(Mr. LOTT) was added as a cosponsor of S. 501, a bill to provide a grant program for gifted and talented students, and for other purposes.

S.J. RES. 7

At the request of Ms. LANDRIEU, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S.J. Res. 7, A joint resolution proposing an amendment to the Constitution of the United States relative to the reference to God in the Pledge of Allegiance and on United States currency.

S. RES. 48

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. Res. 48, A resolution designating April 2003 as ''Financial Literacy for Youth Month''.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. Res. 62, A resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALEXANDER (for himself, Mr. REID, Mr. GREGG, Mr. SANTORUM, Mr. NICKLES, Mr. INHOFE, Mr. STEVENS, Mr. ENZI, Mr. COLEMAN, Mr. FRIST, Mr. DODD, and Mr. CORNYN):

S. 504. A bill to establish academics for teachers and students of American history and civics and a national alliance of teachers of American history and civics, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American History and Civics Education Act of 2003''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AMERICAN HISTORY AND CIVICS.—The term ''American history and civics'' means the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States.

(2) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the National Endowment for the Humanities.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(4) KEY DOCUMENTS.—The term ''key documents'' means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(5) KEY EVENTS.—The term ''key events'' means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(6) KEY IDEAS.—The term ''key ideas'' means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(7) KEY PERSONS.—The term ''key persons'' means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(8) NONPROFIT EDUCATIONAL INSTITUTION.—The term ''nonprofit educational institution''—

(A) means—

(i) an institution of higher education; or

(ii) a nonprofit educational research center; and

(B) includes a consortium of entities described in subparagraph (A).

(9) STATE.—The term ''State'' means each of the 50 States and the District of Columbia.

SEC. 3. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—From amounts appropriated under subsection (j), the Chairperson shall award grants, on a competitive basis, to nonprofit educational institutions to establish Presidential Academies for Teaching of American History and Civics (in this section referred to as ''Academies'') that shall offer workshops for teachers of American history and civics—

(1) to learn how better to teach the subjects of American history and civics; and

(2) to strengthen such teachers' knowledge of such subjects.

(b) APPLICATION.—

(1) IN GENERAL.—A nonprofit educational institution that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall—

(A) include the criteria the nonprofit educational institution intends to use to determine which teachers will be selected to attend workshops offered by the Academy;

(B) identify the individual the nonprofit educational institution intends to appoint to be the primary professor at the Academy; and

(C) include a description of the curriculum to be used at workshops offered by the Academy.

(c) NUMBER OF GRANTS.—Except as provided in subsection (e)(2)(B), the Chairperson shall award not more than 12 grants to different nonprofit educational institutions under this section.

(d) DISTRIBUTION.—In awarding grants under this section, the Chairperson shall ensure that such grants are equitably distributed among the geographical regions of the United States.

(e) GRANT TERMS.—

(1) IN GENERAL.—Grants awarded under this section shall be for a term of 2 years.

(2) GRANTS AFTER FIRST TWO YEARS.—Upon completion of the first 2-year grant term, the Chairperson shall—

(A) renew a grant awarded under this section to a nonprofit educational institution for one more term of 2 years; or

(B) award a new grant to a nonprofit educational institution having an application approved under this section for a term of 2 years, notwithstanding the 12 grant award maximum under subsection (c).

(f) USE OF FUNDS.—

(1) WORKSHOPS.—

(A) IN GENERAL.—A nonprofit educational institution that receives a grant under this section shall establish an Academy that shall offer a workshop during the summer, or during another appropriate time, for kindergarten through grade 12 teachers of American history and civics—

(i) to learn how better to teach the subjects of American history and civics; and

(ii) to strengthen such teachers' knowledge of such subjects.

(B) DURATION OF WORKSHOP.—A workshop offered pursuant to this section shall be approximately 2 weeks in duration.

(2) ACADEMY STAFF.—

(A) PRIMARY PROFESSOR.—Each Academy shall be headed by a primary professor identified in the application submitted under subsection (b) who shall—

(i) be accomplished in the field of American history and civics; and

(ii) design the curriculum for and lead the workshop.

(B) CORE TEACHERS.—Each primary professor shall appoint an appropriate number of core teachers. At the direction of the primary professor, the core teachers shall teach and train the workshop attendees.

(3) SELECTION OF TEACHERS.—

(A) IN GENERAL.—

(i) NUMBER OF TEACHERS.—Each year, each Academy shall select approximately 300 kindergarten through grade 12 teachers of American history and civics to attend the workshop offered by the Academy.

(ii) FLEXIBILITY IN NUMBER OF TEACHERS.—An Academy may select more than or fewer than 300 teachers depending on the population in the region where the Academy is located.

(B) TEACHERS FROM SAME REGION.—In selecting teachers to attend a workshop, an Academy shall select primarily teachers who teach in schools located in the region where the Academy is located.

(C) TEACHERS FROM PUBLIC AND PRIVATE SCHOOLS.—An Academy may select teachers from public schools and private schools to attend the workshop offered by the Academy.

(g) COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a teacher who attends a workshop offered pursuant to this section shall not incur costs associated with attending the workshop, including costs for meals, lodging, and materials while attending the workshop.

(2) TRAVEL COSTS.—A teacher who attends a workshop offered pursuant to this section shall use non-Federal funds to pay for such teacher's costs of transit to and from the Academy.

(h) EVALUATION.—Not later than 90 days after completion of all of the workshops assisted in the third year grants are awarded under this section, the Chairperson shall conduct an evaluation to—

(1) determine the overall success of the grant program authorized under this section; and

(2) highlight the best grantees' practices in order to become models for future grantees.

(i) NON-FEDERAL FUNDS.—A nonprofit educational institution receiving Federal assistance under this section may contribute non-Federal funds toward the costs of operating the Academy.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2004 through 2007.

SEC. 4. CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—From amounts appropriated under subsection (j), the Chairperson shall award grants, on a competitive basis, to nonprofit educational institutions to establish Congressional Academies for Students of American History and Civics (in this section referred to as ''Academies'') that shall offer workshops for outstanding students of American history and civics to broaden and deepen such students' understanding of American history and civics.

(b) APPLICATION.—

(1) IN GENERAL.—A nonprofit educational institution that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(2) CONTENTS.—An application submitted under paragraph (1) shall—

(A) include the criteria the nonprofit educational institution intends to use to determine which students will be selected to attend workshops offered by the Academy;

(B) identify the individual the nonprofit educational institution intends to appoint to be the primary professor at the Academy; and

(C) include a description of the curriculum to be used at workshops offered by the Academy.

(c) NUMBER OF GRANTS.—Except as provided in subsection (e)(2)(B), the Chairperson shall award not more than 12 grants to different nonprofit educational institutions under this section.

(d) DISTRIBUTION.—In awarding grants under this section, the Chairperson shall ensure that such grants are equitably distributed among the geographical regions of the United States.

(e) GRANT TERMS.—

(1) IN GENERAL.—Grants awarded under this section shall be for a term of 2 years.

(2) GRANTS AFTER FIRST TWO YEARS.—Upon completion of the first 2-year grant term, the Chairperson shall—

(A) renew a grant awarded under this section to a nonprofit educational institution for one more term of 2 years; or

(B) award a new grant to a nonprofit educational institution having an application approved under this section for a term of 2 years, notwithstanding the 12 grant award maximum under subsection (c).

(f) USE OF FUNDS.—

(1) WORKSHOPS.—

(A) IN GENERAL.—A nonprofit educational institution that receives a grant under this section shall establish an Academy that shall offer a workshop during the summer, or during another appropriate time, for outstanding students of American history and civics to broaden and deepen such students' understanding of American history and civics.

(B) DURATION OF WORKSHOP.—A workshop offered pursuant to this section shall be approximately 4 weeks in duration.

(2) ACADEMY STAFF.—

(A) PRIMARY PROFESSOR.—Each Academy shall be headed by a primary professor identified in the application submitted under subsection (b) who shall—

(i) be accomplished in the field of American history and civics; and

(ii) design the curriculum for and lead the workshop.

(B) CORE TEACHERS.—Each primary professor shall appoint an appropriate number of core teachers. At the direction of the primary professor, the core teachers shall teach the workshop attendees.

(3) SELECTION OF STUDENTS.—

(A) IN GENERAL.—

(i) NUMBER OF STUDENTS.—Each year, each Academy shall select approximately 300 eligible students to attend the workshop offered by the Academy.

(ii) FLEXIBILITY IN NUMBER OF STUDENTS.—An Academy may select more than or fewer than 300 eligible students depending on the population in the region where the Academy is located.

(B) ELIGIBLE STUDENTS.—A student shall be eligible to attend a workshop offered by an Academy if the student—

(i) is recommended by the student's secondary school principal (or other head of such student's secondary school) to attend the workshop; and

(ii) will be a junior or senior in a public or private secondary school in the academic year following attendance at the workshop.

(C) STUDENTS FROM SAME REGION.—In selecting students to attend a workshop, an Academy shall select primarily students who attend secondary schools located in the region where the Academy is located.

(g) COSTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a student who attends a workshop offered pursuant to this section shall not incur costs associated with attending the workshop, including costs for meals, lodging, and materials while attending the workshop.

(2) TRAVEL COSTS.—A student who attends a workshop offered pursuant to this section shall use non-Federal funds to pay for such student's costs of transit to and from the Academy.

(h) EVALUATION.—Not later than 90 days after completion of all of the workshops assisted in the third year grants are awarded under this section, the Chairperson shall conduct an evaluation to—

(1) determine the overall success of the grant program authorized under this section; and

(2) highlight the best grantees' practices in order to become models for future grantees.

(i) NON-FEDERAL FUNDS.—A nonprofit educational institution receiving Federal assistance under this section may contribute non-Federal funds toward the costs of operating the Academy.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2007.

SEC. 5. NATIONAL ALLIANCE OF TEACHERS OF AMERICAN HISTORY AND CIVICS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—From amounts appropriated under subsection (e), the Chairperson shall award a grant to an organization for the creation of a national alliance of elementary school and secondary school teachers of American history and civics.

(2) PURPOSE.—The purpose of the national alliance is—

(A) to facilitate the sharing of ideas among teachers of American history and civics; and

(B) to encourage best practices in the teaching of American history and civics.

(b) APPLICATION.—An organization that desires to receive a grant under this section shall submit an application to the Chairperson at such time, in such manner, and containing such information as the Chairperson may require.

(c) GRANT TERM.—A grant awarded under this section shall be for a term of 2 years and may be renewed after the initial term expires.

(d) USE OF FUNDS.—An organization that receives a grant under this section may use the grant funds for any of the following:

(1) Creation of a website on the Internet to facilitate discussion of new ideas on improving American history and civics education.

(2) Creation of in-State chapters of the national alliance, to which individual teachers of American history and civics may belong, that sponsors American history and civics activities for such teachers in the State.

(3) Seminars, lectures, or other events focused on American history and civics, which may be sponsored in cooperation with, or through grants awarded to, libraries, States' humanities councils, or other appropriate entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,000,000 for each of fiscal years 2004 through 2007.

By Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. LIEBERMAN, Mr. SMITH, Mr. KERRY, Mr. ENSIGN, Mrs. CLINTON, Mr. CRAPO, Mr. DORGAN, Ms. COLLINS, and Mr. CHAFEE):

S. 505. A bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes; to the Committee on Finance.

Mr. HATCH. Madam President, I rise today to introduce the CLEAR ACT, which is short for the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2003.

Joining me in this effort are Senators JOHN ROCKEFELLER and JIM JEFFORDS, who have been my partners in this legislation and its earlier versions since the 106th Congress. We are also being joined by an impressive and bipartisan lineup of original cosponsors, which includes Senators OLYMPIA SNOWE, JOHN KERRY, GORDON SMITH, JOE LIEBERMAN, JOHN ENSIGN, HILLARY CLINTON, MIKE CRAPO, BYRON DORGAN, SUSAN COLLINS, and LINCOLN CHAFEE.

I believe the CLEAR ACT is the most comprehensive and effective plan we have seen in this country to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it does so without any new Federal mandates. Instead, it offers powerful market incentives to promote the combination of advances we must have in technology, in infrastructure, and in alternative fuels if our goal of bringing fuel cell vehicles to the mass market is to become a reality.

As many of my colleagues know, fuel cell vehicles are the most promising long-term automotive technology, offering breakthrough fuel economy of up to three times today's levels with zero emissions. For a variety of reasons, the commercial production of fuel cell vehicles is a number of years away. Many things need to change in the automotive marketplace before

widespread use of these vehicles of the future becomes a reality. With the CLEAR ACT, we can achieve this goal much faster, while in the meantime we can reap the benefits of cleaner air and a reduced dependency on foreign oil.

Bridging the gap between today's conventional vehicles and the day when all of us will be driving fuel cell vehicles are alternative fuel and advanced technology vehicles, such as hybrid electrics. These vehicles are available today, but not yet widely accepted in the marketplace.

Currently, consumers face three basic obstacles to accepting the use of these alternative fueled and advanced technology vehicles. These obstacles are the higher cost of these vehicles as compared with their conventional counterparts, the cost of the alternative fuel, and the lack of an adequate infrastructure of alternative fueling stations. Mr. President, the CLEAR ACT would lower all three of these barriers.

First, we provide a tax credit of 50 cents per gasoline-gallon equivalent for the purchase of alternative fuel at retail. This would bring the price of these cleaner fuels much closer in line with conventional automotive fuels. And, to give customers better access to alternative fuel, we extend an existing deduction for the capital costs of installing alternative fueling stations. We also provide a 50-percent credit for the installation costs of retail and residential refueling stations.

Finally, we offer CLEAR ACT credits to consumers who purchase alternative fuel and advanced technology vehicles. These credits would lower the price gap between these cleaner and more efficient vehicles and conventionally fueled vehicles of the same type. To make certain that the tax benefit we provide translates into a corresponding benefit to the environment, we split the vehicle tax credit into two. The amount the consumer receives in a CLEAR ACT credit would depend, first, on the level of technology used in the vehicle and, second, on the fuel efficiency and emissions reduction of the vehicle. In this way, we are confident that the CLEAR ACT will create the greatest social benefit possible for every tax dollar.

The transportation sector in the U.S. accounts for nearly two-thirds of all oil consumption, and we are 97-percent dependent on petroleum for our transportation needs. Is it any wonder that 50 percent of our urban smog is caused by mobile sources? If we want to clean our air and address our Nation's energy dependency, we must focus on the transportation sector. And we must focus first on those technologies and alternative fuels that are already available and abundant domestically. The CLEAR ACT is the shortest path to achieving these goals.

Air pollution and energy independence are issues of critical concern in my home State of Utah. According to a study by Utah's Division of Air Quality, on-road vehicles in Utah account for 22 percent of particulate matter. This particulate matter can be harmful to citizens who suffer from chronic respiratory or heart disease, influenza, or asthma. Automobiles also contribute significantly to hydrocarbon and nitrogen oxide emissions in my State. These two pollutants react in sunlight to form ozone, which in turn reduces lung function in humans and hurts our resistance to colds and asthma. In addition, vehicles account for as much as 87 percent of carbon monoxide emissions. Carbon monoxide can be harmful to persons with heart, respiratory, or circulatory ailments.

While Utah has made important strides in improving air quality, it is a fact that each year more vehicular miles are driven in our State. It is clear that if we are to have cleaner air, we must encourage the use of alternative fuels and technologies to reduce vehicle emissions.

Another key aim of the CLEAR ACT is greater energy independence. Whether during the energy crisis in the 1970s, during the Persian Gulf war, or during our current energy challenge, every American has felt the sting of our dependence on foreign oil. And I might add that our dependency on foreign oil has steadily increased to the point where we now depend on foreign sources for about 60 percent of our oil. When enacted, the CLEAR ACT will play a key role in helping our Nation improve its energy security by increasing the diversity of our fuel options and decreasing our dependency on gasoline.

Our Nation's energy strategy will not be complete without an incentive to increase the use of alternative fuels and advanced car technologies. In the future we will not use gasoline-fueled vehicles to the same extent we do today. The technology is here today to help transform us to the benefits of the future much sooner. We just need to find a way to lower those barriers to widespread consumer acceptance, which will in turn put the power of mass production to work to lower the incremental cost of this technology. In short, our legislation would bring the benefits of cleaner air and energy independence to our citizens sooner.

I am very proud to offer this groundbreaking and bipartisan legislation. It represents the input and hard work of a very powerful and effective coalition the CLEAR ACT Coalition. This coalition includes the Union of Concerned Scientists, Ford Motor Company, the Natural Resource Defense Council, Toyota, Environmental Defense, Honda, the Alliance to Save Energy, the Natural Gas Vehicle Coalition, the Propane Vehicle Council, the Methanol Institute, and others. The CLEAR ACT reflects the untiring effort and expertise of the members of this coalition, and for this we owe them our gratitude.

I urge my colleagues in the Senate to join me, the CLEAR ACT's cosponsors, and this coalition in this forward-looking approach to cleaner air and increased energy independence.

I ask unanimous consent that a summary of the CLEAR ACT be inserted in the RECORD.

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

SUMMARY OF THE CLEAR ACT OF 2003 (CLEAN EFFICIENT AUTOMOBILES RESULTING FROM ADVANCED CAR TECHNOLOGIES)

OVERVIEW

The primary purpose of this bill is to enhance national energy security and promote cleaner air by reducing the consumption of petroleum and advancing alternative fuels. Transportation accounts for nearly ⅔ of all oil consumption and is almost 97 percent dependent on petroleum.

This legislation will set the stage for a consumer-based and technology-led transformation of the transportation marketplace. All major vehicle manufacturers are introducing new technology and alternative fuel vehicles into the marketplace. These new technologies reduce petroleum consumption and improve air quality as a result of breakthrough improvements in fuel economy or from the use of non-petroleum alternative fuels. Accelerated acceptance by consumers of these new technologies is needed to increase production volumes and make them cost competitive with conventional vehicles.

Providing tax incentives for a limited time to consumers will help offset the higher costs associated with new technology and alternative fuel vehicles. As the vehicles gain consumer acceptance and production volumes increase, the cost differential between these and conventional vehicles will be reduced or eliminated.

KEY COMPONENTS OF THE CLEAR ACT

Tax incentives for new technology and alternative fuel vehicles under this legislation go directly to the consumer. These incentives are based both on technology and performance.

Fuel Cell Vehicles. Fuel cell vehicles are the most promising long-term technology offering breakthrough fuel economy of up to 3 times today's levels with zero emissions. The CLEAR ACT offers a $4,000 base credit ($8,000 for fuel cell vehicles placed in service before 2009) along with an additional credit of up to $4,000 depending on fuel economy performance. These credits are available for ten years.

Hybrid Electric Vehicles. Electronics that integrate electric drive with an internal combustion engine offer near-term improvements in fuel economy. The CLEAR ACT offers a credit of up to $1,000 for the amount of electric drive power along with an additional credit of up to $3,000 depending upon fuel economy performance. These credits are available for 6 years.

Dedicated Alternative Fuel Vehicles. Vehicles solely capable of running on alternative fuels promote energy diversity and significant emissions reductions. Natural gas, LPG, and LNG are the most commonly used fuels for dedicated alternative fuel vehicles. The CLEAR ACT provides a base credit of up to $2,500 with an additional $1,500 credit for vehicles certified to ''Super Ultra Low Emission'' (SULEV) standards. ''Flex-fuel'' vehicles are not eligible since they can operate on either gasoline or E85 (ethanol) and are available in the market without any incremental cost.

Battery Electric Vehicles. Vehicles that utilize stored energy from ''plug-in'' rechargeable batteries offer zero emissions and are not dependent upon petroleum-based

fuels. The CLEAR ACT offers a base credit of $4,000 and an incremental credit of $2,000 for vehicles with extended range or payload capabilities.

Medium and Heavy Duty Vehicles. Medium and heavy duty applications of the same vehicle technologies utilized for passenger vehicles offer similar benefits related to energy efficiency, diversity, and emission reductions. The CLEAR ACT offers credits for individual weight categories and amounts vary with the largest vehicles over 26,000 pounds (e.g., large metro busses) receiving up to $40,000 for fuel cell or battery electric, $32,000 for alternative fuel, or $24,000 for hybrid applications.

Alternative Fuel Incentives. Alternative fuels such as natural gas, LNG, LPG, hydrogen, B100 (biomass) and methanol are primarily used in alternative fueled vehicles and fuel cell vehicles. To encourage the installation of distribution points to support these applications, a credit of up to 50 cents for every gallon of gas equivalent is provided to the retail distributor,. This credit is available for 6 years.

Alternative Fuel Infrastructure. Complimentary to the credit for the fuel itself, the CLEAR ACT extends the existing $100,000 tax deduction for 10 years and also provides a 50 percent credit for actual costs of up to $30,000 for the installation of alternative fuel sites available to the public.

BROAD COALITION SUPPORT

A broad and diverse group that includes representatives from the environmental community, automobile manufacturers, and alternative fuel groups support the CLEAR ACT. Environmental coalition support comes from the Union of Concerned Scientists, Natural Resources Defense Council, Environmental Defense, and the American Council for an Energy Efficient Economy. Ford Motor Company, Honda, and Toyota are among the key automotive industry supporters. Industry coalitions include the Natural Gas Vehicle Coalition, the Propane Vehicle Council, the American Methanol Institute, and the Electric Drive Transportation Association.

By Mr. DURBIN (for himself, Mrs. CLINTON, Mr. KENNEDY, and Mr. SCHUMER):

S. 506. A bill to amend the Richard B. Russell National School Lunch Act to ensure the safety of meals served under the school lunch program and the school breakfast program; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Madam President, today I am introducing legislation that would dramatically improve the safety of food served in our Nation's schools. This bill, known as the Safe School Food Act, would fill gaps in the inspection, testing, procurement and preparation of food served to our schoolchildren, and provide school officials with the necessary tools and information to help them prevent food-borne illness among our most vulnerable population.

Each day, more than 27 million children eat meals provided through the National School Lunch Act. Despite increased attention in recent years to the safety of food provided to schoolchildren, there is evidence of serious problems with our school lunch system—between 1990 and 2000, there were nearly 100 reported outbreaks of food-borne illness in our schools affecting thousands of children, with several outbreaks resulting in significant health consequences. Since food-borne illness is preventable, these statistics indicate we are not doing enough to protect our children's health when they consume food served at our schools.

Currently, 17 percent of the food served in schools is donated by the Federal Government and undergoes stringent U.S. Department of Agriculture food-safety standards for inspections and pathogen testing. Suppliers' food safety records also are reviewed before they are granted contracts to provide food to the USDA donated commodity program. However, the remaining 83 percent of food consumed at schools is purchased locally and is not subject to these more stringent USDA donated commodity standards. State education officials also do not have access to the safety records of food suppliers to make the same informed decisions as their counterparts at the Federal level.

If a tainted product enters the food supply, it is often difficult for local education officials to quickly determine if they have that food in their schools' kitchens due to a complex web of food manufacturers, distributors, and brokers who deal with schools. A food producer's tainted food may be repackaged by a distributor, leaving a school unaware it is serving the product. And many Americans may be surprised to discover that our Federal food agencies do not even have the authority to mandate the recall of contaminated food in schools. Such recalls are currently voluntary.

The Safe School Food Act would address these gaps in our School Lunch Program and provide schools with the tools and information on how to more safely purchase and prepare food served to our children.

Improving Inspections: This legislation will ensure stringent inspection and pathogen testing for USDA meat, poultry, seafood, eggs, and produce donated to the School Lunch Program, and gives the USDA Secretary the authority to require similar pathogen testing as necessary for foods purchased directly by the schools. Cafeterias also would be inspected more frequently, inspection exemptions would be eliminated, and those inspection reports would be made available to the public.

Purchasing Safe Food: By incorporating USDA food safety guidelines in their procurement contracts to the maximum extent possible, schools will have the tools to help ensure the safety of the food they serve. And by providing State education officials with food-safety histories of the companies they purchase from, schools can make more informed decisions in the purchasing process.

Planning and Serving Safe Meals: The USDA will provide training and assistance to schools in the preparation of required plans to address the food-safety risks of meals they prepare.

Providing Notice and Recalling Unsafe Food: Each State will have an up-to-date list of the vendors and suppliers who provide food to their schools to enable easier tracking of food that may be tainted. If a food product that has been distributed to schools is found to be unsafe, the USDA Secretary will have the authority to require a mandatory recall of the product if voluntary efforts are unsuccessful. Designated food safety coordinators in each State will assist with recalls, as well as safety training and information-sharing issues.

Mr. President, I urge my colleagues to join me in this effort to improve the safety of the food served in our schools. The health of our schoolchildren is at stake.

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

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

S. 506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe School Food Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the national school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) is a federally-assisted meal program that—

(A) operates in more than 97,000 public and nonprofit private schools; and

(B) provides nutritionally balanced, low-cost or free lunches to more than 27,000,000 children each school day;

(2) children are among the populations most vulnerable to foodborne illness, which sickens an estimated 76,000,000 individuals in the United States each year;

(3) nearly 100 reported outbreaks of foodborne illnesses occurred in schools between 1990 and 2000;

(4) Department of Agriculture procurement policies and procedures—

(A) help ensure the safety of foods donated to schools, which comprise about 17 percent of the school lunch supply; but

(B) do not apply to the remaining 83 percent of food served under the national school lunch program, which is purchased locally by schools;

(5) it is essential to maintain public confidence in—

(A) the safety of the food supply in the schools of the United States; and

(B) the ability of the Federal Government and State governments to exercise adequate oversight of foods served in the schools of the United States; and

(6) public confidence can best be maintained by—

(A) improving Department of Agriculture procurement and testing standards, and extending the standards, to the maximum extent practicable, to foods purchased by schools;

(B) preparing and implementing plans to prevent identified food safety risks in the preparation of school meals; and

(C) improving food safety training, information sharing, and coordination between the Federal Government and States.

SEC. 3. IMPROVEMENTS TO THE SAFETY OF SCHOOL LUNCHES.

Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended—

(1) in subsection (h)—

(A) in paragraph (1)—

(i) by striking ''Except as provided in paragraph (2), a'' and inserting ''A'';

(ii) by striking ''shall, at least once'' and inserting the following: ''shall—

''(A) at least twice'';

(iii) by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(B) post the report on the most recent inspection in a publicly visible location; and

''(C) make the report available to the public on request.'';

(B) by striking paragraph (2) and inserting the following:

''(2) STATE AND LOCAL GOVERNMENT INSPECTIONS.—Nothing in paragraph (1) prevents any State or local government from adopting or enforcing any requirement for more frequent food safety inspections of schools.''; and

(C) by adding at the end the following:

''(3) AUDITS AND REPORTS BY STATES.—Each State shall annually audit and submit to the Secretary a report on the food safety inspections of schools conducted under paragraphs (1) and (2).

''(4) AUDIT BY THE SECRETARY.—The Secretary shall annually audit State reports of food safety inspections of schools submitted under paragraph (3).''; and

(2) by adding at the end the following:

''(k) PROCUREMENT OF SAFE FOODS.—

''(1) ACTION BY SCHOOL FOOD AUTHORITIES.—Subject to paragraph (3), the Secretary shall require that a school food authority incorporate into the procurement contracts of the school food authority, to the maximum extent practicable, provisions to help ensure the safety of foods purchased by schools for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

''(2) RULEMAKING BY THE SECRETARY.—Not later than May 1, 2004, the Secretary shall promulgate final regulations to implement paragraph (1) that require—

''(A) each vendor that provides food products to be served by a school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to supply to the Secretary the name and contact information for each school food supplier of the vendor; and

''(B) as appropriate, pathogen testing during production of foods described in that paragraph.

''(3) GUIDANCE.—The Secretary shall provide guidance to school food authorities on ensuring the safety of food purchases not subject to the regulations promulgated under paragraph (2).

''(l) FOOD SAFETY PLANNING.—

''(1) IN GENERAL.—Each school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall monthly prepare a plan that assesses—

''(A) the food safety risks inherent in the preparation and serving of meals; and

''(B) the appropriate methods to prevent or eliminate the identified food safety risks.

''(2) TRAINING AND TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—The Secretary shall provide training and technical assistance to State educational agencies to assist in preparation of the food safety plans required by paragraph (1).

''(B) USE OF FOOD SERVICE MANAGEMENT INSTITUTE.—In carrying out subparagraph (A), the Secretary shall use, to the maximum extent practicable, a food service management institute established under section 21(a)(2).

''(m) AUTHORITY TO RECALL FOOD PRODUCTS SERVED IN SCHOOL MEALS.—

''(1) DEFINITIONS.—In this subsection:

''(A) CLASS I RECALL.—The term 'Class I recall', with respect to a food product, means a recall that involves a health hazard situation where there is a reasonable probability that the use of, or exposure to, the food product will cause serious, adverse health consequences or death.

''(B) FOOD PRODUCT.—The term 'food product' means a commodity donated to, or a food product purchased by, a school for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

''(2) VOLUNTARY ACTIONS.—If the Secretary finds that there is a reasonable probability that human consumption of a food product that was, or may have been, distributed to schools would present a threat to public health, the Secretary shall provide each appropriate person (as identified by the Secretary) that prepared, processed, distributed, or otherwise handled the food product with an opportunity—

''(A) to recall and collect the food product;

''(B) to provide to the Secretary a list of individuals to whom the food product was sold or distributed; and

''(C) in consultation with the Secretary, to provide timely notification of the finding of the Secretary to the State food safety coordinator designated under section 12(q) of each State in which the food product was, or may have been, distributed, which notification shall include sufficient information to identify the affected food product.

''(3) MANDATORY ACTIONS.—

''(A) ORDER.—If any appropriate person identified by the Secretary under paragraph (2) does not carry out the actions described in that paragraph within the time period and in the manner required by the Secretary, the Secretary shall, by order, require, as the Secretary determines to be necessary, the person—

''(i)(I) to cease immediately distribution of the food product to schools; and

''(II) to promptly recall and collect the food product;

''(ii) to provide immediately to the Secretary a list of individuals to whom the food product was sold or distributed; and

''(iii) to make immediately the notification described in paragraph (2)(C).

''(B) INFORMAL HEARING.—The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of issuance of the order, on the actions required by the order.

''(C) VACATING OF ORDER.—If, after providing an opportunity for a hearing under subparagraph (B), the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(4) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—In the case of an activity under paragraph (2) or (3) carried out with respect to a food product regulated under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), the Secretary shall coordinate with the Secretary of Health and Human Services to ensure that the activity is carried out.

''(5) NOTIFICATION TO SCHOOLS AND VENDORS.—

''(A) PROVISION OF VENDOR CONTACT INFORMATION TO STATE EDUCATIONAL AGENCY.—Not later than August 1, 2004, and as appropriate thereafter, a school that participates in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall provide to the appropriate State educational agency current contact information for each vendor, and each school food supplier of the vendor, that will provide food products to be served by the school.

''(B) NOTIFICATION BY STATE EDUCATIONAL AGENCIES.—

''(i) IN GENERAL.—A State educational agency that receives notification under paragraph (2)(C) or (3)(A)(iii) with respect to a food product shall, within 24 hours after receipt of the notification, notify each vendor and each school to which the food product was, or may have been, distributed.

''(ii) CONTENTS OF NOTIFICATION.—The notification shall include—

''(I) the finding of the Secretary under paragraph (2); and

''(II) sufficient information to identify the affected food product.

''(C) ACTION BY VENDORS ON RECEIPT OF NOTIFICATION.—Each vendor that receives notification under paragraph (2)(C), paragraph (3)(A)(iii), or subparagraph (B) shall—

''(i) immediately cease distribution of the food product; and

''(ii) isolate the affected product to avoid accidental distribution.

''(D) ACTION BY SCHOOLS ON RECEIPT OF NOTIFICATION.—Each school that receives notification under paragraph (2)(C), paragraph (3)(A)(iii)), or subparagraph (B) shall—

''(i) immediately cease serving the food product; and

''(ii) isolate the affected product to avoid accidental use.

''(6) NOTIFICATION TO THE PUBLIC.—

''(A) IN GENERAL.—If a State educational agency finds that a food product subject to a Class I recall has been consumed under a program operated by a school under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the State educational agency shall provide public notification in accordance with subparagraph (B).

''(B) CONTENTS OF NOTIFICATION.—The notification shall include—

''(i) the finding of the Secretary under paragraph (2); and

''(ii) sufficient information to identify the recalled food product and the date when and location where the recalled food product was served.

''(7) ENFORCEMENT.—

''(A) IN GENERAL.—A violation of this subsection may be prosecuted, as applicable—

''(i) by the Secretary under—

''(I) section 12 of the Poultry Products Inspection Act (21 U.S.C. 461);

''(II) section 406 of the Federal Meat Inspection Act (21 U.S.C. 676); or

''(III) section 12 of the Egg Products Inspection Act (21 U.S.C. 1041); or

''(ii) by the Secretary of Health and Human Services under section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333).

''(B) NO EFFECT ON STATE PROSECUTIONS.—Nothing in this paragraph prevents a State from prosecuting any violation of State law.

''(n) INFORMATION SHARING ON FOOD SAFETY LAW COMPLIANCE.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish an advisory committee (referred to in this subsection as the 'Committee') to assist in establishing an information-sharing database, or implementing another method, to provide each State food safety coordinator designated under section 12(q) and other appropriate persons with up-to-date information regarding food safety concerns relating to food manufacturing, processing, and packing facilities that produce any food purchased or acquired for a program under this Act or the

school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including recalls by and enforcement actions against the facilities.

''(2) COMPOSITION.—The Committee shall include representatives of—

''(A) school food authorities;

''(B) State educational agencies;

''(C) State agricultural agencies;

''(D) consumer groups;

''(E) State public health officials; and

''(F) food manufacturing, processing, and packing facilities.

''(3) COMPENSATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), a member of the Committee shall not receive any compensation for the service of the member on the Committee.

''(B) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Committee.

''(4) TECHNICAL ASSISTANCE.—The Secretary shall provide for the availability to each State food safety coordinator of training and technical assistance on use of any database or method described in paragraph (1).

''(5) REPORT.—Not later than May 31, 2004, the Committee shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing actions taken to carry out this subsection.

''(6) FUNDING.—Section 715 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2003 (Public Law 108–7), and any successor section, shall not apply to expenses of the Committee.''.

SEC. 4. DESIGNATION OF STATE FOOD SAFETY COORDINATORS.

Section 12 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

''(q) DESIGNATION OF STATE FOOD SAFETY COORDINATORS.—Each State educational agency shall designate an individual to serve as the State food safety coordinator to ensure within the State the safety of food served under a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).''.

SEC. 5. PROCEDURES AND ACTIONS TO ENSURE THE SAFETY OF DONATED COMMODITIES.

Section 14 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in the first sentence of subsection (d)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) require, at a minimum, for any commodity that is used under a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773)—

''(A) daily inspection under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) of any donated commodity that is covered by—

''(i) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

''(ii) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.); or

''(iii) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

''(B) daily inspection of any seafood commodity that is covered by the inspection program carried out by the National Marine Fisheries Service under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

''(C) quarterly, on-site audits under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) of each establishment that produces a donated fresh or processed fruit or vegetable.'';

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following:

''(g) ACTIONS TO ENSURE THE SAFETY OF DONATED COMMODITIES.—With respect to commodities purchased by the Secretary for a program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall—

''(1) in the case of ground uncooked meat products—

''(A) collect samples at least 4 times per day during production; and

''(B) conduct at least daily composite testing for compliance with the microbiological limits established by the Secretary on—

''(i) Escherichia coli (E. coli) O157:H7 in effect on October 1, 2002; and

''(ii) Salmonella in effect on October 1, 2002, unless the Secretary develops a more appropriate scientific and health-based standard;

''(2)(A) collect and test samples at least 4 times per day during production from food contact surfaces of ready-to-eat meat and poultry product plants; and

''(B) if the result of a test under subparagraph (A) is positive for Listeria spp., conduct product sampling for compliance with the microbiological limit on Listeria monocytogenes issued by the Secretary on May 23, 1989 (54 Fed. Reg. 22345); and

''(3) reject any lot of food products that fails to meet the requirements of paragraph (1) or paragraph (2), as applicable.''.

By Ms. SNOWE (for herself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. KERRY, Mr. SMITH, and Mr. REID):

S. 507. A bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings; to the Committee on Finance.

Ms. SNOWE. Madam President, I rise today to introduce the EFFECT Act, the Energy Efficiency through Certified Technologies Act, which has bipartisan support as I am pleased to be joined by cosponsors Senator FEINSTEIN of California, Senator MCCAIN of Arizona, Senator KERRY of Massachusetts, Senator GORDON SMITH of Oregon, and Senator REID of Nevada.

As a member of the Finance Committee, I strongly believe that we must develop responsible tax credit incentive policies that will increase the efficiencies of the homes we build and live in and the buildings in which we work. We did an admirable job last year providing sound tax incentives in the omnibus energy bill, and it is regrettable that bill did not get out of conference and these incentives are not available for our consumers to use. That is especially true as the storm clouds gather in the Middle East and the price of oil, for instance, reaches $40 a barrel.

This bill provides tax incentives for advanced levels of energy efficiency and peak power saving technologies in the buildings in which we live, work, and learn. Buildings consume some 35 percent of energy nationwide and are responsible for the emissions of a comparable percentage of pollution; importantly, they account for more than one-half of the Nation's energy costs.

Incentives provided through the tax system are necessary to complement existing energy efficiency policies at the Federal and State levels. The issue is, incentive programs already being operated cannot provide multiyear commitments of money. Such commitments are absolutely vital in inducing industries to invest in these technologies. The 1-year commitments that are offered by many current programs are insufficient to promote dramatic new energy efficiency technologies even when they are very cost effective.

Our goal in introducing the legislation is to accelerate the commercial success of technologies that are already cost effective but are currently impeded by market barriers. These barriers can be overcome by financial incentives. Savings of up to 50 percent add up to reductions in climate pollution emissions of 65 million metric tons of carbon annually after 10 years, accompanied by consumer energy bill reductions of $30 billion per year and the creation of almost 500,000 new jobs as well as stimulation in the growth of small businesses.

The bill provides for a 6-year—and, in some cases, 3-year—sunset for the incentive. Incentives are provided for commercial buildings both new and remodeled, including schools and other public buildings and rental housing; for air-conditioning, heating, and water heating equipment which can reduce peak power demand quickly; for new homes and the retrofitting of existing homes; and for solar electricity.

The incentives provided for in this legislation are based on three principles: One, independent third-party certification is required so that energy savings are certified and the Government is getting real energy savings for the tax money invested; two, the incentives are workable, not bureaucratic, and are built on programs that have already been shown to work with minimal bureaucratic intervention or effort; and, three, the incentives sunset in order to provide a transition to a market system that already promotes energy efficiency.

The incentives are performance-based so that the consumer and producer have the motivation to reduce costs and to introduce new technologies to achieve energy goals in more cost-effective ways than existing technologies. The documentation required for certification has value in the marketplace in allowing property markets to reflect enhanced property values based on energy efficiency.

Many American homes, for instance, were built years before energy-efficient technologies were developed. This is certainly true in an older State such as

my home State of Maine and an incentive for a retrofit such as simply putting in certifiable high-energy-efficient doors and windows, such a low-emissivity glass, will save a great deal of energy loss because of the huge amount of seepage that now occurs through the existing windows.

This bill will also leverage cost-effective investments in saving peak powers as well as energy—110,000 megawatts after 10 years. It is one of the few public policies that can be enacted that can help avert peak power shortages in the next 4 or 5 years. It will lower energy costs for consumers and businesses and promote competition and innovation.

The bottom line is, we have the opportunity to raise the bar for our future domestic energy systems. Solutions exist in available technologies, and most of all in the entrepreneurial spirit of the American people. I look forward to working with the chairmen of the Finance Committee, as I did last year, to mark up tax incentives that reflect the provisions of this legislation, and with the Energy Committee chairmen to further our Nation's energy efficiency goals that will save on our energy usage—and this will be reflected in the energy bills consumers must pay—and thus allow us to use less electricity, and less oil and natural gas to produce that energy.

I am pleased to be joined by Senators representing States throughout the country and urge others to seriously consider this legislation and join us in working towards our goal for achieving greater energy efficiency in the near future.

Mrs. FEINSTEIN. Madam President, I rise in support of the Efficient Energy through Certified Technologies Act which I have cosponsored along with Senator OLYMPIA SNOWE of Maine.

The EFFECT Act will provide tax incentives to encourage homeowners and businesses to improve the energy efficiency of their buildings and equipment. This legislation will stimulate the economy, cut energy bills, reduce energy usage, and reduce pollution.

This bill was originally introduced in the 107th Congress to address the Western energy crisis which, as we all know, created exorbitantly high prices for power and rolling blackouts. This legislation incorporates improvements based on last year's Senate energy tax bill.

While conditions in the West have improved because there are more plants coming online and families and businesses have reduced their energy usage, it is important to take steps to continue to increase our energy efficiency and reduce energy consumption.

Simply put, there are only two things one can do when there is not enough power to go around: increase supply or decrease demand.

Without a doubt, the quickest way to address future demand and supply imbalances is to provide incentives to increase energy efficiency to reduce demand.

This bill creates economic incentives for Americans to increase energy efficiency by establishing the following tax deductions and tax credits for commercial and residential properties using specific energy efficient technologies:

A tax deduction of $2.25 per square foot for newly constructed or remodeled commercial buildings, including schools and other public buildings as well as rental housing, that achieve a 50-percent reduction in total annual energy costs, compared to existing national standards.

A $2,000 tax credit to builders of new homes that use 50 percent less energy than a national model standard.

A performance-based tax credit of as much as $6,000 for installing solar technology.

A tax credit of as much as $300 if businesses install a super-efficient, new electric heat pump, a new central air-conditioner, or a new gas or electric water heater.

A tax credit of as much as $500 if homeowners, tenants, or landlords retrofit their homes to achieve a 30 percent or 50 percent reduction in annual energy costs.

The benefits of increasing energy efficiency are immense.

First, increasing energy efficiency will cut heating, cooling, and electricity costs. Homeowners and businesses spend over $250 billion each year on heat, air-conditioning, and related energy costs for their businesses and homes. If we can reduce energy costs by increasing energy efficiency, money will be freed to fuel the economy in other areas and create new jobs. Furthermore, increasing energy efficiency will reduce the impact of future energy price spikes that harm families and businesses. And the incentives will cause businesses to invest in producing more efficient equipment and services beginning immediately after the bill is enacted.

Second, increasing energy efficiency will reduce air pollution. Energy generation to heat, cool, and light our homes and offices produces 35 percent of the air pollution emitted nationwide. If we increase efficiency, then less energy will be needed to power our buildings, and consequently, we will be able to reduce emissions from powerplants.

Third, increasing energy efficiency will help maintain the reliability of our Nation's electricity supply. Since most of our peak electricity demand comes from heating, cooling, or lighting needs, increasing energy efficiency will lower the probability of blackouts or brownouts.

In fact, with this legislation in place, peak electricity demand in the summer would be reduced by tens of thousands of negawatts nationwide after a decade—or the equivalent output produced by hundreds of large powerplants.

This could result in over 10,000 MW of savings over the summer just in our State and much more on the Western grid that California shares with neighboring States.

Meanwhile, this legislation will also create a market for firms to develop more energy-efficient products, such as air-conditioners, heat pumps, lighting equipment, windows, insulation, water heaters, and solar panels.

Just think how conditions could have improved in California during the Western energy crisis if we had been able to reduce our energy consumption instead of purchasing power at exorbitant rates from out-of-State suppliers.

According to the Department of Energy, California is already one of the most energy-efficient States in the Nation—ranking fourth in overall energy efficiency and second in electricity efficiency.

Nevertheless, Californians responded to the crisis and further increased their energy efficiency. This legislation will take energy efficiency to the next level and create the opportunity for all families and businesses nationwide to make energy efficient improvements.

Instead of waiting for the next energy emergency to occur, we should take steps now to reduce energy consumption across the board.

The bill introduced in the 107th Congress had the support of California Governor Gray Davis, the California Energy Commission, the Sacramento Municipal Utility District, the Natural Resources Defense Council, Union of Concerned Scientists, the California Building Industry Association, most California utilities and many other organizations and businesses. We expect similar widespread support for the bill we are reintroducing today.

This bill is an important step to help reduce demand. It provides financial incentives to offset some of the costs of building new energy-efficient buildings and homes, and improving existing structures to make them more energy efficient.

I urge my colleagues to support this important legislation.

By Mrs. FEINSTEIN (for herself, Mr. FITZGERALD, Mr. LUGAR, Mr. HARKIN, Ms. CANTWELL, Mr. WYDEN, and Mr. LEAHY):

S. 509. A bill to modify the authority of the Federal Energy Regulatory Commission to conduct investigations, to increase the penalties for violations of the Federal Power Act and Natural Gas Act, to authorize the Chairman of the Federal Energy Regulatory Commission to contract for consultant services, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Madam President, yesterday the State of California submitted a filing to the Federal Energy Regulatory Commission which provides a wholesale indictment of energy companies and shows how a number of energy firms engaged in deceptive trading practices to drive up prices in the Western Energy Market. I have called on FERC to make this evidence public

and I want to reiterate my request again.

I am also introducing a bill with Senators FITZGERALD, HARKIN, LUGAR, CANTWELL, WYDEN, and LEAHY to close a loophole which allows energy trades to take place electronically, in private, with no transparency, record, audit trail or any oversight to guard against fraud and manipulation.

But before I reintroduce this bill, I want to reiterate the important revelations that have been uncovered in the past year and detail what we know about yesterday's filing at FERC.

Last week I came to the floor to update the Senate on recent evidence of fraud and manipulation in the energy sector. Today I want to pick up where I left off and introduce the Energy Market Oversight Act.

Mr. President, I draw my colleagues' attention to a filing made at FERC. This ''Public Version'' is a 27-page summary of the filing with confidential information removed, but it provides a detailed overview of the fraud and manipulation carried out by energy companies during the Western energy crisis.

In addition to testimony by expert witnesses, 348 exhibits, transcripts of depositions, tapes of trader telephone conversations, emails, and other data, the California parties submitted a 161-page brief to FERC. The document I have inserted into the RECORD includes the Table of Contents, the Introduction and Overview, and the Conclusion of this 161-page document. To be clear, it is part, but not all of the brief filed by the State of California.

Mr. President, the filing submitted by the State of California yesterday shows that there was an extensive and coordinated attempt by energy companies to engage in the following schemes to drive up prices in the Western Energy Market:

1. Withholding of Power—driving up prices by creating false shortages;

2. Bidding to Exercise Market Power—suppliers bid higher after the California ISO declared emergencies, knowing the State would need power and be willing to pay any price to get it;

3. Scheduling of Bogus Load, aka ''Fat Boy'' or ''Inc-ing''—suppliers submitted false load schedules to increase prices;

4. Export-Import Games, aka ''Ricochet or ''Megawatt Laundering''—suppliers exported power out of California and imported it back into the State in an attempt to sell power at inflated prices;

5. Congestion Games, aka ''Death Star''—suppliers created false congestion and were then paid for relieving congestion without moving any power;

6. Double-Selling—suppliers sold reserves, but then failed to keep those reserves available for the ISO;

7. Selling of Non-Existent Ancillary Services, aka ''Get Shorty''—suppliers sold resources that were either already committed to other sales or incapable of being provided;

8. Sharing of Non-Public Generation Outage Information—the largest suppliers in California shared information from a company called Industrial Information Resources that provided sellers detailed, non-public information on daily plant outages;

9. Collusion Among Sellers—sellers were jointly implementing or facilitating Enron-type trading strategies;

10. Manipulation of the Nitrous Oxide (NO_X) Emission Market—sellers manipulated the market for NO_X emissions in the South Coast Air Quality Management District through a series of wash trades that created the appearance of a dramatic price increase that may have been fabricated. For example, Dynegy, together with AES and others, entered into a series of trades of NO^x credits in July and August of 2000 by which Dynegy would sell a large quality of credits and then simultaneously buy back a smaller quantity of credits at a higher per credit price.

We can assume that the thousands of pages filed by the California parties at FERC detail these examples of market abuse. At this point we cannot know all of the instances because the specifics remain confidential, but we have plenty to go on.

Yesterday I wrote another letter to FERC Chairman Pat Wood asking the Commission to lift its ''Protective Order'' to make this information public so that families and businesses harmed during the Western Energy Crisis can know the extent of fraud and manipulation that occurred.

I believe the filing yesterday presents a key decision for FERC. Clearly the Commission cannot ignore this mountain of new evidence submitted—especially since it comes at a time when other disclosures have been made to show pervasive fraud and manipulation in the Western Energy Market.

Last month Jeffrey Richter, the former head of Enron's Short-Term California energy trading desk, pled guilty to conspiracy to commit fraud as part of Enron's well known schemes to manipulate Western energy markets. Richter's plea follows that of head Enron trader Tim Belden in the fall of 2002. Belden admitted that he schemed to defraud California during the Western energy crisis and also plead guilty to conspiracy to commit wire fraud.

The Enron plea came on the heels of FERC's release of transcripts from Reliant Energy that reveal how their traders intentionally withheld power from the California market in an attempt to increase prices. This is one of the most egregious examples of manipulation and it is clear and convincing evidence of coordinated schemes to defraud consumers.

Let me read just one part of the transcript to demonstrate the greed behind the market abuse by Reliant and its traders.

On June 20, 2000 two Reliant employees had the following conversation that reveals the company withheld power from the California market to drive prices up:

Reliant Operations Manager 1: ''I don't necessarily foresee those units being run the remainder of this week. In fact you will probably see, in fact I know, tomorrow we have all the units at Coolwater off.'' (The Coolwater plant is a 526 Megawatt plant.)

Reliant Plant Operator 2: ''Really?''

Reliant Operations Manager 1: ''Potentially. Even number four. More due to some market manipulation attempts on our part. And so, on number four it probably wouldn't last long. It would probably be back on the next day, if not the day after that. Trying to uh . . .''

Reliant Plant Operator 2: ''Trying to shorten supply, uh? That way the price on demand goes up.''

Reliant Operations Manager 1: ''Well, we'll see.''

Reliant Plant Operator 2: ''I can understand. That's cool.''

Reliant Operations Manager 1: ''We've got some term positions that, you know, that would benefit.''

Six months after this incident, as the Senate Energy Committee was attempting to get to the bottom of why energy prices were soaring in the West, the President and CEO of Reliant testified before Congress that the State of California ''has focused on an inaccurate perception of market manipulation.''

Reliant's President and CEO went on to say, ''We are proud of our contributions to keep generation running to try to meet the demand for power in California. Reliant Energy's plant and technical staffs have worked hard to maximize the performance of our generation.''

These transcripts prove otherwise and reveal the truth about market manipulation in the energy sector.

Despite this clear and convincing evidence of fraud, on January 31 of this year, the Federal Energy Regulatory Commission chose to only give Reliant a slap on the wrist for this behavior. The company paid only $13.8 million to sweep this criminal behavior under the rug and settle with FERC.

Let me turn to some other recent examples that demonstrate how other energy companies manipulated the Western Energy Market as Reliant did. On December 11th, FERC finally released audio tapes that show how traders at Williams conspired with AES Energy plant operators to keep power offline and drive prices up.

The tapes depict how on April 27, 2000, Williams outage coordinator Rhonda Morgan encouraged an AES operator at the company's Alamitos plant to extend a plant outage because the California grid operator was paying ''a premium'' for power at the time. The Williams employee stated, ''that's one reason it wouldn't hurt Williams' feelings if the outage ran long.''

Later that day, Eric Pendergraft, a high-ranking AES employee called to confirm with Ms. Morgan that Williams wanted the plant to stay offline by saying, ''you guys were saying that it might not be such a bad thing if it took us a little while longer to do our work?'' ''I don't want to do something underhanded,'' Ms. Morgan responded, ''but if there is work you can continue to do . . .'' At this point Mr. Pendergraft interrupted to cut off their suspicious conversation, saying, ''I understand. You don't have to talk anymore.''

Clearly, this is evidence of a calculated intent to withhold power to raise prices. I find it unconscionable.

Let's turn to some other examples.

On January 27, 2003, Michelle Marie Valencia, a 32-year-old former senior energy trader for Dynegy was arrested on charges that she reported fictitious natural gas transactions to an industry publication.

On December 5, 2002, Todd Geiger, a former vice president on the Canadian natural gas trading desk for El Paso Merchant Energy, was charged with wire fraud and filing a false report after allegedly telling a trade publication about the prices for 48 natural gas trades that he never made in an effort to boost prices and company profit.

These indictments are just the latest examples of how energy firms reported inaccurate prices to trade publications to drive energy prices higher.

Industry publications claimed they could not be fooled by false prices because deviant prices are rejected, but this claim was predicated on the fact that everyone was reporting honestly—which we now know they weren't doing.

CMS Energy, Williams, American Electric Power Company, and Dynegy have each acknowledged that its employees gave inaccurate price data to industry participants. On December 19th Dynegy agreed to pay a $5 million fine for its actions.

In September an Administrative Law Judge at FERC issued a landmark ruling concluding that El Paso Corporation withheld natural gas from California and recommended penalty proceedings against the company. Since the El Paso Pipeline carries most of the natural gas to Southern California, this ruling has tremendous implications. The FERC Commissioners are expected to take up this case for a final judgement soon.

These have been the latest revelations in a series of energy disclosure bombshells that began on Monday, May 6th when the Federal Energy Regulatory Commission posted a series of documents on their website that revealed Enron manipulated the Western Energy Market by engaging in a number of suspect trading strategies.

These memos revealed for the first time how Enron used schemes called ''Death Star,'' ''Get Shorty,'' ''Fat Boy,'' and ''Ricochet'' to fleece families and businesses in the West.

The filing made yesterday to FERC shows how other companies did engage in these Enron-type trading strategies. The brief submitted by the State of California and others states that suppliers ''were jointly implementing or facilitating Enron-type trading strategies.''

Let us turn to other types of fraudulent trades that many energy firms have admitted to.

Dynegy, Duke Energy, El Paso, Reliant Resources Inc., CMS Energy Corp., and Williams Cos. all admitted engaging in false ''round-trip '' or ''wash trades.''

What is a ''round-trip'' trade, one might ask?

''Round-trip'' trades occur when one firm sells energy to another and then the second firm simultaneously sells the same amount of energy back to the first company at exactly the same price. No commodity ever actually changes hands, but when done on an exchange, these transactions send a price signal to the market and they artificially boost revenue for the company.

How widespread are ''round-trip'' trades? Well, the Congressional Research Service looked at trading patterns in the energy sector over the last few years and reported, ''this pattern of trading suggests a market environment in which a significant volume of fictitious trading could have taken place.''

Yet, since most of the energy trading market is unregulated by the government, we have only a slim idea of the illusions being perpetrated in the energy sector.

Consider the following recent confessions from energy firms about ''round-trip'' trades:

Reliant admitted 10 percent of its trading revenues came from ''round-trip'' trades. The announcement forced the company's President and head of wholesale trading to both step down.

CMS Energy announced 80 percent of its trades in 2001 were ''round-trip'' trades.

Remember, these trades are sham deals where nothing was exchanged, yet the company booked revenues from the trades.

Duke Energy disclosed that 1.1 billion dollars-worth of trades were ''round-trip'' since 1999—roughly two-thirds of these were done on InterContinental Exchange, which means that thousands of subscribes would have seen these false price signals.

A lawyer for J.P. Morgan Chase admitted the bank engineered a series of ''round-trip'' trades with Enron.

Dynegy and Williams have also admitted to this round-trip trading.

And although these trades mostly occurred with electricity, there is evidence to suggest that ''round-trip'' trades were made in natural gas and even broadband.

By exchanging the same amount of a commodity at the same price, I believe these companies have not engaged in meaningful transactions, but deceptive practices to fool investors and possibly drive energy prices up for consumers.

It is therefore imperative that the Department of Justice, FERC, the SEC, the Commodities Futures Trading Commission and every other oversight agency conduct an aggressive and vigorous investigation into all of the energy companies who participated in Western Energy Market.

Beyond that I believe Congress must re-examine what tools the government needs to keep a better watch over these volatile markets that are little understood. In the absence of vigilant government oversight of the energy sector, firms have the incentive to create the appearance of a mature, liquid, and well-functioning market, but it is unclear whether such a market exists.

The ''round-trip'' trades, the Enron memos, and the filing at FERC raise questions about illusions in the energy market.

To this end, I believe it is critical for the Senate to act soon on the legislation I offered last April to regulate online energy trading.

I am re-introducing this legislation to subject electronic exchanges like Enron On-Line to the same oversight, reporting and capital requirements as other commodity exchanges like the Chicago Mercantile Exchange, the New York Mercantile Exchange and the Chicago Board of Trade.

I am pleased Senator FITZGERALD, Senator HARKIN, Senator LUGAR, Senator CANTWELL, Senator WYDEN, and Senator LEAHY have again signed on to this legislation. I am proud of the work we did in the 107th Congress and I hope we can complete action on this bill soon.

Without this type of legislation, there is insufficient authority to investigate and prevent fraud and price manipulation since parties making the trade are not required to keep a record.

Right now, energy transactions are regulated by the Federal Energy Regulatory Commission (FERC) when there is actual delivery.

For example, if I buy natural gas from you, and you deliver that natural gas to me, FERC has the authority to ensure that this transaction is transparent and reasonably priced.

However, many energy transactions no longer result in delivery. A giant loophole has opened where there is no government oversight when these transactions are done on internet exchanges.

In 2000, Congress passed the Commodity Futures Modernization Act in 2000 which exempted energy and metals trading from regulatory oversight and excluded it completely if the trade was done electronically.

So today, as long as there is no delivery, there is no price transparency. Again, this lack of transparency and oversight only applies to energy. It does not apply if you are selling wheat or pork bellies or any other tangible commodity.

And it did not take long for Enron Online, and others in the energy sector, to take advantage of this new freedom by trading energy derivatives absent any regulatory oversight.

Thus, after the 2000 legislation was enacted, Enron OnLine began to trade energy derivatives bilaterally without being subject to proper regulatory oversight. It should not surprise anyone that without the transparency, prices soared.

Just yesterday Warren Buffett published a warning in Fortune Magazine saying that ''Derivatives are financial weapons of mass destruction.'' In his annual warning letter to shareholders about what worries him about the financial markets, Warren Buffett called derivatives and the trading activities that go with them ''time bombs.''

In the letter, Warren Buffett states, ''In recent years some huge-scale frauds and near-frauds have been facilitated by derivatives trades. In the energy and electric utility sectors, for example, companies used derivatives and

trading activities to report great 'earnings'—until the roof fell in when they actually tried to convert the derivatives-related receivables on their balance sheets into cash.''

We clearly saw this with Enron.

Was Enron and its energy derivative trading arm, Enron-On-Line the sole reason California and the West had an energy crisis? No.

Was it a contributing factor to the crisis? I certainly believe that it was. Unfortunately, because of the energy exemptions in the 2000 CFMA, which took away the CFTC's authority to investigate, we may never know for sure.

In the 107th Congress, this legislation was debated during consideration of the Senate Energy Bill and it was the subject of a hearing in the Agriculture Committee, but time ran out before the legislation could be marked up and passed.

Since that time, Senators LUGAR and HARKIN have made significant improvements to the legislation and we have added stronger penalties for market abuse and wrongdoing.

Today I am pleased to note that the following companies and organizations are supporting this legislation:

The National Rural Electric Cooperative Association,
The Derivatives Study Center,
The American Public Gas Association,
The American Public Power Association,
The California Municipal Utilities Association,
The Southern California Public Power Authority,
The Transmission Access Policy Study Group,
The U.S. Public Interest Research Group,
The Consumers Union,
The Consumers Federation of America,
Calpine,
Southern California Edison,
Pacific Gas and Electric, and
FERC Chairman Pat Wood.

I ask unanimous consent that the letters of support from these organizations and companies be printed in the RECORD.

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

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, DC, February 21, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for bringing to my attention your proposed legislation on, inter alia, the penalty provisions in the Federal Power Act (FPA) and the Natural Gas Act (NGA), refund provisions in the FPA, and federal oversight of financial transactions involving energy commodities. Your amendment would expand the penalties allowed under the FPA and NGA, and also allow oversight by the Commodity Futures Trading Commission (CFTC) of financial transactions involving energy commodities.

I support your proposed changes to the FPA and NGA. Increased penalty authority will help ensure compliance with the requirements of these statutes. Also, your proposed changes to the FPA refund provisions will allow greater protection of utility customers.

Finally, you know how strongly I feel about customers having access to the broadest range of useful market information. Greater transparency is needed in energy markets. Thus, I support providing for, or clarifying, CFTC or other Federal regulatory oversight of trading platforms that are relied on for price discovery. However, the details of your proposed changes to the Commodity Exchange Act would be better addressed by the CFTC or others and I would defer to them with respect to any changes to the Commodity Exchange Act.

Best regards,

PAT WOOD III,
Chairman.

PG&E CORPORATION,
San Francisco, CA, January 8, 2003.

Hon. THAD COCHRAN,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR COCHRAN: Congratulations on your assumption of the Chairmanship of the Agriculture, Nutrition, and Forestry Committee. We are writing to communicate our support for an important bipartisan legislative proposal considered by the Committee last year to provide oversight of energy derivatives trading markets.

As you know, the Committee considered last summer a proposal introduced by Senator Feinstein and co-sponsored by Senators Harkin and Lugar, S. 2724, to repeal the current exemption of energy derivatives trading from the jurisdiction of the Commodity Futures Trading Commission (''CFTC''). The proposal was similar to legislation offered earlier in the year by Senator Feinstein as an amendment to the Senate Energy Bill. Enclosed for your information is a letter that was sent from our corporation to Senator Feinstein last year concerning her amendment.

The legislation, which we hope Congress will consider again this year, would re-establish authority over energy derivatives trading to the CFTC, which has the most relevant oversight capability, having regulated such trading prior to 2000. As a market participant, we believe that Senator Feinstein's legislation will encourage transparency of market information and ensure market stability, which in turn would enable market participants to better manage risk, reduce price volatility for electricity consumers and preserve ultimately the viability of this marketplace.

We appreciate your considering our views on this important issue, and look forward to working with you in the 108th Congress.

Sincerely,

DAN RICHARD,
Senior Vice President, Public Affairs.

CALPINE,
San Jose, CA, February 5, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing to let you know of Calpine's continuing support for additional oversight of certain energy derivative markets, as intended by the legislation you plan to introduce again this year. While we do not believe that energy trading was a primary cause of the California energy crisis, we do believe there is a crisis of confidence in the energy markets and that your legislation will assist in restoring much needed public confidence in the energy sector.

Specifically, we support the bill's strengthening of the CFTC's anti-fraud and anti-manipulation authority and its provision for increased cooperation and liaison between the CFTC and the FERC. We are also pleased that your legislation addresses concerns about the oversight and transparency of electronic trading platforms. It is important that such facilities, which play a significant price discovery role in the energy trading markets, be subject to appropriate reporting and oversight by the CFTC.

However, I also understand that typical over the counter bilateral trading operations, such as those that operate from a trading desk where various potential counterparties are separately contacted by phone or email, are not intended to be treated as electronic trading facilities under your bill. This is an important distinction and one that may need further clarification as the bill proceeds through the legislative process.

Calpine would like to thank you for your leadership in advocating reasonable measures to ensure the integrity of important energy trading markets and we stand ready to provide you with any information or assistance that you may need.

Sincerely,

JOSEPH E. RONAN, Jr.,
Senior Vice President,
Government and Regulatory Affairs.

EDISON INTERNATIONAL,
Rosemead, CA, February 4, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for asking Edison International for our views on your Exempt Commodities Transactions Act, soon to be reintroduced in the 108th Congress. As you know, Edison shares your concern over manipulation of the California electricity market by some market participants, which contributed to the serious problems the state faced from out-of-control energy prices. Your legislation would provide transparency in the electricity derivatives trading market, an industry that is currently exempted from regulation under the Commodity Futures Modernization Act of 2000 (CFMA).

I support your legislation, with a suggestion for your consideration to further refine it. Our company and others use energy derivatives trading to protect and hedge the revenue from our power plants. This is in contrast to companies that conduct middleman financial trading with no or few power plants and trade to make money on financial arbitrage. There should be guidance in the final language which recognizes the difference between these two types of businesses, particularly regarding further capital requirements. Otherwise companies that trade in order to hedge physical assets may be required to pay twice—once in order to obtain capital for the assets and a second time in order to meet any capital requirements to back their trades.

Thank you again for your efforts on behalf of California consumers and businesses.

Sincerely,

JOHN E. BRYSON,
Chairman, President and
Chief Executive Officer.

AMERICAN PUBLIC GAS ASSOCIATION,
Fairfax, VA, January 22, 2003.

Re amending the Commodities Exchange Act.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building, U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The American Public Gas Association (APGA) is very pleased that you and Senator Lugar have again taken the lead to amend the Commodity Exchange Act (CEA). The provisions you propose, which amend the CEA, are significant steps towards ensuring that natural gas prices are determined in a competitive and informed marketplace. We applaud your efforts to undo special exclusions and exemptions granted in the closing hours of the

106th Congress, especially when those exclusions and exemptions were specifically rejected by the Senate Agriculture Committee.

The Commodity Futures Trading Commission (CFTC) plays a front-line role in promoting a competitive natural gas marketplace. Closing the gaps that impede effective federal oversight of the natural gas marketplace is essential in order to foster competitive commodity futures markets and protect market users and the public from fraud, manipulation, and abusive practices. APGA fully supports your provisions to clarify and restore the CFTC's ability to monitor activity in off-exchange, or over-the-counter (OTC), derivatives markets that trade substantial volumes of natural gas derivatives. Your limited and measured steps ensure a fair balance between free market activities and the necessary protections from bad conduct, which undermines the confidence and integrity of market participants and consumers.

Eliminating those special exclusions and exemptions, which were already rejected three years ago in the committee of jurisdiction, will help the CFTC meet its obligation to make sure that no important trading activities fall between the cracks leaving some energy markets without a federal agency with oversight authority. The consumers served by public gas utilities across the country will benefit from your efforts because they are less likely to be victimized by activities that occur in a market where the CFTC exercises oversight.

Again, public gas utilities and the hundreds of communities that we serve commend you for your thoughtful and deliberate leadership on this very important issue. While there may be some who will oppose this amendment, one need not look far to see whether the opposition is looking out for the best interests of Wall Street or Main Street. We pledge to work with you in any way we can to pass this much-needed amendment. Please let me know how I can assist you.

Sincerely,

BOB CAVE,
President.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, DC, March 4, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the American Public Power Association (APPA), I want to express support for the intent and thrust of your legislation entitled the ''Energy Market Oversight Act'' and to commend you for your leadership in addressing these important consumer protection issues.

APPA represents the interests of more than 2,000 publicly owned electric utility systems across the country, serving approximately 40 million citizens. APPA member utilities include state public power agencies and municipal electric utilities that serve some of the nation's largest cities. However, the vast majority of these publicly owned electric utilities serve small and medium-sized communities in 49 states, all but Hawaii. In fact, 75 percent of our members are located in cities with populations of 10,000 people or less.

It is my understanding that your legislation would provide the Commodity Futures Trading Commission (CFTC) with jurisdiction over trading in energy derivatives and other financial products. APPA is particularly supportive of language in your bill that would increase the Federal Energy Regulatory Commission's (FERC) ability to investigate market manipulation and penalize such behavior.

Some of APPA's members may have concerns regarding the impact the bill may have on public power, and I look forward to working with you and your staff in an effort to resolve these concerns. I would also like to join the California Municipal Utilities Association (CMUA) in raising an issue that I believe is consistent with the intent of your bill. CMUA has attempted to get the California ISO to do a benchmarking study comparing their costs to other ISOs throughout the United States. The California ISO has informed CMUA that they cannot conduct such a study because they cannot get the information from other ISOs. To address this problem, while keeping with your bill's goal of increasing transparency, I would use you to add a provision to the bill that would require FERC to gather such information as is necessary from each ISO to compare their cost of services on an annual basis.

APPA looks forward to working with you and your staff on this legislation and other issues in the 108th Congress.

Sincerely,

ALAN H. RICHARDSON,
President and CEO.

NEW YORK MERCANTILE EXCHANGE,
New York, NY.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: As a result of concerns surrounding the Enron bankruptcy, numerous congressional committees, regulators, and financial institutions are closely examining the broad impact of the collapse on American markets, investors and employees. Much attention has been paid to corporate governance, financial and accounting standards, and market practices, with considerable focus on the energy marketplace. On behalf of the New York Mercantile Exchange, Inc. (''NYMEX'' or the ''Exchange''), we wish to applaud your efforts to bring more accountability and greater transparency to this nation's vitally important energy marketplace.

NYMEX is the world's largest forum for the trading and clearing of energy futures contracts. As a federally chartered marketplace, it is overseen by the independent federal regulatory agency, the Commodity Futures trading Commission (''CFTC''). NYMEX serves a diverse domestic and international customer base by bringing price transparency, market neutrality, competition and efficiency to energy markets, and provides businesses with the financial tools to deal with market uncertainty.

After studying your legislative proposal, we have concluded that it is very worthy of support for the following reasons:

The proposal would refine the definition of trading facility as applied to energy derivatives markets and would further require that any such market not otherwise regulated by the CFTC would be accountable to them.

In addition, the proposal would give the CFTC vitally important tools to monitor such markets, including large trader reporting and net capital standards.

The proposal would also ensure that the CFTC has the authority and ability to obtain access to information critical to market oversight and to make market information public to the extent that the Commission determines that it is in the public interest to do so.

With numerous reports of reduced confidence in market integrity in the wake of the Enron bankruptcy, never has it been more important to restore faith in the great American resource, our competitive markets. S. 517's provisions relating to addressing regulatory gaps in the CFTC regulatory ''umbrella'' can provide an important and meaningful improvement in market oversight, and is an important step in building faith and confidence in a competitive energy marketplace.

We strongly support your efforts to enhance market transparency and accountability, and we look forward to working with you in this important endeavor.

Sincerely,

VINCENT VIOLA,
Chairman.
J. ROBERT COLLINS,
President.

SOUTHERN CALIFORNIA
PUBLIC POWER AUTHORITY,
February 28, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the Southern California Public Power Authority (SCPPA), I would like to express our support for your proposed legislation, the ''Energy Market Oversight Act,'' which would provide more authority to the Federal Energy Regulatory Commission (FERC) and the Commodity Futures Trading Commission (CFTC) to oversee the trading in energy derivatives and other financial transactions and to investigate and punish market manipulation.

SCPPA is a non-profit, joint action agency formed in 1980 to represent the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon; and the Imperial Irrigation District. The community-owned utilities that make up SCPPA's membership serve approximately five million citizens from northern Los Angeles County to the Mexican border.

We support the intent of your legislation because we believe it will enhance safeguards for consumers and foster a more fully functioning competitive market. As you are well aware, lack of effective market monitoring and market transparency combined to allow for manipulation of the markets, to the extreme detriment of California consumers. We believe that federal legislation that promotes more effective monitoring and remedies for fraud and market abuses will improve the climate for investment in new generation, increase consumer confidence, and reduce market volatility.

We are encouraged that this legislation increases the civil and criminal penalties for manipulation, allows for prompt investigatory action by FERC, and allows for an earlier refund effective date when rates are not ''just and reasonable.'' We think these actions will provide an improved regulatory deterrent, as well as a means for swift and complete refunds to consumers.

SCPPA commends you for taking a leadership role on these critical issues and looks forward to working with you to address a few issues of particular concern to our municipal utility members.

Sincerely,

BILL CARNAHAN,
SCPPA Executive Director.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Arlington, VA, January 29, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I would like to take this opportunity to express the appreciation of the National Rural Electric Cooperative Association for our efforts to restore transparency and integrity to the energy markets. We are pleased that you have introduced legislation with Senators Lugar, Harkin, Fitzgerald and others (the Energy Market Oversight Act) that reestablished the ability of the Commodity Futures Trading Commission to police all energy derivatives

markets for fraud and commodity price manipulation.

Today, consumers and investors have little confidence that the energy markets are operating fairly and for the benefit of all. Much blame for the current crisis in confidence can be placed on the so-called ENRON exemption, adopted in 2000, as part of the legislation that deregulated the over-the-counter derivatives market for energy commodities.

The legislation created a gap in the regulation of energy derivatives where price and trade manipulation can occur unchecked by adequate regulatory oversight. Although the Commodity Futures Trading Commission (CFTC) has authority to prosecute fraud and price manipulation that occurs on the commodity exchanges, the CFTC has no clear authority to pursue violations of the Federal anti-fraud and anti-manipulation laws in the over-the-counter energy market.

Energy derivatives contracts, whether traded on well-regulated commodities exchanges or in the over-the-counter market, play an important role in determining the costs and availability of electricity and other energy products to consumers. But, consumers suffer when much of the market for energy derivatives lacks transparency and operates without accountability for manipulation and fraud, which is the case for the over-the-counter markets.

Recent headlines underscore the need for this important legislation. The news has been filed with the indictments of energy traders for manipulation of the energy markets and admissions by energy companies that they have engaged in deceptive market practices, including wash trades on an unregulated over-the-counter exchange.

Consumer-owned electric co-ops now purchase more than 50% of their electric power on the market and are exposed to the risks that an unstable market creates. As the representative of America's 900 consumer-owned electric co-op utilities, the NRECA believes that it is vitally important to restore confidence in the energy markets by ensuring that market participants have access to reliable and credible information.

Your legislation represents an important step in creating more transparent energy markets. I want to thank you for your leadership on this critical issue and offer the support of America's electric cooperatives in this effort to restore credibility to the nation's energy markets. We look forward to working with you and your staff to improve the legislation as it moves forward.

Sincerely,

GLENN ENGLISH,
Chief Executive Officer.

WASHINGTON, DC,
February 7, 2003.

DEAR SENATOR FEINSTEIN: We are writing to express our support for the Energy Market Oversight Act being offered by yourself and Senators Lugar, Cantwell and Leahy. This important legislation will assure that over-the-counter derivatives markets in ''exempt'' commodities such as energy will be covered by federal prohibitions on fraud and manipulation. This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, ''energy markets are in severe financial distress.'' Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Derivatives are highly leveraged financial transactions, and this allows investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

Derivatives are often combined into highly complex structured transactions that are difficult—even for seasoned securities traders and finance professionals—to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact of the level of trust in energy markets.

This legislation would help ensure that over-the-counter derivatives markets operate with proper federal oversight which will make the markets more stable and transparent. It is appropriate to place this oversight authority with the Commodity Futures Trading Commission which, as the principal federal regulator of derivatives transactions since its founding in 1975, will provide oversight, surveillance and enforcement of anti-fraud and anti-manipulation laws. The CFTC has the experience to handle these complex financial transactions and to develop the best rules to implement these protections. The legislation also requires the cooperation of the Federal Energy Regulatory Commission, the entity charged with overseeing the energy markets, in providing a stable and honest market for the investing public.

At a time when these energy markets are deeply distressed and the investing public looks skeptically at derivatives trading and firms engaged in derivatives trading, we should take decisive steps to ensure that the public is protected from Enron-like abuses. This amendment is just such a step, and we support it.

Thank you for introducing this important legislation.

Sincerely,

ADAM J. GOLDBERG,
Policy Analyst, Consumers Union.
MARK N. COOPER,
Director of Research, Consumer Federation of America.
EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.
RANDALL DODD,
Director, Derivatives Study Center.

TRANSMISSION ACCESS
POLICY STUDY GROUP,
February 25, 2003.

Re Energy Market Oversight Act.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: I understand that you will be introducing shortly a stand-alone bill, entitled The Energy Market Oversight Act, which is similar to the amendment you offered last season to S. 517, the Energy Policy Act of 2002. This bill would, among other things, place derivative products for energy under the jurisdiction of the Commodities Future Trading Commission (CFTC), and enhance the Federal Energy Regulatory Commission's (FERC) remedial and penal authority.

On behalf of the Transmission Access Policy Study Group (TAPS), I would like to express our support for the policy objective of your proposed legislation: better protecting consumers from manipulation in the volatile energy markets. We look forward to working with you to refine the bill as it moves through the legislative process. Expanding the CFTC and FERC role in preventing and redressing energy market abuses is one of a number of avenues for enhanced consumer and market power protection that should be included if an electricity title moves forward this year. TAPS representatives would like to sit down with your staff and discuss the details of your bill and related matters, when convenient.

The other key related components of any electricity title are (i) strong consumer protections, as were offered in the Cantwell amendment (SA 3234) to the Energy Policy Act of 2002, (ii) expanding FERC's merger review authority as was done in S. 517, (iii) a strong market transparency requirement, and (iv) further strengthening FERC powers to remedy and penalize abuses of market power and market manipulation. Finally, we would strongly urge you to oppose repeal of the Public Utility Holding Company Act this year. Repealing PUHCA would lead to massive consolidation in the industry, increasing dramatically opportunities for manipulation of the market.

Very truly yours,

ROY THILLY,
TAPS Chairman.

Mrs. FEINSTEIN. Mr. President, here is an explanation of what this bill does: It applies anti-fraud and anti-manipulation authority to all exempt commodity transactions—an exempt commodity is a commodity which is not financial and not agricultural and mainly includes energy and metals.

The bill sets up two classes of swaps. For those made between ''sophisticated persons,'' basically institutions and wealthy individuals, that are not entered into on a ''trading facility''—for example, an exchange—anti-fraud and anti-manipulation provisions apply and wash trades are prohibited.

The following regulations would apply to all swaps made on an ''electronic trading facility'' and a ''dealer market'', which includes dealers who buy and sell swaps in exempt commodities, and the entity on which the swap takes place: anti-fraud and anti-manipulation provisions and the prohibition of wash trades apply; if the entity on which the swap takes place serves a pricing or price discovery function, increased notice, reporting, bookkeeping, and other transparency requirements; and the requirement to maintain sufficient capital commensurate with the risk associated with the swap;

Except for the anti-fraud and anti-manipulation provisions, the CFTC has the discretion to tailor the above requirements to fit the character and financial risk involved with the swap or entity. While the CFTC could require daily public disclosure of trading data like open and closing prices, similar to the requirements of futures exchanges, it could not require real-time publication of proprietary trading information or prohibit an entity from selling their data.

The CFTC may allow entities to meet certain self-regulatory responsibilities-as provided in a list of ''core principles.'' If an entity chose to become a

self-regulator, these core principles would obligate the entity to monitor trading to prevent fraud and manipulation as well as assure that its other regulatory obligations are met.

The penalties for manipulation are greatly increased. The civil monetary penalty for manipulation is increased from $100,000 to $1 million. Wash trades are subject to the monetary civil penalty for each violation, and imprisonment up to 10 years.

The FERC is required to improve communications with other Federal regulatory agencies. A shortcoming in the main anti-fraud provision of the CEA is also corrected by allowing CFTC enforcement of fraud to apply to instances of either defrauding a person for oneself or on behalf of others.

It requires the FERC and the CFTC to meet quarterly and discuss how energy derivative markets are functioning and affecting energy deliveries.

It grants the FERC the authority to use monetary penalties on companies that don't comply with requests for information. It is essentially the same authority that the SEC has.

It makes it easier for FERC to hire the necessary outside help they need including accountants, lawyers, and investigators for investigative purposes.

It eliminates the requirement that FERC receive approval from the Office of Management and Budget before launching an investigation or price discovery of electricity or natural gas markets involving more than 10 companies.

It increases the penalty amounts to $1 million instead of the current $5,000 for violations of the Federal Power Act and the Natural Gas Act; five years instead of the current two for violations of the statute; and, $50,000 per violation per day instead of the current $500 for violations of rules or orders under the Federal Power Act and Natural Gas Act.

The Commission's authority to impose civil penalties is broadened to all sections of Part II of the Federal Power Act and the penalty amount is increased from $10,000 to $50,000 per violation per day.

It modifies Section 206 of the Federal Power Act to allow for an earlier refund effective date to increase the opportunity for refunds as a deterrent to fraudulent and manipulative behavior in the energy markets.

This legislation is not going to do anything to change what happened in California and the West. But it does provide the necessary authority for the CFTC and FERC which will help protect against another energy crisis.

When regulatory agencies have the will but not the authority to regulate, Congress must step in and ensure that our regulators have the necessary tools. Unfortunately, sometimes an agency has neither. In this case I am glad to have the support of FERC and I hope that the CFTC will reconsider and support this legislation.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 510. A bill to establish a commercial truck highway safety demonstration program in the State of Maine, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today, along with my colleague Senator COLLINS, to introduce legislation, the Commercial Truck Highway Safety Demonstration Program Act, to create a safety pilot program for commercial trucks.

This bill would authorize a safety demonstration program in my home State of Maine that could be a model for other States. I have been working closely with the Maine Department of Transportation, communities in my State, and others to address statewide concerns about the existing Federal interstate truck weight limit of 80,000 pounds.

I believe that safety must be the No. 1 priority on our roads and highways, and I am very concerned that the existing interstate weight limit has the perverse impact of forcing commercial trucks onto State and local secondary roads that were never designed to handle heavy commercial trucks safely. We are talking about narrow roads, lanes, and rotaries, with frequent pedestrian crossings and school zones.

I have been working to address this concern for many years. During the 105th Congress, for example, I authored a provision providing a waiver from Federal weight limits on the Maine Turnpike, the 100-mile section of Maine's interstate in the southern portion of the State, and it was signed into law as part of TEA–21. I have also shared my concerns with the Department of Transportation and the Senate Environment and Public Works Committee to urge them to work with me in an effort to address this challenge.

In addition, the Main Department of Transportation is in the process of conducting a study of the truck weight limit waiver on the Maine Turnpike, and I have been working closely with the State in the hopes of expanding this study, which will focus on the safety impact of higher limits, infrastructure issues, air quality issues, and economic issues as well, in order to secure the data necessary to ensure that commercial trucks operate in the safest possible manner.

Federal law attempts to provide uniform truck weight limits, 80,000 pounds, on the Interstate System, but the fact is there are a myriad of exemptions and grandfathering provisions. Furthermore, interstate highways have safety features specifically designed for heavy truck traffic, whereas the narrow, winding State and local roads don't.

The legislation I am submitting today would simply direct the Secretary of Transportation to establish a 3-year pilot program to improve commercial motor vehicle safety in the State of Maine. Specifically, the measure would direct the Secretary, during this period, to waive Federal vehicle weight limitations on certain commercial vehicles weighing over 80,000 pounds using the Interstate System within Maine, permitting the State to set the weight limit. In addition, it would provide for the waiver to become permanent unless the Secretary determines it has resulted in an adverse impact on highway safety.

I believe this is a measured, responsible approach to a very serious public safety issue. I hope to work with all of those with a stake in this issue, safety advocates, truckers, States, and communities, to address this matter in the most effective possible way, and I hope that my colleagues will join me in this effort.

Ms. COLLINS. Mr. President, I rise to join with my senior colleague from Maine in sponsoring the Commercial Truck Highway Safety Demonstration Program Act, an important bill that addresses a significant safety problem in our State.

Under current law, trucks weighing as much as 100,000 pounds are allowed to travel on Interstate 95 from Maine's border with New Hampshire to Augusta, our capital city. At Augusta, trucks weighing more than 80,000 pounds are forced off Interstate 95, which proceeds north to Houlton. Heavy trucks are forced onto smaller, secondary roads that pass through cities, towns, and villages.

Trucks weighing up to 100,000 pounds are permitted on interstate highways in New Hampshire, Massachusetts, and New York as well as the Canadian provinces of New Brunswick and Quebec. The weight limit disparity on various segments of Maine's Interstate Highway System forces trucks traveling to and from destinations in these States and provinces to use Maine's State and local roads, nearly all of which have two lanes, rather than four. Consequently, many Maine communities along the interstate see substantially more truck traffic than would otherwise be the case if the weight limit were 100,000 pounds for all of Maine's interstate highways.

The problem Maine faces because of the disparity in truck weight limit is perhaps most pronounced in our State capital. Augusta is the Maine Turnpike's northern terminus where heavy trucks that are prohibited from traveling along the northern segment of Interstate 95 enter and exit the turnpike. The high number of trucks that must traverse Augusta's local roads, and particularly its two rotaries, creates a hazard for those who live and work in as well as visit the city.

The Maine Department of Transportation estimates that the truck weight disparity sends 310 vehicles in excess of 80,000 pounds through Augusta every day. These vehicles, which are sometimes transporting hazardous materials, must pass through Cony Circle, one of the State's most dangerous traffic circles and the scene of 130 accidents per year. The fact that the circle

is named for the 1,200 student high school that it abuts adds to the severity of the problem.

A uniform truck weight limit of 100,000 pounds on Maine's interstate highways would reduce the highway miles and travel times necessary to transport freight through Maine, resulting in economic and environmental benefits. Moreover, Maine's extensive network and local roads will be better preserved without the wear and tear of heavy truck traffic. Most important, however, a uniform truck weight limit will keep trucks on the interstate where they belong, rather than on roads and highways that pass through Maine's cities, towns, and neighborhoods.

The legislation that Senator SNOWE and I are introducing addresses the safety issues we face in Maine because of the disparities in truck weight limits. The legislation directs the Secretary of Transportation to establish a commercial truck safety pilot program in Maine. Under the pilot program, the truck weight limit on all Maine highways that are part of the Interstate Highway System would be set at 100,000 pounds for 3 years. During the waiver period, the Secretary would study the impact of the pilot program on safety, and would receive the input of a panel that would include State officials, safety organizations, municipalities, and the commercial trucking industry. The waiver would become permanent if the panel determined that motorists were safer as a result of a uniform truck weight limit on Maine's Interstate Highway System.

Maine's citizens and motorists are needlessly at risk because too many heavy trucks are forced off the interstate and on to local roads. The legislation Senator SNOWE and I are introducing is a commonsense approach to a significant safety problem in my State. I hope my colleagues will support passage of this important legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 71—EXPRESSING THE SUPPORT FOR THE PLEDGE OF ALLEGIANCE

Ms. MURKOWSKI (for herself, Mr. MCCONNELL, Mr. GREGG, Mr. HATCH, Mr. ALLEN, Mr. ALEXANDER, Mr. ALLARD, Mr. BENNETT. Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CHAFEE, Mr. CHAMBLISS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mrs. DOLE, Mr. ENSIGN, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. HAGEL, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MCCAIN, Mr. NICKLES, Mr. ROBERTS, Mr. SANTORUM, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. WARNER, Mr. SESSIONS, and Ms. LANDRIEU) submitted the following resolution; which was ordered held at the desk

S. RES. 71

Whereas a 3-judge panel of the Ninth Circuit Court of Appeals has ruled in *Newdow v. United States Congress* that the words ''under God'' in the Pledge of Allegiance violate the Establishment Clause when recited voluntarily by students in public schools;

Whereas the Ninth Circuit has voted not to have the full court, en banc, reconsider the decision of the panel in *Newdow*;

Whereas this country was founded on religious freedom by the Founding Fathers, many of whom were deeply religious;

Whereas the First Amendment to the Constitution embodies principles intended to guarantee freedom of religion both through the free exercise thereof and by prohibiting the Government establishing a religion;

Whereas the Pledge of Allegiance was written by Francis Bellamy, a Baptist minister, and first published in the September 8, 1892, issue of the Youth's Companion;

Whereas Congress, in 1954, added the words ''under God'' to the Pledge of Allegiance;

Whereas the Pledge of Allegiance has for almost 50 years included references to the United States flag, the country, to our country having been established as a union ''under God'' and to this country being dedicated to securing ''liberty and justice for all'';

Whereas Congress in 1954 believed it was acting constitutionally when it revised the Pledge of Allegiance;

Whereas the 107th Congress overwhelmingly passed a resolution disapproving of the panel decision of the Ninth Circuit in *Newdow*, and overwhelmingly passed legislation recodifying Federal law that establishes the Pledge of Allegiance in order to demonstrate Congress's opinion that voluntarily reciting the Pledge in public schools is constitutional;

Whereas the Senate believes that the Pledge of Allegiance, as revised in 1954 and as recodified in 2002, is a fully constitutional expression of patriotism;

Whereas the National Motto, patriotic songs, United States legal tender, and engravings on Federal buildings also refer to ''God''; and

Whereas in accordance with decisions of the United States Supreme Court, public school students are already protected from being compelled to recite the Pledge of Allegiance: Now, therefore, be it

Resolved, That the Senate—

(1) strongly disapproves of a decision by a panel of the Ninth Circuit in *Newdow*, and the decision of the full court not to reconsider this case en banc; and

(2) authorizes and instructs the Senate Legal Counsel again to seek to intervene in the case to defend the constitutionality of the words ''under God'' in the Pledge, and, if unable to intervene, to file an amicus curiae brief in support of the continuing constitutionality of the words ''under God'' in the Pledge.

SENATE RESOLUTION 72—ELECTING WILLIAM H. PICKLE OF COLORADO AS THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. FRIST submitted the following resolution; which was considered and agreed to:

S. RES. 72

Resolved, That William H. Pickle of Colorado be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate effective March 17, 2003.

SENATE RESOLUTION 73—REMEMBERING AND HONORING THE HEROIC LIVES OF ASTRONAUTS AIR FORCE LIEUTENANT COLONAL MICHAEL ANDERSON AND NAVY COMMANDER WILLIAM ''WILLIE'' MCCOOL

Ms. CANTWELL (for herself, Mrs. MURRAY, Mr. REID, and Mr. BROWNBACK) submitted the following resolution; which was considered and agreed to:

S. RES. 73

Whereas mankind lost 7 heroes with the tragic explosion of the Space Shuttle Columbia on February 1, 2003;

Whereas the families and friends of the 7 astronauts, the National Aeronautics and Space Administration, the entire Nation, and people around the world who followed the historic mission will deeply miss the 7 crew members of the Space Shuttle Columbia;

Whereas the astronauts made an important contribution as models of bravery, courage, and excellence for men, women, and children around the world;

Whereas 2 of these heroes, Air Force Lieutenant Colonel Michael Anderson and Navy Commander William ''Willie'' McCool, are particularly close to the hearts of residents of the State of Washington;

Whereas Lieutenant Colonel Anderson was a beloved son of the Spokane community since moving there at the age of 11, and a cherished hero for men, women, and children in Washington;

Whereas Lieutenant Colonel Anderson was a hero, long before accepting the challenge of the Columbia mission, for leading a life characterized by courage, achievement against many odds, and sacrifice for this country;

Whereas the story of Lieutenant Colonel Anderson is even more remarkable in light of the barriers to success that young African-Americans in this country have had to overcome;

Whereas this remarkable story has long been shared at the childhood church of Lieutenant Colonel Anderson and throughout the Spokane African-American community, and has inspired a generation of children;

Whereas throughout his early education in Spokane area public schools, Lieutenant Colonel Anderson focused on voyaging to space as an astronaut and became an exceptional science student;

Whereas since becoming an astronaut in 1994, Lieutenant Colonel Anderson took to heart the special responsibility of serving as a role model for children around the country and back home;

Whereas after his 1998 flight on the Space Shuttle Endeavor to the Mir Space Station, Lieutenant Colonel Anderson returned to Cheney High School in Spokane and told a crowd of enthralled students that dreams such as his of becoming an astronaut can be achieved with hard work and clear goals;

Whereas Lieutenant Colonel Anderson embodied excellence and provided a triumphant example of accomplishment for Americans of all colors, races, and backgrounds;

Whereas the Washington family lost another dear friend in Commander McCool, who made Anacortes, Washington his home during 2 periods of service at Naval Air Station Whidbey Island;

Whereas community members remember Commander McCool for his kindness, professionalism, and love of his children;

Whereas Commander McCool continued to pay visits to the Anacortes community and was a cherished member of the community; and