is doing. They have all said they could do it. They have all said they could adapt these standards into their manufacturing. They have all said they could change. They have all said they can add adequate heat shields.

Furthermore, the pollution from these engines under 175 horsepower accounts for 17 percent of California's mobile smog emissions. This is not minor. We are talking about 17 percent of a State that has seven nonattainment areas in it, 17 percent of their pollution, and an Air Resources Board that has accepted the industry's proposal, an industry trade council, to which Briggs & Stratton belongs, submitted a proposal they could live with to the Air Resources Board. The Air Resources Board accepted it. And now Briggs & Stratton is coming back and saying: We do not agree; we will get our Senator to put a rider in a bill—with no hearing, without understanding the consequences that this provision will move the right for every single State to protect its citizens.

That is truly wrong. This morning, I ask my colleagues to stand up for their states rights. I ask them to stand up and protect public health. I ask them to oppose this special provision on this appropriations bill put there to benefit one company when every other company says they can comply.

EXHIBIT 1

[From the Outdoor Power Equipment  
Institute]

OPEI SUCCEEDS IN DRAMATICALLY IMPROVING  
CALIFORNIA EMISSION REGULATIONS

For the last two years, OPEI has been working proactively with the staff of the

California Air Resources Board (CARB) to improve proposed catalyst-based Tier III exhaust standards for wheeled products, as well as new evaporative emission regulations, based on the use of carbon canisters and/or sealed fuel tanks, as well as less-permeable fuel tank materials and fuel lines. On August 8, 2003, CARB staff issued a proposed regulation that would have required wheeled products to install high-efficiency/high-heat generating catalysts in order to meet exhaust standards that were 50% more stringent than the current Tier II standards. CARB's August 8th proposal would also have required all lawn and garden equipment to be subject to shed-based performance testing to demonstrate that the entire piece of equipment complied with an overall evaporative/diurnal emission standard. CARB's August 8th proposal evaporative compliance program and exhaust standard would have: (1) imposed enormous compliance and product integration problems for both engine companies and OEMs; and (2) resulted in significant safety concerns as well, principally because of the substantial heat generated from the high-efficiency catalysts. Through written correspondence, the U.S. Congressional House Committee on Government Reform, the California Fire Chiefs Associations (CFCA), the National Association of State Fire Marshals (NASFM), and the U.S. Consumer and Product Safety Commission (CPSC) have gone on record as strongly opposing CARB's August 8th proposal because of the unresolved safety issues with high-efficiency/high-heat generating catalysts and pressurized fuel systems.

In direct response to OPEI advocacy, the California Air Resources Board (CARB) unanimously adopted on September 25th a modified alternative framework which: (1) relaxes the stringency of CARB Staff's proposed Tier III exhaust standards; and (2) substantially improves the overall general framework for the still-to-be-defined evaporative emission regulations. The CARB Board has adopted industry's proposed exhaust standards which are roughly 25% less stringent for Class I engines (less than 225 cc displacement) and 33% less stringent for Class II engines (greater than 225 cc displacement). Based on an economic study prepared for OPEI, the compliance costs of the industry counterproposal should be roughly one-third less than the costs associated with the August 8th CARB proposal. CARB's August 8th exhaust and evaporative proposed standards would have increased the average compliance cost for lawn mowers by \$106 and the average compliance cost for riding mowers by \$321. CARB's adopted less stringent exhaust and more flexible evaporative program are expected to result in an average total compliance cost increase of \$73 for walk-behind-mowers and \$189 for riding mowers.

The provisions in OPEI/EMA's counterproposal (as generally adopted by the CARB Board) also establish a much more straightforward and less burdensome, design-based (rather than shed-testing) program (for all products other than walk-behind-mowers) to demonstrate compliance with the evaporative requirements. OPEI has also persuaded CARB to allow the use of smaller and less-expensive carbon canisters. The provisions in OPEI's/EMA's counterproposal (as generally adopted by the CARB Board) provide industry with much longer lead-time compared to the August 8th CARB proposal. Specifically, industry has more than five years of additional lead time to achieve the ultimate evaporative emission requirements. This additional lead time should allow manufacturers with adequate time to develop and use new low-permeation barriers (such as co-extruded materials) in constructing their fuel tanks.

The Outdoor Power Equipment Institute (OPEI) is the major international trade asso-

ciation representing the manufacturers and their suppliers of consumer and commercial outdoor power equipment such as lawnmowers, garden tractors, utility vehicles, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers and other related products. Founded in 1952, the Institute is dedicated to promoting the outdoor power equipment industry by undertaking activities that can be pursued more effectively by an association than by individual companies.

## EXHIBIT 2

## AIR RESOURCES BOARD,

*Sacramento, CA, September 26, 2003.*

Hon. CHRISTOPHER S. BOND,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BOND: Thank you for your September 24, 2003, letter commenting on the proposed regulation to reduce pollution from small engines below 25 horsepower. Your letter was received prior to the California Air Resources Board (ARB) public hearing on this regulation, and read by each of my fellow Board members.

Your letter urged the Board to reach "a comprehensive agreement with the entire small engine industry that saves jobs while also protecting the environment and public safety." I'm pleased to report that on September 25, 2003, the Air Resources Board unanimously adopted a revised regulation that I am confident addresses all the issues raised in your letter on behalf of the small engine industry. In particular, the regulation we adopted:

1. Removes any question regarding safety;
2. Results in the use of commonly available technologies which will not require engine redesign;
3. Prevents the possible loss of jobs referred to in your letter; and
4. Achieves nearly the same emission reductions.

The revised regulation is based on proposals we had requested and received in the past two weeks from members of the small engine industry. ARB staff used these proposals to design and include in the regulation two alternative methods of compliance. One of the alternatives closely reflects the proposal of the Engine Manufacturers, Outdoor Power Equipment Institute, and Briggs and Stratton.

The most important feature of the regulatory alternatives we adopted is a less stringent exhaust emission standard (offset by better evaporative emission controls). The new standard will reduce the heat generated by the engine's exhaust. Honda testified that with the revised exhaust emission standards, safety is no longer a concern. A representative of the California Fire Chiefs Association testified the revised regulation appeared to address their concerns. Similarly, a representative of the California Fire Marshall's office told our staff he believes ARB adequately handled the safety issues with the revised regulation. I am confident that the testimony of these experts assures us there will be no new safety issues resulting from implementing this regulation.

No testimony was presented to the Board regarding job losses and plant closures. However, I am aware that Briggs and Stratton has said the company will have to shut down some or all of its plants because major engine redesign would be required to meet California's proposal to reduce small engine emissions. I believe that statement referred to the original proposed regulation and no longer applies. Testimony at our hearing yesterday confirmed that relatively simple changes to engine components would allow these small engines to meet the revised emission standards we adopted. Better hoses

and fuel tanks would prevent fuel vapors from leaking into the atmosphere where they form smog. A simple catalyst, similar to the ones used on over 15 million small motorcycles and mopeds worldwide, would reduce exhaust emissions without creating a heat hazard to the user. The testimony was clear that these simple changes were effective and no engine redesign that might cause job losses would be needed. Honda testified on the record that the regulations would not reduce its employment or production.

I believe the action taken by the ARB is a win-win situation. We achieved our emission reduction goal. The adopted regulation, based on an industry proposal, will reduce costs, simplify compliance and avoid job losses. Fire experts stated there is no safety problem.

As you stated in your letter to me, addressing these issues should obviate the need for Congressional action. We have successfully addressed all the issues you raised. Accordingly, I now request that you remove the expansive state preemption language from the HUD/VA budget bill, so in cooperation with small engine manufacturers, we can get on with the job of protecting the health of 35 million Californians.

Sincerely,

ALAN C. LLOYD, Ph.D.,  
*Chairman.*

## EXHIBIT 3

ENVIRONMENTAL COUNCIL OF THE STATES, STATE AND TERRITORIAL AIR POLLUTION PROGRAM ADMINISTRATORS, ASSOCIATION OF LOCAL AIR POLLUTION CONTROL OFFICIALS,

*October 24, 2003.*

DEAR SENATOR: We write to you today on behalf of the Environmental Council of the States (ECOS), the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) to urge your support for amendments to strike a provision of the VA, HUD, and Independent Agencies FY 2004 appropriations bill that would amend Section 209(e)(1)(A) of the Clean Air Act to curtail states' authority to clean up diesel and gasoline off-road equipment and engines.

Emissions from off-road engines contribute significantly and increasingly to ozone and fine particulate matter (PM<sub>2.5</sub>) pollution and are responsible for a variety of serious public health impacts. As state and local environmental agencies work to develop strategies for attaining and maintaining health-based National Ambient Air Quality Standards for ozone and PM<sub>2.5</sub>, they will look to the regulation of off-road engines as a means for achieving their clean air goals.

The provision in the VA-HUD appropriations bill to amend Section 209 would have broad adverse consequences with respect to the ability of states to seek emission reductions from off-road engines. First, the provision would prevent not only California, but all other states as well, from setting new emission standards or enforcing existing standards for all off-road engines under 175 horsepower (hp), including, among others, those used in lawn and garden equipment, generators, forklifts, airport ground support equipment and mining equipment. Second, the provision would also preclude states from regulating off-road engines above 175 hp if the engines are certified in the same engine "family" as certain off-road engines under 175 hp. Third, the provision would prevent states from pursuing "retrofit" programs to clean up older, dirtier engines. In short, if this provision to amend Section 209 of the Act is retained in the VA-HUD appropriations bill, states' clean air efforts will be

thwarted and they will be forced to seek further, likely less cost effective, reductions in emissions from other sources that are already well controlled, including small businesses.

As the Clean Air Act appropriately recognizes, states are best suited to determine which sources contribute most significantly to air pollution in their respective jurisdictions and which programs will be most effective in addressing their specific problems. ECOS, STAPPA and ALAPCO urge that you support amendments to strike this off-road provision from the VA-HUD appropriations bill and preserve states' rights to pursue healthier air for our nation.

Sincerely,

R. STEVEN BROWN,  
*Executive Director,*  
*ECOS.*

S. WILLIAM BECKER,  
*Executive Director,*  
*STAPPA and*  
*ALAPCO.*

Mrs. FEINSTEIN. Madam President, I thank the Senator from Maryland for her comments. She is a superior ranking member. When she is chairman of the subcommittee, she is a superior chairman of the subcommittee. I do not know any Senator who loves her assignment more than the Senator from Maryland. If we hear one thing from her, it is about her VA-HUD bill. She does a super job. I am just so grateful for her service to our country, to our veterans, and to housing. It has just been exemplary.

I yield the floor.

The PRESIDING OFFICER. Senator CRAIG.

AMENDMENT NO. 2156 TO AMENDMENT NO. 2150

Mr. CRAIG. On behalf of Senator BOND and Senators MCCONNELL, TALENT, CHAMBLISS, MILLER, and CRAIG, I send the Bond amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho, [Mr. CRAIG], for Mr. BOND, Mr. MCCONNELL, Mr. TALENT, Mr. CHAMBLISS, Mr. MILLER, and Mr. CRAIG, proposes amendment numbered 2156 to amendment No. 2150.

The amendment reads as follows:

(Purpose: Clarify the current exemption for certain nonroad agriculture and construction engines or vehicles that are smaller than 50 horsepower from air emission regulation by California and require EPA to develop a national standard)

Page 106, strike lines 16 to 20 and insert in lieu thereof the following:

"Section 209(e)(1) of the Clean Air Act (42 U.S.C. 7543(e)(1)) is amended by—

(a) striking the words "either of"; and  
(b) in paragraph (A), adding before the period at the end the following: ", and any new spark-ignition engines smaller than 50 horsepower".

Not later than December 1, 2004, the Administrator of the Environmental Protection Agency shall propose regulations containing new standards applicable to emissions from new nonroad spark-ignition engines smaller than 50 horsepower."

Mr. CRAIG. I will speak only briefly. I didn't think I had a dog in this fight, only a lawnmower and a weed eater.

Most of what the Senator from California said I agree with. But I also know when you have a large manufac-

turer that builds literally tens of thousands of engines a year spread out across the country and are allied to a variety of tools that are built by other companies, there does need to be uniformity in law.

The amendment requires EPA to establish that kind of uniformity for 50 horse and under. Of course, I can appreciate that. I have dealt with situations before, including when we had the lawsuit over Yellowstone Park. It said that snowmobiles in Yellowstone Park had to meet a certain standard. We said, wait a minute, let's build a standard so all snowmobiles meet, nationwide, both the issue of sound and air pollution.

That is exactly what is happening now. Most industries, when you can build a nationwide uniformity of standard, work obviously to meet it or they go out.

Briggs & Stratton is the last remaining large manufacturer of small engines in the country. I understand that California has made some exceptions, carving out for Honda and others to meet certain compliance issues.

I hope in this amendment we do recognize when you have a producer of this magnitude that sells worldwide and nationwide that we build or work to build uniformity across those standards. I believe that is the intent of the amendment.

The Senator is right, it has been reduced to 50 horsepower and does address EPA, requiring them to address this problem.

Mrs. FEINSTEIN. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mrs. FEINSTEIN. Or we can go back and forth through the Chair if the Senator is in agreement. The problem is that because of the severe conditions in the State, 7 nonattainment zones, this is 17 percent of mobile sources. If we do not deal with it, we cannot meet the clean air standards and we jeopardize our highway funds.

There is the rub, so to speak. States do not have to follow. Clearly, States have followed, a large number of them. I don't know what else to do. Every State's air, as we have discussed with forests, Senator, is different. Pollution comes from different kinds of sources in every State. That is why this ability of a State, particularly one as large as California, fifth largest economic engine on Earth, should have the right to protect its people.

The concern is that EPA, (a) won't move fast enough; (b) will not do enough to severely reduce the pollution to enable California to come within its containment standards.

Mr. CRAIG. Regaining my time in trying to respond to that because I am not the expert in this area and I have not dealt with this issue per se, obviously, I recognize the need of California. Other States have that need. What this amendment does is it addresses EPA to move rapidly into that area to build a uniform national stand-

ard that meets those needs. Of course, EPA does have a broader test when it develops regulation. It does have an economic factor test involved in looking at regulations that some States are not required or simply do not have because they set their own standards.

It is a fine line between allowing States to move forward and developing uniform national standards. There have been exceptions. The Senator has spoken to those exceptions.

When a market has a magnitude of sales large enough, sometimes those exceptions are effectively made and economically companies can survive. In this instance, what we have seen in this particular market, because of costs of retooling, retrofitting, and bringing assembly lines online, oftentimes it is easier to move offshore—not that you will change the requirement—but you can, therefore, build the new plant for less cost, you drive down your costs because of labor, and that is what the Senator from Missouri is concerned about.

He is also concerned about pollution. That is why the amendment addresses EPA and says get at the business of dealing with this 50 horsepower and up issue. That is a major problem.

Mrs. FEINSTEIN. Will the Senator yield?

Mr. CRAIG. I am more than happy to yield.

Mrs. FEINSTEIN. The bulk of our problem, I am told by the Air Resources Board, otherwise I would not know, is under 50 horsepower. So it takes that right away.

Additionally, Senator, I guess what got my dander up, was the SEC filing of a company when they say this is not a financial problem. Actually, the finances drive everything in the country. We know that very well. This is not a financial problem. They will pass on added cost. California is a small part of the market. If the company is saying that is a 10(k) I would tend to believe the 10(k). Wouldn't you?

Mr. CRAIG. Mr. President, regaining my time, I obviously cannot address that issue. I am here for the purpose of introducing the amendment on behalf of Senator BOND. Senator BOND is in markup on surface transportation and will be back to the floor in a while to engage the Senator in these questions, I am sure, and he knows a great deal more about this issue than I.

What I would like to do at this moment, if the Senator from California would accept it, is to lay the amendment aside temporarily for the purpose of the introduction of another amendment, and when Senator BOND gets back to the floor he can bring this amendment back for the purposes of addressing it with the Senator. Would the Senator object to that?

Mrs. FEINSTEIN. Not at all.

Mr. CRAIG. I thank the Senator from California.

I ask unanimous consent that the Bond amendment be set aside.

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

AMENDMENT NO. 2158 TO AMENDMENT NO. 2150

Mr. CRAIG. With that, I send to the desk an amendment for the Senate's consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho, [Mr. CRAIG], for himself, Mr. HARKIN, Mr. COCHRAN, Mr. CONRAD, Mr. CHAMBLISS, Mr. COLEMAN, Mr. CRAPO, Mr. LUGAR, Mr. BREAU, Mr. ROBERTS, and Mr. FITZGERALD, proposes an amendment numbered 2158 to amendment No. 2150.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. CRAIG. Mr. President, I have brought an amendment to the floor today that has been worked on for a long period of time in a bipartisan way, Democrats and Republicans, VA-HUD subcommittee, Senate Agriculture Committee, and others, to deal with pesticide registration and the fees of that registration.

For the last several years, the VA-HUD appropriations bill has, on an analyzed basis, advanced these fees automatically. We have done it through the appropriating process.

The administration basically said let's resolve this issue. A broad coalition of environmental organizations and chemical companies basically came together in the past several months to reach consensus on a permanent pesticide fees package. Through several long hours, an agreement was reached late this summer through a truly bipartisan effort that produced identical legislation in both the Senate amendment I have just sent forward with the 20-plus cosponsors and House H.R. 3188. So the House and Senate are now working in tandem on this issue.

The package includes a unique cross section of support from industry, labor, farmers, and the environmental community. Such groups as the Natural Resource Defense Council, the American Farm Bureau, the Sierra Club, the CropLife America group, and the Northwest Coalition for Alternatives to Pesticides now fully endorse this bill.

Cumulatively, there are over 20 agricultural organizations supporting this amendment, and they have asked for "stable, effective and predictable pesticide regulation" that is explicitly created in this legislation.

The amendment guarantees long-term stable funding to EPA that provides and expedites the pesticide registration process by using a performance-based approach. Additionally, the amendment provides a protection for small business and minor use products while funding efforts to protect workers.

The legislation ensures that EPA use sound science in its evaluation of products, and that existing rigorous standards are maintained, while reducing the timelag between approval and availability of these products to farmers and retailers who sell them.

The amendment is consistent with other user fees legislation, such as the

successful Prescription Drug User Fee Act.

Congress has addressed the pesticide fees issue for several years, as I have mentioned, by simply rolling it over in appropriations bills. But it is truly an issue that deserves the full consideration of all parties involved and finality brought to it. And this amendment offers that.

I had offered it in the subcommittee, but because of our consideration of not dealing with legislation in the subcommittee, we chose, and I chose, to bring it to the floor on behalf of a very broad bipartisan group of Senators.

As in the past, the House and the Senate VA-HUD bills, as I said, spoke to a temporary approach, a 1-year fix for the issue.

Now, of course, I hope we can gain acceptance of this amendment on all sides so that we have a long-term solution so Congress can fully resolve the issue.

My amendment, our amendment, has the same budget impact as the 1-year rider currently in both the House and the Senate 2004 appropriations bills. Now is the time, I do believe, to provide a long-term fix to the pesticide fee program at the EPA by including this consensus legislation on an appropriations bill moving forward.

The diverse stakeholder coalition—from the agricultural industry, environmental groups, workers, and the consumer community—has worked long and hard to forge a consensus and is fully supportive of the terms of this amendment.

So I hope when we get consideration of this—it is possible there may be others who wish to speak to it—that we can bring it on this legislation and adopt it, hopefully, by consensus of the Senate.

Mr. President, I ask unanimous consent to add Senator PRYOR as a cosponsor of my amendment.

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

Mr. CRAIG. I know Senator DORGAN, who supports the initial legislation, has some concern about other issues and is on his way to the floor to speak to those.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, my understanding is that the pending amendment is an amendment offered by Senator CRAIG from Idaho dealing with pesticide registration fees. Is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2159 TO AMENDMENT NO. 2158

(Purpose: To permit the Administrator of the Environmental Protection Agency to register a Canadian pesticide)

Mr. DORGAN. Mr. President, that is a first-degree amendment. I will offer a second-degree amendment. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2159 to amendment No. 2158.

Mr. DORGAN. 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. DORGAN. Mr. President, I have visited with my colleague, Senator CRAIG, about this second-degree amendment. I have also visited with those who are running the Agriculture Committee.

This is an amendment to the pesticide registration fee amendment offered by Senator CRAIG. Let me point out, I support the underlying amendment. I believe it is an important amendment that Senator CRAIG has offered. I intend to vote for it. I will not insist on a vote. In fact, I will ask to withdraw my amendment following my presentation. But I did want to have a dialog with my colleague from Idaho about an issue that is related to the issue of pesticide registration. It deals with the issue of harmonization with Canada, something that was promised when we did the free trade agreement with Canada, that we would harmonize pesticides and herbicide pricing and policies.

The fact is it has not been done. A group of us in the Senate, a bipartisan group, including Senator CRAIG and Senator BURNS, myself, and others, have continued to work on this issue because we have a circumstance on the northern border where chemical prices are substantially different between the United States and Canada, even though in many cases the chemical itself is nearly identical—perhaps tweaked with one piece or another of the formula, but otherwise nearly identical.

For example, a chemical that is put on canola in Canada and then the canola is sent to our country to be crushed at the crushing plant and put into our food supply is a chemical our farmers cannot go get in Canada and bring back, despite the fact this chemical is substantially similar to one used on canola in the United States but is priced much lower in Canada. So we have had this promise of chemical harmonization for some long while dealing with Canada.

The current circumstance we believe is unfair to American farmers. The bipartisan legislation that is in the second-degree amendment I offer gives the EPA 60 days to approve or deny the

registration of a Canadian pesticide if it has similar use and makeup as a pesticide registered in the United States.

It allows the EPA, if the EPA so chooses, to delegate portions of the registration workload to the States to aid the EPA in completing the registration process. But the Environmental Protection Agency, under this approach, is ultimately responsible for this process. According to a study done by the North Dakota State University, we still have significant price disparities between chemicals that are almost identical. If those disparities had been eliminated with harmonization, North Dakota producers would have saved \$20 million last year. That is a substantial amount.

We have worked with State agriculture commissioners in the various States. As I indicated, Republicans and Democrats in the Senate have worked together. As a result of that, we are anxious to move this legislation. We did have a hearing on a different version of it previously. We have now changed that version because of some objections to it. We would like to have a hearing and a markup. I understand there are some perhaps in the industry who do not support this. But on behalf of American farmers, we really need to do it.

I have offered it as a second-degree amendment. I have learned moments ago that the chairman of the Senate Agriculture Committee will commit to doing a hearing on this next February. That is a couple of months away. That is significant progress. I appreciate very much his cooperation, and I know the Senator from Idaho is a member of that committee. My hope would be, although there is not a commitment at this point, that that hearing, in which we demonstrate bipartisan support for this issue, would be followed by a markup. We really do need to move this legislation.

My only purpose for offering the second-degree amendment today is that my colleagues and I are frustrated that we have not been able to get this done previously. There are many reasons for it, but we do need to now take action. That is the purpose of this.

I say to my colleague from Idaho, as a member of the Agriculture Committee, I know he and Senator COCHRAN, leader of the committee, and others believe strongly that we need to have proper hearings on these issues. I know my colleague from Idaho is a strong supporter. I ask him how he feels about this legislation, the second-degree amendment I have offered.

Mr. CRAIG. If the Senator from North Dakota will yield, Mr. President, what the Senator speaks to is a very real problem, especially in border States such as his and mine, where farmers across that line that is often invisible—economically, environmentally, and climatically, but not jurisdictionally, certainly not from a national standpoint—can't understand why a product that appears to be the

same—and as the Senator from North Dakota said, there may be some slight difference because it is not licensed in this country—cannot cross the border and find a substantial savings and bring it back for application on his agricultural crops in the lower 48. Yet product raised in Canada, harvested in Canada, can be trafficked into our markets, refined, and moved into our food stream.

There does clearly need to be a resolution of this problem, from an economic standpoint, from an environmental standpoint, and from a food safety standpoint. That was spoken to in the Canadian free trade agreement, the North American Free Trade Agreement. It is something we ought to resolve.

I am pleased that the chairman of the Agriculture Committee is willing to hold hearings early next year to review it. I will certainly encourage that. I will encourage that we move the next step, to a markup, to resolve this issue once and for all. There are remnants left of difficulties between the United States and Canada in a variety of areas as a result of the free trade agreement. I didn't support that agreement initially, but it is the law of the lands involved: Canada, the United States, and Mexico.

We ought to try to resolve these kinds of difficulties that create great problems. Twenty million dollars spread across the national economy is not so much money; \$20 million in a State such as North Dakota or Idaho, on individual farmers who are, at best, breaking even in some of these crops and in many years below cost of production—that savings in itself is a very substantial reduction in the overall cost of doing business.

That is what harmonization was about: Environmentally, regulatorily, and certainly as a cost of product, and for food safety and all of those things within the food chain. This is an issue that cries out for resolution. I am pleased that the Senator is willing to withdraw his second degree and that that probably then allows us, hopefully, to go forward with the other one, maybe by a voice vote or an acceptance of the chairman and the ranking member of the committee.

I thank the Senator for bringing this issue to the floor. I am certainly an advocate of his position and will work to help him resolve it.

Mr. DORGAN. Mr. President, I thank my colleague from Idaho. He has been a strong supporter of this approach.

Perhaps for the record, I might add what farmers are upset about is the following. We see Canadian grain coming into our country. It is treated with their chemicals but their chemicals are deemed unfit here, not because it has the wrong ingredient or it would be unhealthy for us. It is just the way it is labeled in order to prevent it from being sold in this country.

On the chemical Liberty for use in canola, there is a \$4.40 per-acre price

difference between the United States and Canada for essentially the same chemical.

On Glyphosate, commonly known as Roundup, there is only about a \$2 per-acre price differential; On a chemical Puma, \$11 million more to apply just for North Dakota farmers. The chemical Stinger, which is sold as Lontrel in Canada—both are similar pesticides, use the same active ingredient—there is almost a \$10 per-acre difference between the chemicals. That is what upsets farmers. They see that they can't buy the nearly identical chemicals for \$10 an acre less, but they see the grain come in from Canada that has been treated with the same chemical. That is why the United States-Canada free trade agreement had a provision in it that called for harmonization in these areas, and yet almost no progress has been made. It is why a group of us are trying to do something about it.

I thank my colleague from Idaho and my colleague from Montana and my colleagues on this side of the aisle. I thank Senator COCHRAN, and especially his staff on the Senate Agriculture Committee, on the commitment to hold a hearing, in the next couple of months, on this, in the month of February. Also, my colleague's belief that we need to move along, and he will be pushing for a markup, gives me some hope that we will be able to move this legislation.

Let me conclude by saying again the first-degree amendment offered by my colleague from Idaho is one that is needed. It is very important, and I strongly support it. It provides the fees for pesticide registration. This Congress needs to pass that legislation. I support doing it as a first-degree amendment offered by my colleague from Idaho.

AMENDMENT NO. 2159 WITHDRAWN

Mr. DORGAN. Mr. President, I ask unanimous consent to withdraw my second-degree amendment.

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

Mr. DORGAN. I hope we will adopt the first-degree amendment of my colleague from Idaho by voice vote. Certainly, this appropriations bill is going to become law. Whether it is on the floor of the Senate with action or part of some omnibus bill, this is going to the President for signature. Having my colleague's first-degree amendment part of the bill, doing something that needs to get done now, not later, makes a lot of sense. I am pleased to be supportive of the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, it is my understanding, under the agreement, that Senator BYRD will be on the floor at noon to speak for a period of time. Following that, I understand we will resume consideration of the VA-HUD appropriations bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. Under the previous order, the hour of 12 having arrived, the Senator from West Virginia, Mr. BYRD, shall be permitted to speak for up to 30 minutes.

Mr. CRAIG. That is the order. I understand we will then recess from 12:30 until 2:15 for the purpose of the Democrat policy luncheon.

The PRESIDING OFFICER. The Senator is correct.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. How much time do I have remaining.

The PRESIDING OFFICER. The Senator from West Virginia has 29 minutes remaining.

Mr. BYRD. Mr. President, I thank the Chair. I will not use all of the remaining time.

#### DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. BYRD. Mr. President, on May 22 of this year, 2003, I cast my vote in opposition to the fiscal year 2004 Defense authorization bill. I cast that vote to protest the errant course of the defense establishment in seeking larger and larger regular defense budgets. The budget for the Department of Defense is exploding, even if we do not count the vast sums being used to maintain our troops in Iraq and Afghanistan.

The regular defense budget, not including the costs of the war on terrorism in Afghanistan or the other war, the war in Iraq which we started, has gone up by 31 percent since 2000. I will say that again. The regular defense budget, not including the costs of the war on terrorism in Afghanistan or the other war which we started in Iraq, has gone up by 31 percent since 2000.

In 2000, Congress authorized \$304.1 billion to fund the routine day-to-day operations of our military. The conference report before the Senate today authorizes \$401.3 billion to pay the routine bills for our defense establishment. As I say, I am not even speaking of the costs of Iraq on the one hand or the costs of Afghanistan. So if we were to just ignore Afghanistan and Iraq in looking at the costs of the military, we are authorizing today in the conference report \$401 billion to pay the routine bills for our defense establishment as against the \$304.1 billion that Congress authorized in the year 2000—in other words, roughly \$100 billion more today than we authorized in 2000, just ignoring Iraq, on the one hand, and Afghanistan on the other.

The growth of the so-called peacetime budget of the Department of Defense is expected to continue into the foreseeable future. The Pentagon estimates that it will request \$502.7 billion for routine defense operations in the

year 2009. Think of that. That is more than a half trillion dollars. The Pentagon estimates it will request \$502 billion for routine defense operations in 2009. But a request for half a trillion dollars—as we will be undertaking in 2009—should be anything but routine, especially if not one red cent of those funds would be for any contingency military operation.

Instead, these growing defense budgets are proof that there is no longer any real effort to provide a smarter defense plan that will modernize our forces for the 21st century while eliminating the vestiges of a cold war era military force. Nearly 3 years ago, Defense Secretary Donald Rumsfeld announced he would conduct a series of top-to-bottom reviews of the Pentagon. I lauded him for doing that. I applauded him publicly and in private conversations. I applauded the Secretary of Defense. Those reviews were supposed to get rid of old weapons systems, field new ones, and refocus the defense establishment to get more bang for the taxpayers' buck.

I, along with many others, supported those efforts as announced by the Secretary of Defense. But any hope of modernizing our Armed Forces while maintaining fiscal discipline has gone—gone out the window. The defense transformation effort which began as a frontal assault on irresponsible spending at the Pentagon has been replaced by the quest for flexibility—“flexibility,” the latest buzzword to describe efforts to consolidate greater and greater and greater power into the hands of a select few at the top of the executive branch.

I voted against the Defense authorization bill on May 22 of this year. Why did I do that? I was the only one, the only Senator who voted against it. Why did I do that? I voted against that bill in order to voice my protest to spiraling defense budgets when the American people are expecting smarter spending by their Government, and I will vote against the conference report today to this bill for the very same reason, as well as because it gives rubberstamp approval to consolidating new, broad powers in the Secretary of Defense.

This conference report creates the “National Security Personnel System,” so-called, which gives the Secretary of Defense, Donald Rumsfeld, unchecked powers—unchecked powers to rewrite civil service rules for civilian employees of the Pentagon. The conference report includes sweeping authorities—sweeping authorities to allow the Secretary of Defense, Donald Rumsfeld, to waive landmark environmental protection laws with a stroke of the pen.

The conference report establishes new “flexibilities”—flexibilities for the Pentagon to use to develop and deploy an unproven national missile defense system. That is a sinkhole, a sinkhole for your money, the taxpayers' money.

The conference report grants new

multiyear authority to transfer appropriations—now, get this. Hear me! The conference report grants new multiyear authority to transfer appropriations of unlimited sums. This is not chickenfeed we are talking about. We are talking about unlimited sums of “your money,” the taxpayers' money, from numerous accounts in order to increase spending on Navy cruiser conversions and overhauls.

These are but a few examples of the new powers granted to the executive branch, downtown, at the other end of the avenue, in this bill—this bill. I am not reading from “Alice in Wonderland.” I am reading from this conference report.

Our country continues to be threatened by Osama bin Laden. Our troops are under fire in Iraq in the aftermath of a preemptive war, a preemptive war that we started, a preemptive war that our President, as Commander in Chief, started.

Fie on us, the Congress! For shifting that power to the President last October, last October 11. Twenty-three Senators in this body voted against shifting that power to the President. I was one of those 23. I was against shifting that power to this President or to any President. It doesn't make any difference to me what his politics—what his political party is, or would be, so help me, God. I would stand against that with any President. Fie on us! Only 23 Members in this body stood firm for the Constitution of the United States under which, power to declare war is vested in the legislative branch. Soldiers are fighting and dying half a world away and the wealth of this great country is being diverted from the United States Treasury in order to carry out an experiment in nation building in Iraq.

If there were ever a time to demand more accountability and efficiency in how taxpayer dollars are spent on our military, this is it. But instead of holding the feet of the Secretary of Defense to the fire, Congress gives the Secretary vast new powers to hire and fire workers as he sees fit.

Instead of turning the screws—the screws, instead of turning the screws—on this Defense Secretary to straighten out this mess, the accounting nightmare at the Pentagon, Congress grants the Pentagon more flexibility over how it can use funds appropriated to it. We cut the strings by which Congress limits the use of taxpayers' money. Instead of demanding greater accountability over how our military is preparing to meet the military threats of the coming decades, Congress creates new loopholes. The inescapable conclusion, is that Congress has been distracted from the most important issues facing our military posture. Instead, Congress is asked to take action on peripheral matters, and even then we simply pass the buck by closing our eyes and hoping that the Defense Department can straighten itself out if it is invested with enough new powers and “flexibilities.”

If the leadership of the Pentagon thinks that "defense transformation" means getting Congress to stick its head in the sand, count me out. My idea of transformation means spending smarter to build a stronger military, not turning a blind eye to Executive Branch power grabs.

It is our fault. I can understand how the executive branch seeks to grab power. The executive branch is operating 24 hours a day every day, 365 days a year. Everywhere its imprint is seen throughout the globe, Congress sleeps.

The flexibilities in this bill are the antitheses of accountability. For each new "flexible authority" that Congress hands over to the Secretary of Defense—any Secretary of Defense—Congress signs away one more lever that should be used to compel the Secretary to build a smarter defense plan.

The Commander in Chief beats his chest and throws down the gauntlet, saying, "Bring them on," in front of the TV cameras, but pictures of the fallen dead coming home to Dover are not allowed.

Oh, we don't want to display the pictures of bringing back the caskets at Dover, DE. No. The American people must not see that side of the war. This is a stubborn course that we have chosen that could tie down our forces in Iraq for months and months and months, and years even to come, and it is a course that I oppose today. It is a course I have opposed from the beginning. This ill-advised invasion and occupation of a Middle Eastern country stands to sap—sap—our military power through the attrition of our brave men and women in uniform. The effects of such a toll could affect our national security for decades to come.

The United States cannot afford to shelve—to place on the shelf—efforts to leap forward a generation in military power by investing in a smarter defense plan. If our country does not prioritize efforts to change our military to respond to the asymmetric warfare of the 21st century—whether those threats emanate from North Korea, or a belligerent China, or Iran—the long-term toll of the adventure in Iraq could weaken our military for years to come, just as our Armed Forces were found to be hollow in the years after Vietnam.

I will vote against the conference report to the Defense authorization bill. It transfers vast unchecked powers to the Defense Department while avoiding any break with the business-as-usual approach to increasing defense spending. It dodges the most important issues facing our national defense posture, and I cannot support such a bill.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## RECESS

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

Thereupon, the Senate, at 12:30 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mrs. DOLE).

## NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will proceed to the consideration of the conference report to accompany H.R. 1588, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 1588, an act to authorize appropriations for fiscal year 2004 for military activities for the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 20 minutes equally divided prior to a vote on the conference report.

Mr. REID. Madam President, if the manager will yield, it is my understanding the leadership is going to extend the time for the vote another 10 minutes.

Mr. WARNER. Madam President, the distinguished minority leader is correct that the time has been extended. The vote is to occur, I understand, at 2:45. The 30 minutes intervening is under the control equally of the distinguished Senator from Michigan, Mr. LEVIN, and myself.

Mr. REID. Madam President, I ask consent that that be the order. We have a caucus going on now.

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

Mr. WARNER. Madam President, I encourage any and all Senators who desire to address this bill to avail themselves of the opportunity. To the extent that I have control over the 15 minutes, I am happy to accommodate Senators as they come to the floor.

I yield such time as the distinguished Senator may require. I hope it will be around 5 or 6 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I apologize to our distinguished chairman for not having been down here during this discussion. As he well knows, I chair the Environment and Public Works Committee. I am proud to say we were able to get a bill out, the reauthorization bill. I feel very good about that. It will be coming to the floor. It is a good compromise but it required my attendance.

I want to be on record to say that our chairman and the ranking member have done a very good job. We have

worked closely together during the development of the authorization bill. We are making great headway. We are turning in the right direction. I particularly applaud those who participated in the ultimate compromise that we agreed on having to do with the lease program, the 767s. We all understand we have a crisis in our tanker fleet. Our KC-135s are getting old and there is controversy over how much longer they can be used. Nonetheless, our pilots who are performing this significant mission of refueling need to have the very best. We are addressing that problem.

In the area of TRICARE, we have made some advancements that are long overdue. I know in my State of Oklahoma, we probably have one of the highest populations of retired military, many of them in Lawton and scattered throughout the State. I know there are very serious concerns we have gone a long way to meet.

Environmental issues bother me a great deal, and maybe I am more concerned about what has happened to our ability to train our troops, because I happen to also chair the Environment and Public Works Committee. So we deal with the environmental issues.

But it is very disheartening when you go down to your part of the country and see what has happened in some of the endangered species programs and how we are addressing those.

In Fort Bragg, in Camp Lejeune, for example, we are spending such an inordinate amount of money protecting the suspected habitat of the red-cockaded woodpecker that it is having a very deteriorating effect on our ability to train. This is something that does concern me greatly, and we are starting to address that, I know, in relation to the issue of endangered species. We have clarified the law that is going to perhaps, hopefully, stop some of the injunctions that have been taking place. I think we are making some progress there.

I am glad we are addressing end strength—not as much as I would like to or our chairman would like to because this is a compromise situation, but we have to recognize that we allowed our end strength to deteriorate, in terms of numbers, to the point that we are OPTEMPO of our regular services, we are OPTEMPO for our Guard and the Reserves. It is at an unacceptably high rate.

I do not think there is one Member of this Senate who does not go home and talk to his Guard and Reserve units, only to find out that critical MOS, military occupation specialties, are being lost because they are just overworked. You cannot expect someone who is in a citizens militia to have to be full time. Essentially, that is what is happening right now.

So we are starting to address that, and I think we need to go much further in the future. When I see that we did have a problem all during the 1990s, that I articulated on this Senate floor,