S. 2092

At the request of Mr. ALLEN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2092, a bill to address the participation of Taiwan in the World Health Organization.

S. 2093

At the request of Mrs. HUTCHISON, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2093, a bill to maintain full marriage tax penalty relief for 2005.

S. 2096

At the request of Mr. LUGAR, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2096, a bill to promote a free press and open media through the National Endowment for Democracy and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. TALENT) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 2105. A bill to improve the Federal shore protection program; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Coastal Restoration Act of 2004 for myself and Senator CORZINE. Since 1995, the Federal beach nourishment program has been a regular target of the White House Office of Management and Budget, OMB. Under two separate administrations there have been at least five efforts to radically change or terminate the program.

The 1996, Congress passed the Shore Protection Act as Section 227 of the Water Resources Development Act of 1996. That legislation was the first statement by Congress since 1946 of its intent that the Nation needed an ongoing Federal beach nourishment program. Unfortunately, that has not stopped OMB from trying to change Federal policies by making budget proposals that would cripple the program.

The Coastal Restoration Act, CRA, restates the congressional intent regarding the importance of the Federal beach nourishment program. The CRA makes it clear that changes in administration policy will not prevent feasibility and other types of studies from being processed through the Corps of Engineers and sent to Congress. The legislation emphasizes the role of Congress in determining which beach nourishment projects should be authorized for construction. It also re-states and strengthens existing law that periodic renourishment is an integral part of the ongoing construction of a beach nourishment project.

This bill states the intent of Congress that preference shall be given to areas 1, where there has been a previous investment of federal funds; 2, where regional sediment management plans have been adopted to integrate coastal beach nourishment, navigation, and environmental projects; 3, where there is a need to prevent or mitigate damage to shores, beaches, and other coastal infrastructure where that damage is caused at least in part by Federal activities; or 4, where the project promotes human health and safety as well as the quality of life for individuals and families. This recognizes that a primary purpose for establishing the Federal beach nourishment program in 1946 was the promotion of public recreation.

My bill will also raise the low priority now accorded by the U.S. Army Corps to the recreational benefits of beach nourishment, giving equal consideration to all national projects. It also establishes the cost share for beach nourishment projects whose primary net benefit is recreational at the same level of Federal cost share participation as it applies to storm damage and environmental restoration beach nourishment projects. Congress retains the prerogative to authorize the project and appropriate funds based on the Corps' report findings.

These changes are needed to protect and restore our beaches as the national treasure they are. According to a recent study, travel and tourism is the world's largest industry, contributing $3.5 trillion to the world's economy in 2001. In the United States, nearly 17 million people are employed in the tourism industry.

Beaches are the leading tourist destination in the Nation. Each year about 180 million Americans make 2 billion visits to the ocean, the Gulf, and our inland beaches. That is almost twice as many visits as those made to State and national parks and wilderness areas combined. In its ''State of the Beach 2003'' report the Surfrider Foundation states that tourist expenditures in 16 of our coastal States topped $104 billion.

My home State, New Jersey, has 127 miles of shoreline and we are proud of every mile. A significant portion of our tourism industry, which generates $10 billion a year, is due to our beaches. I know many of my colleagues in the Senate have similar situations in their States.

Our beaches also provide vital habitat for numerous species of plants, and for animals such as claims, snails, and crabs. Every time a wave hits the shore it brings nutrients and oxygen to support the tiny but necessary life forms that live there.

Not to be overlooked are the peace and relaxation that a day, or week, at the beach can provide. The poet Lord Byron put it so exquisitely nearly two hundred years ago when he wrote:

There is a rapture on the lonely shore,
There is a society, where none intrudes,
By the deep sea, and music in its roar:
I love not man the less, but Nature more.

The shore's economic, environmental, and aesthetic benefits are truly limitless. That is why I am introducing the Coastal Restoration Act of 2004. My legislation will revitalize the Federal beach nourishment program by placing beach nourishment projects on a par with other Army Corps projects, and assigning recreational benefits the same priority as storm damage protection and environmental restoration, correcting the inequities in our current practices.

Since the 1980s, when medical waste, sewage, and garbage began washing up on the Jersey shore I have been working hard to protect and nurture our beaches. I wrote the Ocean Dumping Act of 1988, which ended ocean dumping of sewage sludge and industry waste. And I have led the fight to ban oil and gas drilling off the Jersey shore. We have made a lot of progress since the 1980s, but our work is far from over.

I ask unanimous consent the text of my bill be printed in the RECORD following my remarks.

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

S. 2105

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 ''Coastal Restoration Act of 2004''.

SEC. 2. FEDERAL AID IN RESTORATION AND PROTECTION OF SHORES AND BEACHES.

The first section of the Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946 (33 U.S.C. 426e), is amended to read as follows:

''SECTION 1. FEDERAL AID IN RESTORATION AND PROTECTION OF SHORES AND BEACHES.

''(a) DECLARATION OF POLICY.—

''(1) POLICY.—It is the policy of the United States to promote shore and beach protection projects and related research that encourages the protection, restoration, and enhancement of shores, sandy beaches, and other coastal infrastructure on a comprehensive and coordinated basis by Federal, State, and local governments and private persons.

''(2) PURPOSES.—The purposes of this Act are—

''(A) to restore and maintain the shores, beaches, and other coastal resources of the United States (including territories and possessions); and

''(B) to promote the healthful recreation of the people of the United States.

''(3) PRIORITY.—In carrying out this Act, preference shall be given to areas—

''(A) in which there has been a previous investment of Federal funds;

''(B) where regional sediment management plans have been adopted;

''(C) with respect to which the need for prevention or mitigation of damage to shores, beaches, and other coastal infrastructure is attributable to Federal navigation projects or other Federal activities; or

''(D) that promote—

''(i) human health and safety; and

''(ii) the quality of life for individuals and families.

''(b) IMPLEMENTATION.—The Secretary shall pay the Federal share of the cost of carrying out shore and beach protection projects and related research that encourages the protection, restoration, and enhancement of shores, sandy beaches, and other coastal infrastructure (including projects for beach restoration, periodic beach nourishment, and restoration or protection of State, county, or other shores, public coastal beaches, parks, conservation areas, or other environmental resources).

''(c) FEDERAL SHARE.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Federal share of the cost of a project described in subsection (b) shall be determined in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

''(2) EXCEPTION.—In the case of a project for beach erosion control the primary purpose of which is recreation, the Federal share shall be equal to the Federal share for a beach erosion control project the primary purpose of which is storm damage protection or environmental restoration.

''(3) REMAINDER.—

''(A) IN GENERAL.—Subject to subparagraph (B), the remainder of the cost of the construction of a project described in subsection (b) shall be paid by a State, municipality, other political subdivision, nonprofit entity, or private enterprise.

''(B) EXCEPTION.—The Federal Government shall bear all of the costs incurred for the restoration and protection of Federal property.

''(4) GREATER FEDERAL SHARE.—In the case of a project described in subsection (b) for the restoration and protection of a State, county, or other publicly-owned shore, coastal beach, park, conservation area, or other environmental resource, the Chief of Engineers may increase the Federal share to be greater than that provided in paragraph (1) if the area—

''(A) includes—

''(i) a zone that excludes permanent human habitation; or

''(ii) a recreational beach or other area determined by the Chief of Engineers;

''(B) satisfies adequate criteria for conservation and development of the natural resources of the environment; and

''(C) extends landward a sufficient distance to include, as approved by the Chief of Engineers—

''(i) protective dunes, bluffs, or other natural features;

''(ii) such other appropriate measures adopted by the State or political subdivision of the State to protect uplands areas from damage, promote public recreation, or protect environmental resources; or

''(iii) appropriate facilities for public use.

''(5) RECOMMENDATIONS.—

''(A) IN GENERAL.—In recommending to Congress projects for Federal participation, the Secretary shall recommend projects for the restoration and protection of shores and beaches that promote equally all national economic development benefits and purposes, including recreation, hurricane and storm damage reduction, and environmental restoration.

''(B) REPORT.—The Secretary shall—

''(i) identify projects that maximize net benefits for national purposes; and

''(ii) submit to Congress a report that describes the findings of the Secretary.

''(d) PERIODIC BEACH NOURISHMENT.—In this Act, when the most suitable and economical remedial measures, as determined by the Chief of Engineers, would be provided by periodic beach nourishment, the term 'construction' shall include the deposit of sand fill at suitable intervals of time to furnish sand supply to protect shores and beaches for a period of time specified by the Chief of Engineers and authorized by Congress.

''(e) PRIVATE SHORES AND BEACHES.—

''(1) IN GENERAL.—A shore or beach, other than a public shore or beach, shall be eligible for Federal assistance under this Act if—

''(A) there is a benefit to a public shore or beach, including a benefit from public use or from the protection of nearby public property; or

''(B) the benefits to the shore or beach are incidental to the project.

''(2) FEDERAL SHARE.—The Secretary shall adjust the Federal share of a project for a shore or beach, other than a public shore or beach, to reflect the benefits described in paragraph (1).

''(f) AUTHORIZATION OF PROJECTS.—

''(1) IN GENERAL.—Subject to paragraph (2), no Federal share shall be provided for a project under this Act unless—

''(A) the plan for that project has been specifically adopted and authorized by Congress after investigation and study; or

''(B) in the case of a small project under sections 3 or 5, the plan for that project has been approved by the Chief of Engineers.

''(2) STUDIES.—

''(A) IN GENERAL.—The Secretary shall—

''(i) recommend to Congress studies concerning shore and beach protection projects that meet the criteria established under this Act and other applicable law;

''(ii) conduct such studies as Congress requests; and

''(iii) report the results of all studies requested by Congress to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

''(B) RECOMMENDATIONS FOR SHORE AND BEACH PROTECTION PROJECTS.—

''(i) IN GENERAL.—The Secretary shall—

''(I) recommend to Congress the authorization or reauthorization of all shore and beach protection projects the plans for which have been approved by the Chief of Engineers; and

''(II) report to Congress on the feasibility of other projects that have been studied under subparagraph (A) but have not been approved by the Chief of Engineers.

''(ii) CONSIDERATIONS.—In approving a project plan, the Chief of Engineers shall consider the economic and ecological benefits of the shore or beach protection project.

''(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore or beach protection project under this paragraph, the Secretary shall—

''(i) determine whether there is any other project being carried out by the Secretary or other Federal agency that may be complementary to the shore or beach protection project; and

''(ii) if there is such a complementary project, undertake efforts to coordinate the projects.

''(3) SHORE AND BEACH PROTECTION PROJECTS.—

''(A) IN GENERAL.—The Secretary shall construct any shore or beach protection project authorized by Congress, or separable element of such a project, for which Congress has appropriated funds.

''(B) AGREEMENTS.—

''(i) REQUIREMENT.—After authorization by Congress, before the commencement of construction of a shore or beach protection project or separable element, the Secretary shall offer to enter into a written agreement for the authorized period of Federal participation in the project with a non-Federal interest with respect to the project or separable element.

''(ii) TERMS.—The agreement shall—

''(I) specify the authorized period of Federal participation in the project; and

''(II) ensure that the Federal Government and the non-Federal interest cooperate in carrying out the project or separable element.

''(g) EXTENSION OF THE PERIOD OF FEDERAL PARTICIPATION.—At the request of a non-Federal interest, the Secretary, acting through the Chief of Engineers and with the approval of Congress, shall extend the period of Federal participation in a beach nourishment project that is economically feasible, engineeringly sound, and environmentally acceptable for such additional period as the Secretary determines appropriate.

''(h) SPECIAL CONSIDERATIONS.—In a case in which funds have been appropriated to the Corps of Engineers for a specific project but the funds cannot be expended because of the time limits of environmental permits or similar environmental considerations, the Secretary may carry over such funds for use in the next fiscal year if construction of the project, or a separable element of the project, will cause minimal environmental damage and will not violate an environmental permit.''.

By Mr. BUNNING (for himself, Mr. MILLER, Mr. ALEXANDER, and Mr. HATCH):

S. 2106. A bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works; to the Committee on Finance.

Mr. ALEXANDER. Mr. President, I applaud Senator BUNNING for introducing the bill to amend the Internal Revenue Code of 1986 to provide capital gains treatment for certain self-created musical works, and I am proud to be a co-sponsor of this bill.

This bill will make songwriters eligible for the capital gains tax rate when

they sell their portion of a song catalogue. It treats the taxation of songwriters fairly so that they are on equal footing with musical publishers. Many songwriters are self-employed small business owners, but they are distinguishable from other similar small business owners, such as authors, because the rate of pay for songwriters is set by the Federal Government.

Historically, almost all professional songwriters assigned their copyright to a music publisher. As a result, the songwriters did not own the song or receive any royalty payments from the song. The songwriters did not own the copyright, and therefore, were not required to participate in any expenses toward exploiting it.

Currently, songwriters and music publishers are equal, joint-venture business partners. The publisher serves as the songwriter's agent in getting songs recorded or placed, otherwise known as ''co-publishing.'' Under this scenario, the songwriter and publisher equally share expenses of, among other things, demos costs and legal fees, and they equally share in any royalty income. Alternatively, the songwriter is the music publisher and bears all of the expenses of, among other things, demo costs and legal fees. Under the first scenario, the songwriter is subject to ordinary income tax, rather than capital gains tax, despite the fact that the sale of the song catalogue was actually a capital gain and should have been taxed at a lower rate. A capital gain is the result of a sale of a capital asset. Clearly, a song catalog is a capital gain because it is an asset of the songwriter.

Under current law, music publishers are eligible for the capital gains tax rate when they sell their portion of a song catalogue, but songwriters are not. When the publishing rights or the song catalogue is sold, music-publishing companies are allowed to claim the capital gains tax rate on their portion of the sale. However, because the songwriter wrote the song, they must pay ordinary income tax on their share of the same sale even though they share in expenses toward exploiting the copyright.

I am proud to be a cosponsor of this bill because it levels the tax playing field between songwriters and music publishers.

By Mr. DEWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 2107. A bill to authorize an annual appropriations of $10,000,000 for mental health courts through fiscal year 2009; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today to introduce a bill that would reauthorize America's Law Enforcement and Mental Health Project. This program addresses the impact that mentally ill offenders have had on our criminal justice system and the impact the system has had on the offenders and their special needs.

My interest in, and experience with this issue began over thirty years ago, when I was working as Assistant County Prosecuting Attorney in Greene County, OH, and then as County Prosecutor. What I learned then—and what I have continued to encounter throughout my career in public service—is that our State and local correctional facilities have become way stations for far too many mentally ill individuals in our Nation.

A recent Justice Department study revealed that 16 percent of all inmates in America's State prisons and local jails today are mentally ill. The American Jails Association estimates that 600,000 to 700,000 seriously mentally ill persons each year are booked into local jails, alone. In Ohio, nearly 1 in 5 prisoners need psychiatric services or special accommodations.

Far too many of our Nation's mentally ill persons have ended up in our prisons and jails. In fact, on any given day, the Los Angeles County Jail is home to more mentally ill inmates than the largest mental health care institution in our country. What happens is that all too often, the mentally ill act out their symptoms on the streets. They are arrested for minor offenses and wind up in jail. They serve their sentences or are paroled, but find themselves right back in the system only a short time later after committing additional—often more serious—crimes.

Throughout this destructive cycle, law enforcement and corrections spend time and money trying to cope with the unique problems posed by these individuals. Certainly, many mentally ill offenders must be incarcerated because of the severity of their crimes. However, those who commit very minor non-violent offenses don't necessarily need to be incarcerated; instead, if given appropriate care early, their illnesses could be addressed, helping the offenders, while reducing recidivism and decreasing the burdens on our police and corrections officials.

That's why, four years ago Senator DOMENICI and I introduced America's Law Enforcement and Mental Health Project, to begin to identify—early in the process—mentally ill offenders within our justice system and to use the power of the courts to assist them in obtaining the treatment they need.

This program has been a success. In pilot programs around the country, mental health courts have begun to help local communities take steps toward effectively addressing the issues raised by the mentally ill in our justice system, and these steps must continue. That's why Senators LEAHY and DOMENICI join me in cosponsoring this bill to reauthorize this important program.

America's Law Enforcement and Mental Health Project established a Federal grant program to help States and localities develop mental health courts in their jurisdictions. These courts are specialized courts with separate dockets. They hear cases exclusively involving nonviolent offenses committed by mentally ill individuals. Fundamentally, mental health courts enable State and local courts to offer alternative sentences or alternatives to prosecution for those offenders who could be served best by mental health services. These courts are designed to address the historic lack of coordination between local law enforcement and social service systems and the lack of interaction within the criminal justice system.

To deal with the separate needs of mentally ill offenders, these mental health courts are staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, public defender, and court liaison to the mental health services community. The courts promote efficiency and consistency by centrally managing all outstanding cases involving a mentally ill defendant referred to the mental health court.

Mental health court judges decide whether or not to hear each case referred to them. The courts only deal with defendants deemed mentally ill by qualified mental health professionals or the mental health court judge. Similarly, participation in the court by the mentally ill is voluntary; however, once the defendant volunteers for the Mental Health Court, he or she is expected to follow the decision of the court. For instance, in any given case, the mental health court judge, attorneys, and health services liaison may all agree on a plan of treatment as an alternative sentence or in lieu of prosecution. The defendant must adhere strictly to this court-imposed treatment plan. The court must then provide supervision with periodic review. This way, the court can quickly deal with any failure of the defendant to fulfill the treatment plan obligations. The mental health courts provide supervision of participants that is more intensive than might otherwise be available, with an emphasis on accountability and monitoring the participant's performance. In this sense, the mental health courts function similarly to drug courts.

Mr. President, mentally ill persons who choose to have their cases heard in a mental health court often do so because that is the first real opportunity that many of these people have to seek treatment. A judicial program offering the possibility of effective treatment—rather than jail time—gives a measure of hope and a chance for rehabilitation to these defendants.

The successes of mental health courts are encouraging and show that we can improve the health and safety of our communities through these programs. For example, in Ohio, the Fairfield Municipal Mental Health Court began its program on January 1, 2001. Of those participating in the Fairfield program, 46 percent are bipolar, 42 percent suffer from depression, and 13 percent are schizophrenic. It recently conducted its first ''graduation'' ceremony of program participants. The program's

first graduate came to them hostile, uncommunicative, and unable to function in society due to her bipolar mood disorder. Two years later, she left the program confident, talkative, healthier, and reconnected to her family and her life.

Many jurisdictions across America have established mental health courts as a result of the program that we established four years ago. Our Nation's communities are trying desperately to find the best way to cope with the problems associated with mental illness. Law enforcement agencies and correctional facilities remain challenged by difficulties posed by mental illnesses. Mental health courts offer a solution.

Mental health courts have shown great success, and we must ensure their continuation. Our Nation has long been enriched by the dual ideals of compassion and justice, and these programs are a wonderful embodiment of both ideals. I urge my colleagues to join in support of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2107

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2004 through 2009''.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. LIEBERMAN, and Mrs. CANTWELL):

S. 2108. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant food and vending machine food; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I rise to introduce a bill, the Menu Education and Labeling Act, on behalf of myself and my colleagues, Senators KENNEDY, LIEBERMAN and CANTWELL.

More than 65 percent of American adults are overweight, and more than 30 percent are clinically obese. We lead the world in this dubious distinction, which is growing worse. In the past 20 years, obesity rates have doubled among American adults and children, while they have tripled among teens. If we do not change course, kids attending school today will be the first generation in American history to live a shorter lifespan than their parents.

The issue is far from merely cosmetic. It is medical and economic. The obesity epidemic has huge consequences. Overweight people have an increased risk of diabetes, cardiovascular disease, cancers and other illnesses. Sixty percent of overweight youth already have at least one risk factor for heart disease which is the No. 1 killer of adults in the U.S. Obesity also causes or contributes to $117 billion a year in health care and related costs, more than half borne by taxpayers.

There is no single solution to the complex problem of obesity, but we must start taking meaningful steps to address this growing problem by giving people the tools necessary to live healthier lifestyles. That is why my colleagues and I are introducing this bill today to extend nutrition labeling beyond packaged foods to include foods at chain restaurants with 20 or more locations, as well as food in vending machines. This common-sense idea will give consumers a needed tool to make wiser choices and achieve a healthier lifestyle. It is a positive step toward addressing the obesity epidemic.

In 1990, Congress passed the Nutrition Labeling and Education Act, NLEA, requiring food manufacturers to provide nutrition information on nearly all packaged foods. The impact has been tremendous. Not only do nearly three-quarters of adults use the food labels on packaged foods, but studies indicate that consumers who read labels have healthier diets.

Restaurants, which are more and more important to Americans' diet and health, were excluded from the NLEA. American adults and children consume a third of their calories at restaurants at the very time when nutrition and health experts say that rising caloric consumption and growing portion sizes are causes of obesity. We also know that when children eat in restaurants, they consume twice as many calories as when they eat at home. Consumers say that they would like nutrition information provided when they order their food at restaurants, yet, while they have good nutrition information in supermarkets, at restaurants they can only guess.

Vending machine food sales also plays a large role in contributing to the diets of Americans. Over the last three decades vending machine sales have shot up eighty-five percent after inflation. Most vending machine sales include foods of low nutritional value. The Menu Education and Labeling Act will require fast-food and other chain restaurants, as well as vending machines, to list basic nutritional information clearly—so consumers can make better choices about the foods that they eat.

Let there be no doubt: obesity is indeed an epidemic, and it is continuing to grow. This is a public health crisis and we must address it. Although this bill alone will not halt rising obesity in its tracks, it provides consumers with an important tool with which to make better choices about the food that they and their children consume.

In the coming weeks I will be offering additional initiatives to give Americans the tools they need to stay healthy and address risk factors like obesity and mental health that are associated with the rising medical and financial costs of chronic illnesses. The common thread will be an emphasis on preventing unnecessary disease and illness.

By Mrs. FEINSTEIN (for herself, Mr. WARNER, Mr. SCHUMER, Mr. DEWINE, Mr. LEVIN, Mr. CHAFEE, Mr. DODD, Mr. JEFFORDS, Mrs. BOXER, Mrs. CLINTON, Mr. REED, and Mr. LAUTENBERG):

S. 2109. A bill to provide for a 10-year extension of the assault weapons ban; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senators WARNER, SCHUMER, DEWINE, LEVIN, CHAFEE, DODD, JEFFORDS, BOXER, CLINTON, REED and LAUTENBERG to offer legislation that will reauthorize the 1994 assault weapons ban—which is now set to expire on September 13, 2004—for another ten years.

I would first like to thank my courageous colleague from Virginia, Senator WARNER, for joining me in this effort. Senator WARNER voted against the assault weapons ban in 1994.

But this year, Senator WARNER was willing to revisit his position on the issue. He saw that—contrary to the fears of many in 1994—the ban has done nothing to hurt innocent gun owners. Instead, the ban has only made it harder for criminals to get access to military style firearms. A willingness to look at issues like this with an open mind, particularly this issue, shows a courage and a commitment to making the right decisions that should be emulated by all public servants, and I want to again thank Senator WARNER for this.

Second, I would like to speak about who else supports this legislation.

Those who join us in supporting a reauthorization of the assault weapons ban include: Fraternal Order of Police; National League of Cities; United States Conference of Mayors; National Association of Counties; International Association of Chiefs of Police; National Association of Police Organizations; International Brotherhood of Police Officers; U.S. Conference of Catholic Bishops; National Education Association; Americans for Gun Safety; The Brady Campaign/Million Mom March; NAACP; American Bar Association; and the list goes on, and on.

More than ten years ago—on July 1, 1993—Gian Luigi Ferri walked into 101 California Street in San Francisco carrying two high-capacity TEC–9 assault pistols. Within minutes, Ferri had murdered eight people, and six others were wounded. This tragedy shook San Francisco, and it shook the entire Nation.

The American people saw in that incident and so many others that came before and after it the incredible destruction that could be inflicted with military-style assault weapons—weapons designed and manufactured with one goal in mind—maximum lethality.

It all started, really, on August 1, 1966, when Charlie Whitman climbed the clock tower at the University of Texas and killed more than a dozen people in an hour and a half shooting spree before he was finally killed himself.

The day Whitman climbed that tower was the first time Americans realized that they could become the random victims of gun violence no matter where they were, and no matter what they were doing.

What made the Texas shooting so terrible was the total inability of law enforcement to get to Charlie Whitman until he had been firing shots for almost 96 minutes. The tower allowed him to do this. The tower made him, at least for that amount of time, invincible.

But gunmen no longer need the protection of clock towers, because they now have assault weapons.

We saw in the Columbine shooting, in the Long Island Rail Road shooting, and so many others, that high capacity assault weapons can make those who wield them temporarily invincible to law enforcement, because it is so difficult to get close to the shooter.

It is often only when a gunman stops to reload that bystanders or the police can move in to stop the shooting. And if the gun's magazine holds hundreds of bullets, that could take a long time, and result in a lot of deaths.

This is vitally important, because grievance killings by disgruntled members of society have taken an increasing number of lives in recent years. And when those grievance killers wield high capacity weapons, the toll on lives is exponentially increased.

The grievance killings have been across the Nation, in every forum: In a San Ysidro, CA, McDonald's in 1984, when a gunman with an Uzi killed 21 and wounded 15 others. In Stockton, CA, in 1989, when drifter Patrick Purdy walked into a schoolyard with an AK–47 and killed 5, wounding 30 others. In Long Island, NY, in 1993, when a gunman killed 6 and wounded 19 others on a commuter train—he was only brought down when he finally stopped to reload. In Pearl, MS, in 1997 when 2 students killed. In Paducah, KY, in 1998 when 3 students were killed. In Jonesboro, AR, in 1998 when 5 were killed, and 10 more wounded. In Springfield, OR, in 1998 when 2 were killed, and 22 wounded. In Littleton, CO, when 12 teens and one teacher were killed in Columbine High School. In Atlanta, GA in 1999 when a troubled day trader killed his wife, 2 children and several people trading stocks. At a Granada Hills, CA, Jewish Community Center when a gunman wounded three and killed a Filipino-American postal worker—many of us remember that one touching photo of small children being quickly led across the street to escape the gunfire. No child should have to go through that. At a Fort Worth, TX, Baptist church where seven were killed and seven more wounded at a teens church event, all by a man with two guns and 9 high capacity clips, with a capacity of 15 rounds each.

Recognizing the earliest of these shootings as a problem that needed to be dealt with, Congress finally took notice in 1993. In the aftermath of the 101 California shooting, we in Congress did something that no one had succeeded in doing before—we banned the manufacture and importation of military-style assault weapons.

We were told it could not be done—but we did it. I was even told by colleagues on my own side of the aisle that I was wasting my time—that the gun lobby was just too strong. I hear many of the same arguments today. But we succeeded in 1994, and we will succeed this year. We succeeded, and we will succeed, because the American people will accept no less of us.

The goal of the 1994 legislation was to drive down the supply of these weapons and to make them more difficult to obtain, and to eventually get them off our streets. And in the years following the enactment of the ban, crimes using assault weapons were indeed reduced dramatically—in fact, the percentage of crimes using banned assault weapons fell by more than 65 percent between 1995 and 2002.

The ATF has found that the proportion of banned assault weapons used in crime has fallen from 3.57 percent in 1995 to just 1.22 percent by 2002. Now these are not big percentages—most crimes are not committed by assault weapons.

But it is important to note that crimes committed with assault weapons often result in many more deaths than crimes committed with other guns. A simple robbery with a handgun is far less likely to result in multiple deaths than a drive-by shooting with an Uzi, or a grievance killing in a school using an AK–47 with a large capacity ammunition magazine.

And contrary to the near-hysterical rhetoric coming from the NRA at the time, no innocent gun owner lost an assault weapon. No gun was confiscated as a result of the ban. The sky did not fall. And life went on—but it went on with fewer grievance killers, juveniles, and drive-by shooters having access to the most dangerous of firearms.

Despite these results, House Majority Leader TOM DELAY said last year that House Republicans will let the Assault Weapons ban die when it sunsets after ten years.

To those of us who have been in Congress for some time, this comes as little surprise—after all, the House actually voted to repeal the original assault weapons ban soon after it was signed into law.

But the good news is that the President of the United States does support reauthorizing the ban.

In April of last year, White House spokesman Scott McClellan said of the assault weapons ban, ''The president supports the current law, and he supports reauthorization of the current law.''

That is what we are doing with this legislation—reauthorizing the current law. Period.

I know the President agrees with me when I say that I don't believe that banned guns like the AK–47, the TEC–9, or the Street Sweeper should once again be manufactured or imported into the United States. These are military guns, with no purpose but the killing of other human beings. They have pistol grips and other features designed solely to allow the weapons to be more easily concealed, and more easily fired from the hip in close quarters combat—or, tragically, in places like the schoolyard in Stockton, where five children died, the McDonalds in San Ysidro, the law firm at 101 California Street in San Francisco, Columbine High School, or so many other places where maniacs with their military guns were able to shoot large numbers of people in short periods of time.

That is why I believe that Congress should reauthorize the 1994 law, which expires next September 13. And that is undoubtedly why the President also supports our efforts.

I know there will be some who will say that the current law doesn't go far enough—and frankly, I agree. I would prefer to expand the ban to California law, so that we prohibit the copycat assault weapons that manufacturers so cravenly designed following the ban.

Senator LAUTENBERG has introduced legislation to do this, and I co-sponsored that bill. Ideally, we would pass legislation that fully prevents craven manufacturers from circumventing the ban.

But in an environment where the NRA has such a stranglehold on gun legislation, we will need all the help we can get just to keep the current ban.

The current ban has been effective in limiting the supply of these most dangerous guns. Even the copycat guns are less dangerous, because they are harder to conceal, harder to fire from the hip.

And no matter whether the ban has been entirely effective or not, what is the argument for letting these banned guns back on the streets?

Who is clamoring for newly manufactured AK–47s?

Who is clamoring for new TEC–9s?

These are guns that are never used for hunting. They are not used for self defense, and if they are it is more likely that they will kill innocents than intruders.

These guns—and everyone knows it—have but one purpose, and that purpose is to kill other human beings. Why would we want to open the floodgates again and let them back on our streets? There is simply no good reason.

This debate should not be about whether the assault weapons ban is perfect. This debate should be about whether these guns need to come back—and the American people know that they do not.

With the President, law enforcement, and the American people behind us, we

can succeed. We can beat the NRA's narrow, special interest agenda and keep these guns off the streets.

I urge my colleagues to read the dozens of editorials in support of the ban, to listen to their constituents, to ask us questions, and to make the only decision that makes sense—to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2109

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 ''Assault Weapons Ban Reauthorization Act of 2004''.

SEC. 2. 10-YEAR EXTENSION OF ASSAULT WEAPONS BAN.

Section 110105 of the Public Safety and Recreational Firearms Use Protection Act (18 U.S.C. 921 note) is amended to read as follows:

''SEC. 110105. SUNSET PROVISION.

''This subtitle and the amendments made by this subtitle are repealed September 13, 2014.''.

Mr. WARNER. Mr. President, I rise today in support of reauthorizing the Assault Weapons Ban.

Signed into law in 1994, the Assault Weapons Ban placed a 10-year prohibition on the domestic manufacture of semi-automatic assault weapons and high capacity ammunition clips. The 10-year ban ends on September 13, 2004. Consequently, unless Congress and the President act prior to September 13, 2004, weapons like Uzis and AK–47s will once again be produced in America, and more and more often, these weapons will fall into the hands of criminals who lurk in our neighborhoods.

For a number of years now, President Bush has indicated that he supports reauthorizing the assault weapons ban. To date, though, no legislation has been introduced in the Senate to accomplish the President's goal. While measures have been introduced to make the ban permanent or to even expand the ban further, no legislation has been introduced to simply reauthorize the Assault Weapons Ban for another ten years.

I am pleased today to introduce, with Senator FEINSTEIN, legislation that models exactly what the President has indicated he would sign into law: a straight 10-year reauthorization of the Assault Weapons Ban.

Not only does President Bush support this legislation—law enforcement does as well. The men and women of law enforcement know that this legislation makes communities safer. In a letter dated February 18, 2004, the Grand Lodge of the Fraternal Order of Police writes, ''It is the position of the Grand Lodge that we will support the reauthorization of current law, but we will not support any expansion of the ban.'' This endorsement comes in addition to the endorsement of just about every other major law enforcement organization, and in addition to the endorsements of chiefs of police all across Virginia.

Now, admittedly, I have not always been a supporter of the Assault Weapons Ban. When the ban legislation came before the United States Senate for a vote in 1993, I opposed it. At the time, I believed Senator FEINSTEIN's legislation would do nothing to help reduce crime in this country, and I believed it would be a back door way to take firearms out of the hands of law abiding gun-owners and hunters.

Ten years have since passed from the day of that vote. Over the course of those ten years, I have watched the bill be signed into law, and I have watched its implementation. I have studied the law and its affect on crime, and I have watched carefully to see how it affects law abiding gun-owners.

Based on the ten years of history of the Assault Weapons Ban, my thoughts on the ban have evolved.

Ten years of experience provides us with key facts. The Assault Weapons Ban has helped to dramatically reduce the number of crimes using assault weapons. It has made America's streets safer, and it has protected the rights of law abiding gun-owners better than many of us predicted. In fact, the law explicitly protects 670 hunting and recreational rifles.

Moreover, we all know that the world has dramatically changed since that Senate vote in 1993. September 11, 2001, has forever changed our country and has taught us many lessons.

No longer is America protected by the great oceans. The war on terror is not only being fought abroad, but now here at home. September 11 showed us that terrorism lurks in the shadows of our own backyard. Given the world today, now is not the time to make it easier for terrorists to acquire deadly rapid fire assault weapons and use them in our neighborhoods.

Now, over my 25 years plus in the United States Senate, I have always tried to stand up for what is right, regardless of politics. I believe that is why the good people of the Commonwealth of Virginia have given me their trust and elected me to represent them in the United States Senate for five terms.

I know that reauthorizing the Assault Weapons Ban is the right thing to do.

I am pleased to join Senator FEINSTEIN in introducing this legislation, and it is my hope that the Senate will act expeditiously and send this legislation to President Bush to sign into law.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2110. A bill to amend the Internal Revenue Code of 1986 to extend the Highway Trust Fund provisions through March 31, 2004, and to add the volumetric ethanol excise tax credit (VEETC), and for other purposes; to the Committee on Finance

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 ''Surface Transportation Extension Act of 2004''.

SEC. 2. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''April 1, 2004'',

(B) by striking ''or'' at the end of subparagraph (E),

(C) by striking the period at the end of subparagraph (F) and inserting '', or'',

(D) by inserting after subparagraph (F), the following new subparagraph:

''(G) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004.'', and

(E) in the matter after subparagraph (G), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking ''March 1, 2004'' and inserting ''April 1, 2004'',

(B) in subparagraph (C), by striking ''or'' at the end of such subparagraph,

(C) in subparagraph (D), by inserting ''or'' at the end of such subparagraph,

(D) by inserting after subparagraph (D) the following new subparagraph:

''(E) the Surface Transportation Extension Act of 2004,'', and

(E) in the matter after subparagraph (E), as added by this paragraph, by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking ''March 1, 2004'' and inserting ''April 1, 2004''.

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2003'' each place it appears and inserting ''Surface Transportation Extension Act of 2004''.

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking ''March 1, 2004'' and inserting ''April 1, 2004'', and

(B) by striking ''Surface Transportation Extension Act of 2003'' and inserting ''Surface Transportation Extension Act of 2004''.

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking ''March 1, 2004'' and inserting ''April 1, 2004''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(d) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on March 31, 2004, for purposes of making any estimate under section 9503(d) of the Internal

Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

SEC. 3. ALCOHOL AND BIODIESEL EXCISE TAX CREDIT AND EXTENSION OF ALCOHOL FUELS INCOME TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2006.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

''(B) any person—

''(i) separates the alcohol or biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

''(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a) of the Internal Revenue Code of 1986 (relating to registration) is amended by inserting ''and every person producing or importing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4081''.

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) of the Internal Revenue Code of 1986 is amended by striking ''section 4081(c), or section 4091(c)'' and inserting ''section 4091(c), section 6426, section 6427(e), or section 6427(f)''.

(2) Section 40(d)(4)(B) of such Code is amended by striking ''or 4081(c)''.

(3) Section 40(e)(1) of such Code is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(4) Section 40(h) of such Code is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(5) Section 4041(b)(2)(B) of such Code is amended by striking ''a substance other than petroleum or natural gas'' and inserting ''coal (including peat)''.

(6) Paragraph (1) of section 4041(k) of such Code is amended to read as follows:

''(1) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid at least 10 percent of which consists of alcohol (as defined in section 6426(b)(4)(A)), the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(c).''.

(7) Section 4081 of such Code is amended by striking subsection (c).

(8) Paragraph (2) of section 4083(a) of such Code is amended to read as follows:

''(2) GASOLINE.—The term 'gasoline'—

''(A) includes any gasoline blend, other than qualified methanol or ethanol fuel (as defined in section 4041(b)(2)(B)), partially exempt methanol or ethanol fuel (as defined in section 4041(m)(2)), or a denatured alcohol, and

''(B) includes, to the extent prescribed in regulations—

''(i) any gasoline blend stock, and

''(ii) any product commonly used as an additive in gasoline (other than alcohol).

For purposes of subparagraph (B)(i), the term 'gasoline blend stock' means any petroleum product component of gasoline.''.

(9) Section 6427 of such Code is amended by inserting after subsection (d) the following new subsection:

''(e) ALCOHOL OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES OR USED AS FUELS.—Except as provided in subsection (k)—

''(1) USED TO PRODUCE A MIXTURE.—If any person produces a mixture described in section 6426 in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alcohol fuel mixture credit or the biodiesel mixture credit with respect to such mixture.

''(2) USED AS FUEL.—If alcohol (as defined in section 40(d)(1)) or biodiesel (as defined in section 40A(d)(1)) or agri-biodiesel (as defined in section 40A(d)(2)) which is not in a mixture described in section 6426—

''(A) is used by any person as a fuel in a trade or business, or

''(B) is sold by any person at retail to another person and placed in the fuel tank of such person's vehicle,

the Secretary shall pay (without interest) to such person an amount equal to the alcohol credit (as determined under section 40(b)(2)) or the biodiesel credit (as determined under section 40A(b)(2)) with respect to such fuel.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any mixture with respect to which an amount is allowed as a credit under section 6426.

''(4) TERMINATION.—This subsection shall not apply with respect to—

''(A) any alcohol fuel mixture (as defined in section 6426(b)(3)) or alcohol (as so defined) sold or used after December 31, 2010, and

''(B) any biodiesel mixture (as defined in section 6426(c)(3)) or biodiesel (as so defined) or agri-biodiesel (as so defined) sold or used after December 31, 2006.''.

(10) Subsection (f) of section 6427 of such Code is amended to read as follows:

''(f) AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any aviation fuel on which tax was imposed by section 4091 at the regular tax rate is used by any person in producing a mixture described in section 4091(c)(1)(A) which is sold or used in such person's trade or business, the Secretary

shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4091 determined without regard to subsection (c) thereof.

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(2) thereof.

''(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any aviation fuel with respect to which an amount is payable under subsection (d) or (l).

''(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 2007.''.

(11) Paragraphs (1) and (2) of section 6427(i) of such Code are amended by inserting ''(f),'' after ''(d),''.

(12) Section 6427(i)(3) of such Code is amended—

(A) by striking ''subsection (f)'' both places it appears in subparagraph (A) and inserting ''subsection (e)(1)'',

(B) by striking ''gasoline, diesel fuel, or kerosene used to produce a qualified alcohol mixture (as defined in section 4081(c)(3))'' in subparagraph (A) and inserting ''a mixture described in section 6426'',

(C) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'',

(D) by striking ''subsection (f)(1)'' in subparagraph (B) and inserting ''subsection (e)(1)'',

(E) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)'', and

(F) by striking ''ALCOHOL MIXTURE'' in the heading and inserting ''ALCOHOL FUEL AND BIODIESEL MIXTURE''.

(13) Section 6427(o) of such Code is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1) any tax is imposed by section 4081, and'',

(B) by striking ''such gasohol'' in paragraph (2) and inserting ''the alcohol fuel mixture (as defined in section 6426(b)(3))'',

(C) by striking ''gasohol'' both places it appears in the matter following paragraph (2) and inserting ''alcohol fuel mixture'', and

(D) by striking ''GASOHOL'' in the heading and inserting ''ALCOHOL FUEL MIXTURE''.

(14) Section 9503(b)(1) of such Code is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(15) Section 9503(b)(4) of such Code is amended—

(A) by adding ''or'' at the end of subparagraph (C),

(B) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(C) by striking subparagraphs (E) and (F).

(16) Section 9503(c)(2)(A)(i)(III) of such Code is amended by inserting ''(other than subsection (e) thereof)'' after ''section 6427''.

(17) Section 9503(e)(2) of such Code is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(18) The table of sections for subchapter B of chapter 65 of such Code is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(19) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking ''10/1/2007'' each place it appears and inserting ''1/1/2011''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) REGISTRATION REQUIREMENT.—The amendment made by subsection (b) shall take effect on April 1, 2005.

(3) EXTENSION OF ALCOHOL FUELS CREDIT.—The amendments made by paragraphs (3), (4), and (19) of subsection (c) shall take effect on the date of the enactment of this Act.

(4) REPEAL OF GENERAL FUND RETENTION OF CERTAIN ALCOHOL FUELS TAXES.—The amendments made by subsection (c)(15) shall apply to fuel sold or used after September 30, 2003.

(e) FORMAT FOR FILING.—The Secretary of the Treasury shall describe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(12)(C)) not later than September 30, 2004.

SEC. 4. BIODIESEL INCOME TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene, which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture with diesel fuel and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer or importer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426 or 6427(e).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2006.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40A may be carried back to a taxable year ending on or before September 30, 2004.''.

(2)(A) Section 87 of such Code is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 of such Code is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(3) Section 196(c) of such Code is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(4) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after September 30, 2004, in taxable years ending after such date.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, February 25, 2004, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on the President's Fiscal Year 2005 Budget Request.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, March 10th, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1354, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation, and for other purposes; S. 1575 and H.R. 1092, to direct the Secretary of Agriculture to sell certain parcels of Federal land in Carson City and Douglas County, Nevada; S. 1778, to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes; S. 1819 and H.R. 272, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries; and H.R. 3249, to extend the term of the Forest Counties Payments Committee.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information, please contact Frank Gladics at 202–224–2878.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. COCHRAN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Marketing, Inspection, and Product Promotion will meet on March 4, 2004 in SH–216, Hart Senate Office Building at 2:00 p.m. The purpose of this subcommittee hearing is to discuss the development of a national animal identification plan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to conduct a hearing on the ''Proposals for Improving the Regulatory Regime of the Housing Government Sponsored Enterprises.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, February 24, 2004, at 9:30 a.m. on Voice-Over-Internet-Protocol (VOIP).

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to receive testimony concerning the reliability of the Nation's electricity grid. Specifically, the recommendations in the February 10th North American Reliability Council Report Regarding the August 14th blackout will be reviewed and implementation of the proposed solutions will be discussed.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 2:30 p.m. to hold a hearing on The Middle East: Rethinking the Road Map.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, February 24, 2004, at 10 p.m. for a hearing titled ''Preserving a Strong United States Postal Service: Workforce Issues.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Disabled American Veterans.

The hearing will take place in room 216 of the Hart Senate Office Building at 2:00 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 10 a.m. to hold a hearing on intelligence matters.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 24, 2004, at 2:30 p.m. to hold a hearing on intelligence matters.

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

SPECIAL COMMITTEE ON AGING

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Tuesday, February 24, 2004 from 10:00 a.m.—12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.