



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 107<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 148

WASHINGTON, TUESDAY, MARCH 12, 2002

No. 27

## Senate

The Senate met at 10:30 a.m. and was called to order by the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana.

The PRESIDING OFFICER. Rabbi Abraham Shemtov, National Director of American Friends of Lubavitch, will lead us in prayer this morning.

### PRAYER

The guest Chaplain offered the following prayer:

Almighty God, our Father in heaven, grace this august body of the U.S. Senate with wisdom, strength, vision, and clear focus as they seek to lead this Nation, and as this Nation leads the world in the struggle of freedom against tyranny and of good over evil.

As the world marks the 100th anniversary since the birth of Lubavitcher Rebbe, Rebbe Menachem Mendel Schneerson, of blessed memory, we must heed his teachings that unity is so much stronger than division, goodness is so much better than evil. His message to people of various origins and persuasions was that we must always be on the same side, for we are all children of the same God.

We must find the inherent goodness in each other and encourage one another to fulfill our charge from the Almighty God to perfect the world under His sovereignty. In this way we can bring light in place of darkness, redemption in place of despair, and happiness and peace to all who seek it.

So as we may have opinions which differ, let us not waver. Let us be strong, and with God's blessings, we will prevail. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARY L. LANDRIEU led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 12, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Ms. LANDRIEU thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE ACTING MAJORITY LEADER

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

### ORDER OF PROCEDURE

Mr. REID. Madam President, I ask unanimous consent that the vote on the confirmation of Executive Calendar No. 706 occur at 11 o'clock this morning, that the additional time be divided as previously provided, and that the remaining provisions of the previous order remain in effect, with no intervening action or debate.

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

### SCHEDULE

Mr. REID. Madam President, we will shortly conclude the debate on the confirmation. The two Senators from Alaska are going to speak about the new judge they are going to get in Alaska.

I also note that we are moving along with the energy bill. We have some important amendments pending. We have a number of important issues. There is now talk of being able to complete this bill by a week from this Friday.

As everyone knows, the important issues that remain—there are a lot of important issues, but the matters that appear to be quite contentious are those dealing with CAFE standards, ANWR drilling, and electricity regulation. So it appears that there is light at the end of the tunnel and that we can finish this legislation. We certainly hope so. But Members are going to have to be willing to come and offer amendments, and Members are going to have to be ready to vote at all times of the day and night.

### EXECUTIVE SESSION

NOMINATION OF RALPH R. BEISTLINE, OF ALASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Executive Calendar No. 706, which the clerk will report.

The assistant legislative clerk read the nomination of Ralph R. Beistline, of Alaska, to be United States District Judge for the District of Alaska.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, we are going to be voting in a few minutes on Judge Ralph Beistline to be United States District Judge in my State of Alaska.

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



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Senator STEVENS, Representative YOUNG, and I are very pleased that this vote is about to take place. Before we vote, I would like to speak very briefly on the qualifications of Judge Beistline.

First of all, I thank all my colleagues for moving expeditiously because in spite of the prevailing attitude in Alaska that it has taken too long to confirm him, by standards around here it has moved along quite nicely. So I very much appreciate that.

No one would question Judge Beistline's qualifications or his fitness to serve on the Federal bench. He has served with distinction in our State of Alaska for many years. He has always been an asset to his community. He and Mrs. Beistline have had a commitment to furthering the quality of life for Alaskans, which is exemplified by their commitment to public service.

Judge Beistline is truly an Alaskan. He was born in Fairbanks, AK. That happens to be my hometown. He is a graduate of the University of Alaska, Fairbanks, and the University of Puget Sound Law School. His heart has always been in the golden heart city of Fairbanks.

Judge Beistline served honorably in the Army National Guard, the Army Reserves, and the Air National Guard for over 17 years. He was in private practice in Fairbanks, AK. During this time, Judge Beistline distinguished himself as a hard-working, fair, honest, and very popular lawyer—if, indeed, that is the correct terminology for lawyers. Nevertheless, he is very well respected. And I am always reminded—well, it is inappropriate to reflect on lawyer jokes, so I will restrain myself, with some reluctance.

Judge Beistline is a strong advocate for the rights of his clients. He has always maintained respect for the courts and the legal system, and that respect is matched by the manner in which his peers admire and support him.

Since 1992, Ralph Beistline has served as Superior Court Judge for the State of Alaska. Through his public service, Judge Beistline has demonstrated the requisite legal temperament and the traits that will make him clearly a distinguished Federal judge.

Obviously, he is committed to upholding the law, even if he may disagree from time to time with it. Judge Beistline exhibits and demands fairness, respect, and diligence from all of those who practice in his court. Most importantly, the judge has ensured that justice is delivered fairly, responsibly, and in a timely manner. I would like to amplify that note—in a timely manner. Oftentimes, there is a great deal of frustration for those of us who believe that justice is not done in a timely manner.

He is a longstanding and distinguished member of the Fairbanks community, the Fairbanks Bar, and the Alaskan Bar. Judge Beistline has earned the respect of his colleagues. He has also earned the respect of our en-

tire delegation—Senator STEVENS, Representative YOUNG, and myself. We enthusiastically support his nomination and look forward to voting on his nomination today.

I thank the Presiding Officer for her attention.

Mr. STEVENS. Madam President, Ralph Beistline is a lifelong Alaskan, born in Fairbanks. He grew up in Alaska and will bring that important perspective to the bench.

He served as a superior court judge from 1992 until today and for the past 5 years he has been the presiding judge in the Fairbanks Superior Court.

He is married to Peggy Beistline and has five children: Carrie, Daniel, Tamara, Rebecca, and David.

He is the former president of the Alaska Bar Association, former president of the Tanana Valley Bar Association, former president of the Alaska Conference of Judges, and a former member of the board of governors of the Alaska Bar Association. He has been a lawyer representative to the Ninth Circuit Judicial Conference and was a long time pro-bono participant.

Ralph is also an executive board member of the Boy Scouts of America and a member of Igloo #4 Pioneers of Alaska.

Hailing from Fairbanks, Ralph will also bring further geographical balance to the court.

I thank Chairman LEAHY and Senator HATCH for moving his nomination to the floor.

Mr. LEAHY. Madam President, today, the Senate is voting on the 40th judicial nominee to be confirmed since last July when the Senate Judiciary Committee reorganized after the Democrats became the majority party in the Senate. With the confirmation of Ralph Beistline of Alaska, we will have confirmed more judges in the last 9 months than were confirmed in 4 out of 6 years under Republican leadership.

The number of judicial confirmations over these past nine months—40—now exceeds the number of judicial nominees confirmed during all 12 months of 2000, 1999, 1997 and 1996. Thus, during the last 9 tumultuous months we have exceeded the one-year totals for 4 of the 6 years in which a Republican majority last controlled the pace of confirmations.

During the preceding 6½ years in which a Republican majority most recently controlled the pace of judicial confirmations in the Senate, 248 judges were confirmed. The larger number, the total judges confirmed during President Clinton's two terms includes 2 years in which a Democratic majority proceeded to confirm 129 additional judges in 1993 and 1994. During the 6½ years of Republican control of the Senate, judicial confirmations averaged 38 per year—a pace of consideration and confirmation that has already been exceeded under Democratic leadership over these past nine months.

During the recent Republican control of the Senate 46 nominees to the

Courts of Appeal were confirmed, a rate of approximately seven per year on average, including one whole session, 1996, in which no circuit court judges were confirmed at all. In only nine months of Democratic control of the Senate, seven of President Bush's nominees to the Courts of Appeals have been confirmed. Two additional circuit court nominees have had hearings and the hearing scheduled for next week will include another circuit court nominee.

Under Democratic leadership we have had more hearings, for more nominees, and had more confirmations than the Republican leadership did for President Clinton's nominees during the first 9 months of 1995. In each area—hearings, number of nominees given hearings, and number of nominees confirmed—this Committee has exceeded the comparable period when Republicans were in power. And 1995 was one of the most productive years. It was 1996 and after that the Republican majority began stalling the judicial confirmation process and the session in which only 17 judges were confirmed all year with none to the Courts of Appeals.

Additionally, under Democratic leadership, we have reformed the process and practices used in the past to deny Committee consideration of judicial nominees. The fact that 248 judicial nominees were confirmed in the prior 6½ years of Republican leadership does not diminish the fact that almost 60 other judicial nominees never received a hearing by the Senate Judiciary Committee or received a hearing but were never voted on by the Committee.

The Majority Leader, Senator DASCHLE, the Assistant Majority Leader, Senator REID, and the members of the Judiciary Committee have worked hard to return the Senate's consideration of judicial nominations to a more orderly and open process. We have been working hard to move away from the anonymous holds and inaction on judicial nominations that characterized so much of the period from 1995 through 2000.

Today's vote to confirm the 40th judicial nominee since the reorganization of the Committee last July demonstrates that we have made a positive difference in the confirmation process by improving the pace and fairness of consideration of nominees for lifetime appointment to the federal courts. Not only has the Senate been able to confirm more judges in a shorter time frame than were confirmed in 4 of the past 6 years, but we have also done so at a faster pace than in any of the recent 6½ years in which Republicans were most recently in the majority.

I make these observations to set the record straight. I do not mean by my comments to be critical of Senator HATCH. Many times during the 6½ years he chaired the Judiciary Committee, I observed that were the matter left up to us, we would have made more progress on more judicial nominees. I thanked him during those years

for his efforts. I know that he would have liked to have been able to do more and not have to leave so many vacancies and so many nominees without action.

With the confirmation of Ralph Robert Beistline, there will be no active vacancies on the Alaska District Court. We have moved expeditiously to consider and confirm Judge Beistline. He was nominated in November, received his ABA peer review in January, participated in a hearing in February, was reported favorably by the Committee last week, and is today being confirmed.

Judge Beistline has an extensive career litigating civil cases in state and Federal courts, providing pro bono services in civil matters, including social security appeals. I congratulate the nominee and his family on his confirmation today.

This nominee has the support of both Senators from his home state and appears to be the type of qualified, consensus nominee that the Senate has been confirming to help fill the vacancies on our Federal courts.

The ACTING PRESIDENT pro tempore. Who yields time? If no one yields time, time will be charged equally to both sides.

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

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. ENZI. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. ENZI are located in today's RECORD under "Morning Business.")

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

Mr. HATCH. Madam President, parliamentary inquiry: Are we on the Beistline nominee?

The ACTING PRESIDENT pro tempore. We are. Under the previous order, the time was reserved, but all time remaining is under the control of Senator LEAHY and those who have been scheduled.

Mr. HATCH. Since they are not here, I ask unanimous consent that I might be able to speak.

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

Mr. HATCH. The vote is at 11, is that right?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. HATCH. Madam President, I rise to support the confirmation of Ralph

R. Beistline to be U.S. District Judge for the District of Alaska.

I have had the pleasure of reviewing Judge Beistline's distinguished legal career, and I have come to the opinion that he is a fine jurist who will add a great deal to the Federal bench in Alaska.

Judge Beistline began his legal career as the first law clerk for the Superior Court in Fairbanks, where he not only completed legal research and wrote opinions for three judges, but also held hearings in probate and uncontested divorce cases. Following his clerkship, he maintained a litigation practice for 17 years. He left the practice of law to become a State trial court judge, and he has earned a stellar reputation for fairness and hard work among lawyers and judges in his community.

I have every confidence that Judge Beistline will serve with distinction on the Federal district court for the district of Alaska.

We are in the middle of a circuit court vacancy crisis, and the Senate is doing nothing whatsoever to address it.

There were 31 vacancies in the Federal courts of appeals when President Bush sent us his first 11 circuit nominees on May 9, 2001, and there are 31 today. We are making no progress.

Eight of President Bush's first 11 nominees have not even been scheduled for hearings, despite having been pending for 307 days as of today. All of these nominees received qualified or well-qualified ratings from the American Bar Association.

A total of 22 circuit nominations are now pending for those 31 vacancies.

But we have confirmed only 1 circuit judge this year, and only 7 since President Bush took office.

The sixth circuit is half-staffed, with 8 of its 16 seats vacant. This crisis exists today despite the fact that we have 7 Sixth Circuit nominees pending motionless before the Judiciary Committee right now. Although the Michigan senators are blocking 3 of those nominees by not returning blue slips, the other 4 are completely ready to go, all have complete paperwork, good ratings by the ABA, and most importantly, the support of both home State senators.

The D.C. Circuit is two-thirds staffed, with 4 of its 12 seats sitting vacant. This is despite the fact that President Bush nominated Miguel Estrada and John Roberts, who have not yet been given a hearing and whose nominations have not seen the light of day since they were nominated 307 days ago.

There is simply no explanation for this situation other than stall tactics.

The Senate Democrats are trying to create an illusion of movement by creating great media attention concerning a small handful of nominees in order to make it look like progress.

Some try to blame the Republicans for the circuit court vacancy crisis, but that is complete bunk. Just look at the record:

Some have suggested that 45 percent of President Clinton's circuit court nominees were not confirmed during his presidency. That number is a bit of an Enron-ization. It is inflated by double counting individuals that were nominated more than once. For example, by their numbers, Marsha Berzon—who was nominated in the 105th Congress, but not confirmed until the 106th—would count as two nominations and only one confirmation. If you remove the double counting and count by individuals, only 23 were not confirmed—that's 27 percent, as opposed to 45 percent.

And of those 23 nominees who did not move, 4 were withdrawn, 8 lacked home State support, 1 had incomplete paperwork and another was nominated after the August recess in 2000. That leaves 9 circuit court nominees that did not receive action some of which had issues that I cannot discuss publicly.

Now, as I said, there are currently 31 circuit court vacancies.

During President Clinton's first term, circuit court vacancies never exceeded 21 at the end of any year.

There were only 2 circuit court nominees left pending in committee at the end of President Clinton's first year in office. In contrast, 23 of President Bush's circuit court nominees were pending in committee at the end of last year.

At the end of President Clinton's second year in office, the Senate had confirmed 19 circuit judges and there were only 15 circuit court vacancies.

In contrast, today in President Bush's second year, the Senate has confirmed 1 and there are 22 pending.

At the end of 1995, my first year as chairman, there were only 13 circuit vacancies left at the end of the year.

At the end of 1996, the end of President Clinton's first term and in a Presidential election year, there were 21 vacancies—only 1 higher than the number the Democrats left at the end of 1993 when they controlled the Senate and Clinton was President.

Taking numbers by the end of each Congress, a Republican controlled Senate has never left as many circuit vacancies as currently exist today. At the end of the 104th Congress, the number was 18, at the end of the 105th Congress, that number was 14, and even at the end of the 106th Congress, a Presidential election year, that number was only 25. Today there are 31 vacancies in the circuit courts.

Despite all the talk—and lack of action—the unmistakable fact is that there is a circuit court vacancy crisis of 31 vacancies, which is far higher than the Republicans ever let it reach, and the current Senate leadership is doing nothing about it. Actually, I should correct myself, they are doing something about it: They are making it grow even larger. They have acted with a deliberate lack of speed, and that is something the American people do not deserve.

I yield the floor.

The ACTING PRESIDENT pro tempore. All time having expired, the question is, Will the Senate advise and consent to the nomination of Ralph R. Beistline, of Alaska, to be United States District Judge for the District of Alaska? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Pennsylvania (Mr. SANTORUM) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 46 Ex.]

#### YEAS—98

Akaka	Dorgan	Lott
Allard	Durbin	Lugar
Allen	Edwards	McCain
Baucus	Ensign	McConnell
Bayh	Enzi	Mikulski
Bennett	Feingold	Miller
Biden	Feinstein	Murkowski
Bingaman	Fitzgerald	Murray
Bond	Frist	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Gramm	Nickles
Brownback	Grassley	Reed
Bunning	Gregg	Reid
Burns	Hagel	Roberts
Byrd	Harkin	Rockefeller
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carnahan	Hollings	Sessions
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Cochran	Jeffords	Stabenow
Collins	Johnson	Stevens
Conrad	Kennedy	Thomas
Corzine	Kerry	Thompson
Craig	Kohl	Thurmond
Crapo	Kyl	Torricelli
Daschle	Landrieu	Voinovich
Dayton	Leahy	Warner
DeWine	Levin	Wellstone
Dodd	Lieberman	Wyden
Domenici	Lincoln	

#### NOT VOTING—2

Santorum Specter

The nomination was confirmed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER OF BUSINESS

Mr. REID. Mr. President, I have spoken to the two managers of this legislation. What we are going to do now, if the unanimous consent request is approved, is go to morning business until 12:30.

The amendment offered by the Senator from California, Mrs. FEINSTEIN, is an extremely important amendment dealing with derivatives, among other things. The way the legislation is now written, it appears Senator GRAMM of Texas opposes this legislation. He and the Senator from California are now in deliberations. The arrangement has been made that they are going to report back at 2:15 today after the party conferences are completed. If there is some hope that further discussion between them will bear some fruit, then we will go further; otherwise, we are going to complete that matter today. Senator GRAMM said he wants to speak on it for a while. He may have a second-degree amendment.

I say to all Members, we need to move forward. As I indicated on behalf of the majority leader today, we have light at the end of the tunnel. The minority leader has indicated he thinks we can finish this bill by a week from this Friday. We agree that is certainly the way it should be.

We have some important matters to consider. We have to do something with ANWR, we have to do something with CAFE standards, and electricity. We hope those three very difficult, contentious issues can be disposed of. And we would indicate we are going to finish derivatives before we move to something else, unless there is some agreement between the two Senators. We cannot keep bouncing around this legislation.

#### MORNING BUSINESS

Mr. REID. So, Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak therein for a period of 10 minutes each, until 12:30 p.m., when, under the previous order, we will recess for the weekly party conferences.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alaska.

#### THE ENERGY BILL

Mr. MURKOWSKI. Mr. President, I concur with the statement of the majority whip. I look forward to, hopefully, moving with some dispatch on the energy bill. There are probably a few more contentious issues, as you know: Electricity, certainly ANWR, CAFE, renewables. So we have our work cut out for us. I encourage Mem-

bers to try to recognize that it is very important we have an energy bill and we get it in conference.

I communicate to the majority whip, perhaps he can enlighten us at a later time if indeed campaign finance reform is going to come into play and delay us. Perhaps he can do that at such time as he is able to give us some idea when that might occur. I assume that would not necessarily take us off the bill.

Mr. REID. If the Senator will yield, Senator DASCHLE and Senator LOTT met today with some of us, and it is believed that the campaign finance matter can be resolved in as little as 3 hours, to complete everything within that period of time, and send it to the House. That certainly isn't done yet. Senator DASCHLE has asked for an agreement to be entered in the RECORD tomorrow in that regard. If that were the case, it would temporarily slow down this bill, but that is all.

Mr. MURKOWSKI. I appreciate that. I must say, I am pleased with the optimism shown by the majority whip. Perhaps to finish in 3 hours would be a record. Let's work towards it.

Mr. President, I am going to speak in morning business for 10 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

#### IRAQ

Mr. MURKOWSKI. Mr. President, yesterday our President, President George W. Bush, marked the 6-month anniversary of the terrorist attacks. I think we would all agree he used some very strong words for our adversaries.

I quote President Bush:

Every nation in our coalition must take seriously the growing threat of terror on a catastrophic scale—terror armed with biological, chemical or nuclear weapons.

That was his comment yesterday.

Further, he stated:

Some states that sponsor terror are seeking or already possess weapons of mass destruction. Terrorist groups are hungry for these weapons and would use them without a hint of conscience.

Further quoting him:

In preventing the spread of weapons of mass destruction, there is no margin for error and no chance to learn from mistakes.

Further quoting him:

Our coalition must act deliberately, but inaction is not an option.

I would refer to that again: "inaction is not an option."

He added:

Men with no respect for life must never be allowed to control the ultimate instruments of death.

The President did not name names, but it is becoming increasingly clear that when we talk about targeting terror, we are talking about targeting Saddam Hussein's Iraq.

We know he has chemical weapons because we have watched him use them on his own people. We know Saddam wants nuclear weapons because his chief bomb maker defected to the West

with a wealth of information on their program. We know, very well, he has a missile capability because he fired dozens of missiles on Israel during the gulf war.

So what has he been up to? We cannot say for sure because we have not had a U.N. inspector there since December of 1998. So he has had 1999, 2000, 2001—clearly over 3½ years to continue his development of weapons of mass destruction. We know that for a fact. We just do not know what they are, and we do not know what he is going to do with them. One can only imagine what he has been able to accomplish during that timeframe.

Some of you may have seen the special on CNN the other day where they identified clearly the threat of Iraq, and a historical review from the time of the Persian Gulf war: His experimentation of using chemical weapons on his own people; his arsenal, a portion of which was destroyed at that time under the U.N. auspices. Since that time we have just observed him as he continues to rule as a dictator, as one who obviously has seen fit to go to extraordinary means to ensure his own safety, by simply wiping out those critics of his regime.

I am not going to try to typify this individual. I have met him. I have been in Baghdad. As a matter of fact, I think I am the only Senator who is still in the Senate who met with Saddam Hussein prior to the Persian Gulf war. The Senator from Idaho, Mr. McClure, was with us. Senator Dole was with us. Also, Senator Simpson from Wyoming was with us. The Senator from Ohio, Howard Metzenbaum, was with us.

It was a very interesting opportunity. We had been in Egypt and were advised we should go over to visit Saddam Hussein in Iraq. We did go over there. We were met by our Ambassador, April Gillespie. We were supposed to meet Saddam Hussein at the airport in Baghdad. She said that she was sorry, that Saddam Hussein changed the itinerary. He was not there. We were supposed to go up to Mosul.

So the Foreign Minister, Tariq Aziz, who is still there, said that Saddam had sent his airplane down to take us up to Mosul. We were somewhat reluctant to get in Saddam's airplane, as you might imagine. We said: We will take our own airplane. We had an Air Force aircraft. There was some discussion. Then they came back and said: No, the runway was under repair. Our plane was too big; they would not be able to accommodate our airplane. Then Foreign Minister Tariq Aziz said: I am going with you. That made us somewhat more at ease. Somewhat reluctantly, we did climb into the airplane and fly up to Mosul.

It was ironic because, when we landed, they said: we won't have to take you back because we have finished repairing the runway and your airplane can come and get you. We knew we were set up to make a story.

We did go into a hotel and Saddam Hussein met us and was supposedly going to host lunch. We had a long discussion about human rights activities. We talked about the cannons that had been found on the docks in London. We discussed the triggering devices. And he had an answer for everything. He would throw out a booklet designed by the Baghdad Institute of Technology. At one point he got rather belligerent and suggested we had no business in his country talking to him about the attitude of the people of Iraq.

He asked us to go out on the balcony. And he said: There are five of you, five helicopters. You can go anywhere in Iraq you want and ask what the people really think of Saddam Hussein. Howard Metzenbaum declined the invitation for reasons of security, to put it mildly. So did the rest of us.

Nevertheless, we had an opportunity to observe this individual. To suggest he is unpredictable is an understatement. He is very unpredictable. His value on human life, as evident over an extended period of time, speaks for itself.

One can conclude that Iraq is a very unstable area that we are depending on for oil. As I am sure the occupant of the chair, the Senator from New York, recognizes, on a particular day of September 11, we were importing a million barrels of oil a day from Iraq. At this time it is a little over 800,000 barrels a day. Interestingly enough, on that tragic day in September, that was a record, an 11-year-old record.

What do we do with his oil? We use it to drive to work, use it in schoolbuses, to take our kids, whatever. It is the fuel the Navy jets use, which twice this year already bombed Saddam Hussein and every day enforces a no-fly zone over his skies. Last year Iraqis shot at U.S. forces some 400 times. We responded in force 125 times. I ask, can we count on his oil if Baghdad is the next stop in the war of terror?

I have charts here that clearly show the increase of Iraqi oil production in the Mideast, and you can see 1.1 million barrels of Iraqi oil—this is where American families get their oil—the Persian Gulf, almost 3 million barrels; OPEC, 5.5 million barrels. Oil has jumped up to the highest price in 6 months. It is a little over \$24.50 a barrel.

Gasoline prices are at the highest they have been in 6 months. This is indicative of particularly the power of the OPEC cartel, which, by controlling the supply, clearly controls the price.

We have other charts here that I think show a significant figure. We in this country have been able to do a pretty good job of conserving through higher efficiency. As this chart shows, consumption per thousand Btu has dropped from about 18 down to about 11 in the period of 1973 through the year 2000. That is a 42-percent decline. While conservation has made significant advancements, we still are significantly dependent on imported sources of oil

for the reason that America and the world moves on oil.

Here is a chart that is relatively new. It shows crude oil imports from Iraq to the United States in 2001. This is by month, January going over to September. That was an all-time high. That was at a time where the terrorist activities took place in Pennsylvania and Washington and New York.

It is very significant to recognize that we will have to deal with Iraq, and the President has kind of laid down a card that suggests we want to have U.N. inspectors in Iraq.

Saddam Hussein laid down his card yesterday. His card was quite expressive of the prevailing attitude of his regime. No, we are not going to let U.N. inspectors into Iraq.

So what are we going to do? It is our move next. We waited too long to deal with bin Laden. We waited too long to deal with al-Qaida. So this is a scenario that won't be over this week or next. We cannot afford to wait too long to deal with Saddam Hussein. As long as he is in power, he will continue to threaten the world as a member of the axis of evil. All the tools he needs are now within his grasp.

Reducing foreign dependence on oil can lessen the influence and reach of Saddam Hussein. There are solutions that must begin right here at home. Doing so will not only help ensure our energy security; it will further ensure our national security.

Again, I make another appeal to my colleagues to recognize the role that Alaska could play by opening up the Arctic National Wildlife Refuge. On each desk of Members, we have a series of exhibits that highlight the reality associated with opening up this area. It is still very difficult to get Members to focus on a couple of stark realities.

I point out again the size of the area in question in the green. That is 1.5 million acres. That is the only area up for proposal. ANWR itself is a much larger area. It is a 19-million acre area consisting of 8 million acres of wilderness and 9.5 million acres of refuge. The green area is the area in question. Then the idea is what would be the footprint there? In the House bill, H.R. 4, the footprint is 2,000 acres. That is a conglomeration of just a combination of drilling activities on land plus developing pipelines.

It cannot go over 2,000 acres. That is pretty insignificant considering using an area of 1.5 million acres.

As we look at the merits, the question is, Can we do it safely? The answer is, yes, because we use new technology now. We have ice roads and these ice roads don't require gravel. They are simply a process where you lay water on the tundra, it freezes, and then you can move the vehicles, you can move drilling rigs and so forth.

That shows a typical drilling rig. Beyond the area up on the top you see the Arctic Ocean. You can see an ice road leading from the platform. That is the new technology. To suggest we are

going to leave a scar on the tundra in the summertime, which is quite short—and I will show you a picture of the summertime, this area, which clearly is a result of the technology. There is a well that has been spudded in. You can see there are no roads to it because there was an ice road only during the winter.

Winter is pretty long up there. It is about 10½ months a year. There are only about 40 days of ice-free time when the Arctic Ocean is open.

Nevertheless, in spite of the facts relative to being able to open ANWR, America's environmental community has latched onto this, and they have misrepresented issue after issue. The issue they continually propose is that there is only a 6-month supply. We don't know what is in ANWR and they don't know. The range is from 5.6 billion barrels to 16 billion barrels. If it were somewhere in the middle, it would be as big as Prudhoe Bay, and Prudhoe Bay has contributed 20 to 25 percent of the total crude oil production in the U.S. in the last 27 years.

Those are facts. If you look over here on this chart, you will see the 800-mile pipeline. That infrastructure is already in place. That is one of the construction wonders of the world. As a consequence, it has been able to move this volume of oil. It is only utilized to half of its capacity. It is currently carrying a little over a million barrels a day. It can carry as many as 2 million barrels a day. So if oil is discovered in this magnitude, you would be putting a pipeline over from the ANWR area to the 800-mile pipeline down to Valdez, and it is a relatively simple engineering operation.

The question is, Do we want ANWR open and do we want to avail ourselves of the likelihood of a major discovery? People ask, why ANWR? That is the area where geologists tell us is the greatest likelihood for the greatest discovery in the entire continent of North America. So to suggest it is a 6-month supply is unrealistic and misleading. If we didn't import and produce any oil, theoretically, it might be a 6-month supply. On the other hand, it is just as probable to suggest it would supply the Nation with 20 to 25 percent of its total crude oil for the next 30 or 40 years. If it comes in in the magnitude that we anticipate, it would offset imported oil from Iraq for 40 years and from Saudi Arabia for 30 years. The other issue is that it would take an extended timeframe to get on line. I remind colleagues that in 1995 we passed ANWR. It was vetoed by the President. If we would have that on line today, we would not be as dependent on Iraq as we are currently. So it is a matter that will come up before the Congress as part of the energy bill.

The House has done its job; it has passed H.R. 4 with ANWR in it. It is up to us to address this issue now. I encourage my colleagues to try to reflect accurate information, not misleading information that would detract from

the knowledge that we have gained in new technology in opening up this area safely and protecting the caribou. There is always a new argument. New ones continually pop up. One is the question of the polar bear. Most of the polar bears are over by the area near Barrow, as opposed to the ANWR area. We acknowledge that there are a few in the ANWR area. But the point is, under the marine mammal law, you can't take polar bears for trophies in the United States. That has significantly increased the lifespan of the polar bear. If you want to hunt polar bear, go to Russia and Canada. You can't do it in the United States. These are facts that are overlooked as we look at the arguments against opening this area.

The last point is, why disturb this unspoiled, pristine area? The fact is, this area has had the footprints of man on numerous occasions. It was an area where there were radar stations, an area where there is a Native village called Kaktovic, which has roughly 280 people. This is a picture of the village. This is in ANWR—physically there. There is an airport and radar stations. You can see the Arctic Ocean. We have pictures of the local community hall with kids on a snowmobile. This is village life in Arctic Alaska, way above the Arctic Circle. We have a picture showing kids going to school. These kids have dreams and aspirations just as our kids. They are looking for a future—jobs, health care, educational opportunities. They are the same as anybody else. Nobody shovels the snow here; nevertheless, it is a pretty hardy environment. To suggest that somehow this land is untouched is totally unrealistic and misleading.

Speaking for these children, I think we have an obligation to recognize something. I have another chart that shows the Native land within ANWR and the injustice that is done to these people, and I think it deserves a little enlightenment.

This is the map that shows the top, and there are about 92,000 acres in ANWR that belong to the Native people of Kaktovic. It is a smaller chart. We should have that chart. What we have here—and let's go back to the other chart that shows Alaska as a whole because I can make my point with that one. Within this area of the green, which is the Arctic Coastal Plain, up top we have the village of Kaktovic, and that little white spot covers the land that they own fee simple—92,000 acres. They have no access across Federal land, which is what ANWR is. They are landlocked by Federal ownership. So as a consequence, the concept of having fee simple land really doesn't mean very much if you can't use the land and have access, and so forth.

They believe there is an injustice being done here in their Native land. While it is theirs, it doesn't provide them with any access—here is the chart I am looking for. Madam President, we have the specifics here. This general area that you are looking at in

pink is what we call the 1002 area. That is a million and a half acres, where we are talking about providing leases. The Native area is the white area. This is the 92,000 acres. You can see the area offshore; that is the Arctic Ocean. It is free of ice for only about 40 days a year.

The problem the Native people have is access because they cannot have any surface access outside their 92,000 acres of land. If they wanted to move over to where the pipeline is, they would move west and beyond the area on the chart. The question is, Is it fair and equitable that these people are prevented from having access?

We think there should be some provision in the ANWR proposal to allow the Native residents of this area to have access across public land for their own benefit. We intend to pursue this in some manner in this debate as we develop the merits of opening up ANWR. If we were to open it up for exploration, this would not be a question. Clearly, there is a lack of support by Members, based on information from the environmental community that this area is undisturbed and should not be initiated for exploration of oil and gas, even though geologists say it is the most likely area for a major discovery. Still we have an injustice and an inequity to these people. I don't think there has been enough attention given to the plight of these people who, as any other aboriginal people, are ensured certain rights under our Constitution, and those rights have not been granted them.

As a consequence, there is an injustice to the people of the village of Kaktovic and members of the Arctic Slope Aboriginal Corporation, which is the governing body in that area.

With that explanation, I encourage Members to think a little bit about fairness and equity and what we owe these aboriginal people. We certainly owe them reasonable access out of the lands they own fee simple.

Madam President, nobody else is requesting recognition, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess until 2:15 p.m. today.

There being no objection, the Senate, at 12:19 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.



The assistant legislative clerk proceeded to call the roll.

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

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

# NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

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

The assistant legislative clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

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

Feinstein amendment No. 2989 (to amendment No. 2917), to provide regulatory oversight over energy trading markets.

Dorgan amendment No. 2993 (to amendment No. 2917), to provide for both training and continuing education relating to electric power generation plant technologies and operations.

Mr. REID. Mr. President, I have conferred with the managers of the bill, and with Senator DASCHLE, on the Feinstein amendment, which is pending. During the break, there was a long conversation with the two managers, and with Senator FEINSTEIN and Senator GRAMM. It is believed it would be in the best interest to set this amendment aside and move to some other matters. Everyone should understand that we have every belief that Senators GRAMM and FEINSTEIN are working in good faith to try to come up with some way to resolve this issue. If in fact they do not, though, Senator DASCHLE has indicated that he would be ready to file a cloture motion on the Feinstein amendment so we can move forward on that. We hope we do not have to do that. I am confident that we will not. But in case we cannot resolve the matter, Senator DASCHLE is ready to file a cloture motion on the Feinstein amendment.

We will ask to move off this important matter dealing with derivatives. The two managers have some amendments they can work on that wouldn't take long at all.

I have spoken to Senator LEVIN. He is going to come and offer an amendment and/or substitute on the provision in the bill that deals with CAFE standards. That should begin in the next 15 minutes or so. Is that in keeping with what the two managers understand?

Mr. BINGAMAN. Mr. President, in response, let me say it is in keeping, and I know the Senator from Idaho is here and ready to offer an amendment. His amendment is acceptable.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, before I make some brief comments on the

amendment, I thank the assistant majority leader for allowing us to set aside what is an important but I think contentious amendment if we don't work out the tremendous complication of dealing with derivatives. It is a complex area and we well ought to know what we are doing. Members and staff of the Banking Committee are now working with Senator FEINSTEIN on it. We are hopeful something can be worked out in this area.

I am pleased both sides have agreed to the amendment that I will send to the desk.

Mr. MURKOWSKI. Mr. President, if the Senator from Idaho will yield, Senator LANDRIEU also has an amendment—the hydrogen protection amendment—which we understand has been agreed to. She will offer that amendment after Senator CRAIG's amendment. We hope to dispose of both.

There are two more amendments that we have not agreed to—Senator DOMENICI on spent fuel and Senator LANDRIEU on licensing new reactors. But we can continue to work on those if we can dispose of the two.

I, of course, support Senator CRAIG's amendment as well.

AMENDMENT NO. 2995 TO AMENDMENT NO. 2917

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

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2995 to amendment No. 2917.

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

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

The amendment is as follows:

(Purpose: To direct the Secretary of Energy to carry out a program within the Department of Energy to develop advanced reactor technologies and demonstrate new regulatory processes for next generation nuclear power plants)

At the appropriate place in the amendment, insert the following:

## SEC. . NUCLEAR POWER 2010.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) OFFICE.—The term "Office" means the Office of Nuclear Energy Science and Technology of the Department of Energy.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Nuclear Energy Science and Technology of the Department of Energy.

(4) PROGRAM.—The term "Program" means the Nuclear Power 2010 Program.

(b) ESTABLISHMENT.—The Secretary shall carry out a program, to be managed by the Director.

(c) PURPOSE.—The program shall aggressively pursue those activities that will result in regulatory approvals and design completion in a phased approach, with joint government/industry cost sharing, which would allow for the construction and startup of new nuclear plants in the United States by 2010.

(d) ACTIVITIES.—In carrying out the program, the Director shall—

(1) issue a solicitation to industry seeking proposals from joint venture project teams comprised of reactor vendors and power generation companies to participate in the Nuclear Power 2010 program;

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear steam supply systems and major equipment suppliers, and plant owner/operators, with strong and common incentives to build and operate new plants in the United States;

(3) conduct the Nuclear Power 2010 program consistent with the findings of A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010 issued by the Near-Term Deployment Working Group of the Nuclear Energy Research Advisory Committee of the Department of Energy;

(4) rely upon the expertise and capabilities of the Department of Energy national laboratories and sites in the areas of advanced nuclear fuel cycles and fuels testing, giving consideration to existing lead laboratory designations and the unique capabilities and facilities available at each national laboratory and site;

(5) pursue deployment of both water-cooled and gas-cooled reactor designs on a dual track basis that will provide maximum potential for the success of both;

(6) include participation of international collaborators in research and design efforts where beneficial; and

(7) seek to accomplish the essential regulatory and technical work, both generic and design-specific, to make possible new nuclear plants within this decade.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section such sums as are necessary for fiscal year 2003 and for each fiscal year thereafter.

Mr. CRAIG. Mr. President, the amendment authorizes a new program within the Department of Energy called Nuclear Power 2010. The new program was proposed in the administration's fiscal year 2003 budget. Senator MURKOWSKI, Senator LANDRIEU, Senator DOMENICI, and Senator THURMOND are supporters of this effort. We think it is the appropriate direction to go in the development of a new energy package.

The goal of Nuclear Power 2010 is to aggressively pursue activities that will result in the completion of designs for the next generation of nuclear reactors.

This program will also look for ways to reduce the regulatory uncertainties which have been obstacles to the building of new nuclear plants. This program would incorporate cost sharing between government and industry to ensure that the outcome of this program will be not only beneficial but useful to both sides as new designs are developed.

This program will also garner the tremendous creativity of the technical minds within the Department of Energy and our National Laboratories—some great minds that have been sitting somewhat idle in the area of new design and reactor development over the last number of years.

In my home State of Idaho, for example, Argon West was the first ever nuclear effort that lit the first lightbulb. Strangely enough, a lot of folks don't

know that about Idaho. But the reactor that generated that was an experimental breeder reactor. That was well over 50 years ago.

Our National Laboratories have been extensively involved. This reinvolves them. We hope it reinvigorates them.

I think all of us recognize that clean sources of abundant energy are critical for the future of this country. The cleanest is nuclear.

The 2010 amendment is the kind of program that I think sends us in the direction that we want to see our energy base going as an integral part of energy's diverse mix in our country. We believe the 20 percent now made up of current operating reactors will have to go higher in future years as we look at issues of climate change, weather, and, of course, the unpredictable fluctuation in a variety of other energy sources.

That is the purpose and the intent of the amendment. It has been accepted.

I hope this amendment can be voice voted.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, we have reviewed the amendment of the Senator from Idaho, and it certainly is acceptable on this side. I support the amendment. I urge my colleagues to support it. We should add it to the bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. THURMOND. Mr. President, I am pleased to cosponsor this amendment and compliment Senator CRAIG for his leadership on this issue and nuclear power in general. This amendment authorizes the Department of Energy's Nuclear Power 2010 initiative, a multi-year program for the Department of Energy to partner with the private sector to explore both Federal and private sites that could host new nuclear plants; to demonstrate the efficiency of and timeliness of key Nuclear Regulatory Commission licensing processes designed to make licensing new plants more efficient, effective and predictable; and to conduct research needed to make the safest and most efficient nuclear plant technologies available in the United States.

I am a strong proponent of nuclear power because it is among the cleanest sources of energy in the world today. Additionally it is reliable, efficient and abundant. Presently, the United States gets approximately 20 percent of its power from nuclear plants. Those plants in operation currently cannot operate indefinitely. Accordingly, in order to maintain the energy production we receive from nuclear power today, the United States will need to build new nuclear facilities.

Fortunately, advanced reactor technologies are now available that are safer, smaller and more capable. As we are all aware, however, bringing new civilian nuclear plants on-line is a lengthy process. Regretfully, considerations such as site selection concerns, licensing impediments, and legal chal-

lenges have curtailed new nuclear plants.

In May of last year, I wrote to Vice President CHENEY as head of the President's Energy Task Force. In my letter, I noted how pleased I was to learn that the Administration was committed to developing a comprehensive national energy strategy that would include a renewed consideration of nuclear power. I suggested to the Vice President, that the Administration consider co-locating advanced technology commercial nuclear power production facilities on existing Department of Energy reservations.

Utilizing Department of Energy facilities would mitigate any number of problems associated with building new nuclear plants. To begin with, there is no need to secure new land. In addition to the fact that this is already Federal property, in general, DOE facilities are large isolated areas that are highly secure. Also, individuals living near these locations are usually supportive of nuclear initiatives. They know that having a nuclear facility nearby is not a safety issue. As such, we avoid the "not in my backyard" syndrome. Finally, building new nuclear reactors on existing DOE facilities reduces the amount of new infrastructure required as companies would be "leveraging" against what already exists at these locations.

The Energy Task Force and Secretary of Energy Spencer Abraham did not require much convincing. The Secretary called upon industry to determine interest in developing advanced technology commercial nuclear plants at DOE locations. I have been advised that a number of proposals were received from some of the top energy companies in the Nation.

When Secretary Abraham unveiled the Nuclear Power 2010 initiative, he announced awards to two nuclear utilities to conduct initial studies of several sites that could eventually host new nuclear plants. In addition to several private sites, the Secretary identified the Department of Energy's Idaho National Engineering and Environmental Laboratory in Idaho, the Savannah River Site in my hometown of Aiken, SC, and the Portsmouth site in Ohio as sites to be considered.

These DOE sites were ideal locations to locate nuclear projects fifty years ago. With the right physical characteristics, experienced workforces and supportive local communities, they remain so today. I believe it makes perfect sense to use these existing assets as a platform upon which to expand our civilian nuclear power capabilities.

This initiative is good government and I am pleased that it is included in this package.

Mr. MURKOWSKI. Mr. President, I join Senator BINGAMAN in support of the amendment. It establishes a program within the Department of Energy to aggressively pursue activities that will lead to, hopefully, the development of new nuclear plants.

As we know, nuclear power currently contributes about 20 percent of the total energy produced in this country. France is at about 75 percent; Sweden is at about 46; Japan, 30 percent. So, clearly, this is an amendment that will be an investment in the future. We support the adoption of the amendment. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2995) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2993

Mr. DORGAN. Mr. President, yesterday I offered an amendment that subsequently was set aside. It is amendment No. 2993. The amendment is to establish a National Power Plant Operations Technology and Education Center. The amendment, I believe, is noncontroversial.

I know the Senator from Alaska indicated he would accept the amendment. I believe the Senator from New Mexico indicated the same. I ask that it be immediately considered favorably by the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object, and I shall not object, my understanding is that we are still examining it. I have no reason to believe there will be an objection, but staff has asked for a little more time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, in response to Senator DORGAN, we have cleared the amendment. I appreciate his forbearance. We had one question that has been answered satisfactorily. So I urge the Senator to go ahead. I support the adoption of the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator from Alaska for his courtesy. I ask for the immediate consideration of amendment No. 2993.

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

If there is no further debate on the amendment, without objection, the amendment is agreed to.

The amendment (No. 2993) was agreed to.

Mr. MURKOWSKI. I move to reconsider the vote.



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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2996 TO AMENDMENT NO. 2917

Mr. MURKOWSKI. Mr. President, we have one more amendment we would like to resolve on behalf of myself and Senator DASCHLE. This is an amendment covering rural and remote communities. My understanding is, it is cleared on both sides.

I would ask the majority for any comments they may care to make.

Mr. BINGAMAN. Mr. President, we do not object to this amendment. It is supported on this side. I urge that the Senate proceed to dispose of the amendment.

Mr. MURKOWSKI. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska, [Mr. MURKOWSKI], for himself and Mr. DASCHLE, proposes an amendment numbered 2996.

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

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

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

Mr. MURKOWSKI. Mr. President, the amendment I am offering on behalf of myself and Senator DASCHLE establishes the Rural and Remote Community Fairness Act. This amendment addresses serious electricity and infrastructure concerns of rural and remote communities. Of particular interest to the amendment's cosponsor, Senator DASCHLE, are the provisions that address the concerns of rural and remote communities that suffer from high out-migration. We have well-established programs for urban areas. And I support them.

These programs were established to help resolve the very real problems found in this Nation's cities. But our rural and remote communities experience equally real problems—and they are not addressed by existing urban programs. They have been left out. Not only are these communities generally ineligible for the existing programs—their unique challenges require a different focus and approach.

The biggest single challenge facing small rural communities is the expense of establishing a modern infrastructure. The existence of a modern infrastructure is necessary for a safe envi-

ronment and a healthy local economy. There is a real cost in human misery and to the health and welfare of everyone—especially children and elderly—from poor or polluted water or bad housing or an inefficient and expensive power system.

The problems in Alaska are a perfect example: 190 villages have "unsafe" sanitation systems; 135 villages still use "honey buckets" for waste disposal; and only 31 villages have a fully safe, piped water system.

It is not surprising that Hepatitis B infections in rural Alaska are five times more common than in urban Alaska. Similarly, most small communities and villages in Alaska are not interconnected to an electricity grid and rely upon diesel generators.

Electricity prices in Alaska can be stunningly high. For example: the Manley Utility—77 cents per kilowatt hour; Middle Kuskokwim Electric—61 cents/KWh. But so too can electricity prices in other small communities across our nation. For example: Matinicus Plantation Electric in Maine—30 cents/KWh; Bayfield Electric in Michigan—17 cents/KWh; New Hampshire Electric—15 cents/KWh; Fishers Island in New York—23 cents/KWh.

Compare these prices to the national average of around 7 cents per kilowatt hour—and you can see the problem we need to address.

We just have to do better if we are to bring our rural communities into the 21st century—to enjoy the fruits of economic growth—to have safe drinking water—to have affordable energy.

How will this amendment address these problems?

First, it authorizes \$100 million per year for block grants to communities served by utilities who have 10,000 or fewer customers who pay more than 150 percent of the national average retail price for electricity. These small communities may use the grants for infrastructure improvement including weatherization; modernizing their electric system; and assuring safe drinking water and proper waste water disposal.

Second, it authorizes electrification grants of \$20 million per year to small, high-cost communities. These grants can be used to increase energy efficiency, lower electricity rates, or provide or modernize electric facilities.

Third, it addresses the problem of high electricity prices in Alaska—a problem that will diminish as new, efficient electric generation can be installed.

Fourth, it addresses the very real problems of communities that have a high rate of out-migration. It provides affordable housing and community development assistance for rural areas with excessively high rates of out-migration and low per-capita income levels. This is a very significant problem for Senator DASCHLE's State of South Dakota.

This amendment makes a significant step toward resolving the critical social, economic and environmental

problems faced by our Nation's rural and remote communities.

I encourage my colleagues to support this amendment.

Mr. MURKOWSKI. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, without objection, the amendment is agreed to.

The amendment (No. 2996) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, the Senator from Missouri is in the Chamber and ready to speak on the amendment Senator LEVIN and he are intending to offer. The floor is open for their discussion at this point.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2997 TO AMENDMENT NO. 2917

(Purpose: To provide alternative provisions to better encourage increased use of alternative fueled and hybrid vehicles.)

Mr. BOND. Mr. President, I appreciate the courtesy of the managers of the bill. Senator LEVIN will be in the Chamber shortly, but I thought I would go ahead and make some remarks prior to the offering of this amendment, which I think is a very significant one.

There are many important issues in an energy bill, but what happens to our automobile economy, what happens to the workers, what happens to the people who buy them, what happens to the people on the highways should be a very important consideration.

I think when you talk about energy and fuel economy standards, the impact on jobs and safety need to be at the top of anyone's list. That is why I am pleased to join my colleague from Michigan, Senator LEVIN, in crafting a commonsense amendment to the energy bill that will increase passenger car and light truck efficiency while protecting jobs, highway safety, and consumer choice.

Before we get into the details of the amendment—and we will be getting into lots of details, probably more than anybody wants to know about corporate average fuel economy—let me just take a moment to review the state of our economy.

A few weeks ago, I was disappointed that the Senate had stalled out on an economic stimulus package. We have been in a recession for months, and although there are signs of a recovery, there are still many Americans without jobs.

Of course, as you know, we did pass a smaller bill to increase the time of payment for unemployment compensation that did have a portion of the stimulus package in it.

Now, what would be the link between higher fuel economy standards and economic recovery and stimulus and jobs? I will tell you.

I have listened to the car manufacturers, the working men and women in the unions who build the cars, and the other impacted groups, and the significantly higher CAFE standard, or the miles per gallon, which will be required for vehicles that are included in Senator DASCHLE's energy bill that he created, without committee action, has a very real likelihood of throwing thousands of Americans out of work, including many of the 221,000 auto workers in Missouri.

That is because the only way for car companies to meet the unrealistic numbers in the underlying amendment is to cut back significantly on making the light trucks, the minivans, and the SUVs that the American consumers want, that the people of my State and the people of the other States want—to carry their children around safely and conveniently, to do their business. If they have jobs in one of the trades, they need minivans and compartment trucks and others to carry their goods. If they are farmers, they need pickup trucks to take care of their livestock and to haul equipment and feed.

I know some in this Chamber believe our fellow Americans cannot be trusted to make the right choice when purchasing a vehicle. But when it comes down to choosing between the consumer and the Government as to who is best to make a choice, I will side with the consumer every time.

I don't pretend to know what is best for each of the 15 million Americans who will be purchasing a new vehicle this year and the ones next year or in the years after. Those who want higher Government CAFE or miles-per-gallon standards always claim to have the best interests of the consumer in mind and always promise that the last thing they want to do is hurt the car manufacturers. Well, they have missed the mark by a mile with language that ended up in the bill before us today.

Proponents portray this CAFE provision, authored by Senator KERRY and others, as reasonable and necessary. I have other words in mind to describe it. It is antisafety, anticonsumer and antijob.

I also have the numbers to consider during this debate. How about 6.6 million. That is the number of Americans employed in direct or spin-off jobs related to the automotive industry. In fact, every State in America is an auto State. We all know that Michigan, Indian, Missouri, and Ohio are big manufacturing States. But even smaller States such as Nebraska, New Hampshire, and Delaware have suppliers and other industries where success and business profitability is directly related to the large car assembly plants in the Nation.

As we struggle to get our economy moving again, we ought to be developing proposals that will increase the number of jobs. Unfortunately, the underlying miles-per-gallon standard in this bill by Senator DASCHLE does just the opposite. It must be removed. It must be replaced.

I recognize there are competing views on this subject. Some of my colleagues prefer to listen to the arguments put forth by those who have never built a vehicle, never visited a plant, or don't even have an elementary understanding of how a car works.

I prefer to listen to those who are actually engaged in the business of making cars, of designing cars, servicing cars, selling cars and trucks. They tell me one consistent message: The CAFE provision is a job killer, a threat to the safety of our friends and families and a mandated market that eliminates consumer choice. For those who say, too bad, we must force Detroit to build more fuel-efficient cars and trucks, do you know that under CAFE it doesn't matter what the companies manufacture and build? It is calculated based on what the consumer buys.

There are over 50 of these high economy models in the showrooms across America today. But guess what. They represent less than 2 percent of total sales. Americans don't want them. You can lead a horse to water; you can't make him drink. You can lead the American consumer to a whole range of fancy, lightweight, long-distance automobiles, but you can't make them buy them.

Meanwhile, consumers from families, soccer moms, farmers, people with teenagers, people with soccer teams, they want the minivans. A constituent of mine, Laura Baxendale in Ballwin, MO, asked:

Senator, our mini-van is used to transport two soccer teams, equipment and seven players, how would this be possible in a smaller vehicle?

I have to tell Ms. Baxendale, the bad news is they would have to have a string of golf carts. You can see the golf carts going down the highway to soccer practice, maybe two kids in each golf cart. It is not a very safe or efficient way to transport.

Here is a quote from Jeffrey Byrne, of Byrne Farm in Chesterfield, MO:

As a farmer I do not purchase pickup trucks because of their fuel economy, I purchase them for their practicality.

He buys them because he needs them. He is taking care of his livestock. Did you ever try to put a load of hay in the back of a golf cart? It doesn't make a very big delivery vehicle.

Under the new CAFE numbers, the production of these popular vehicles would need to be curtailed. I don't want to tell a mom and dad in my home State they can't get the SUV they want because Congress decided that would be a bad choice. I don't think that is a sound way to set public policy. After hearing from assembly line workers, farmers, auto dealers, and others directly impacted by Government CAFE standards, I fully believe the appropriate fuel economy standards are best decided by experts within the Department of Transportation who have the technology and the scientific know-how to determine what is feasible to help lead us down

the path towards the most efficient, economical, and environmentally friendly standards, rather than by politicians choosing some political number out of the air. We could get in a bidding war, but we are bidding on something we know nothing about—how efficient can engines be made.

Under the Levin-Bond amendment, the experts at the National Highway Transportation Safety Administration are directed to refer to sound science in promulgating an appropriate and feasible increase. Think of that. This would be historic, if this body said we are going to use sound science on a technological issue before us. Senator LEVIN and I believe the time has come. This amendment will strengthen the regulatory process to ensure that the miles per gallon or CAFE levels are accurate and reflect the needs of consumers, the technology development, without undo consequences for safety and jobs.

Ultimately, I do believe science, not politics, should drive the deliberations on the CAFE or miles-per-gallon standards. I would be most interested to see what hard data and solid science our colleagues who have pushed for this 35-mile-an-hour CAFE standard say justifies it, the standard in the bill. I am waiting to see what scientist thinks there is a technology to meet it. I don't believe I would hold my breath because I don't think it exists.

This is, unfortunately, a political number pulled out of thin air. Even worse, it is a number that could have deadly consequences for American drivers and passengers. I have read the 2001 National Academy of Sciences report on the CAFE standard. Let me share with you a key finding about safety and higher standards.

This is a report in USA Today. It says:

The fatality statistics show that 46,000 people have died because of a 1970s-era push for greater fuel efficiency that has led to smaller cars.

The National Academy of Sciences say:

In summary, the majority of that committee finds that the downsizing and weight reduction that occurred in the late 1970s and in early 1980s most likely produced between 1,300 and 2,600 crash fatalities and 13,000 to 26,000 serious injuries in 1993.

They estimate that 2,000 people were killed in 1993. I fear that has been replicated every year since. It goes on to say:

If an increase in fuel economy is effected by a system that encourages either downweighting or the production and sale of more small cars, some additional traffic fatalities would be expected.

That National Academy of Sciences report offers all of us clear guidance and expert scientific analysis as we debate fuel economy levels. I would also point out that the NAS panel was extremely careful to caution its readers that its fuel economy targets were not recommended CAFE goals because they did not weigh considerations such as employment, affordability, and safety.

These are the quotes from the National Academy of Sciences that I have just given you. I will leave it up to my colleagues can read it. I will have a copy of the report on the floor. I am sure everybody will be as fascinated as I have been to read it because it contains important information.

Opponents of our amendment may question how effective the experts at NHTSA will be in leading the new fuel economy standards. Some might prefer that Congress set a political number as we find in the current energy bill. Our amendment takes an approach that, rather than politics and guesswork, hard science and technological feasibility should be the prime consideration in the development of any new CAFE standards.

I will ask that my colleague from Michigan, who is going to describe this amendment, give you the details. I will just say that it is vitally important that we strike the people killing, jobs killing, market killing, CAFE or miles-per-gallon provisions currently in S. 517 because they would only hurt the consumer and do very little for fuel economy. Let's save jobs and save American lives by voting yes on the Levin-Bond amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first let me thank my good friend from Missouri for the tremendous effort he has put into fashioning this bipartisan approach to increasing fuel economy. He has played an indispensable role. I am very much appreciative of that and, of course, his presentation today.

This bipartisan approach is an alternative to the language in the substitute that is pending, the language which I will refer to as the Kerry-Hollings language. Our amendment is aimed at increasing fuel economy. That is No. 1. We want to increase fuel economy. We want to do it in a way that also allows the domestic manufacturing industry in our U.S. economy to thrive as well. We think we can accomplish both goals. We don't think these are mutually exclusive goals, inconsistent goals, or goals that are in conflict with each other, providing we do it right. If we do it wrong, we will have a very negative effect on the American economy and on manufacturing jobs in America. If we do it wrong, we will not even benefit the environment the way we should. I will get into the right way and the wrong way in a few moments.

We really have a three-point policy that we are talking about—three policies that we want to emphasize in this amendment. First is the need to increase fuel economy in our vehicles. That is policy No. 1.

No. 2, we put a much greater emphasis on incentives to achieve that goal, positive ways of achieving that goal. We do it in a number of ways in this bill. We have a requirement here that the Government purchase a large number of advanced technology vehicles.

Government purchases are a way of advancing the way of fuel economy. The Presiding Officer is a member of the Armed Services Committee and may remember that last year in our defense authorization bill we actually put in a requirement that the Defense Department, starting in the year 2005, purchase hybrid vehicles. What this bill does is it applies the same principle to the balance of our Federal Government so that we use the purchasing power, the pulling power, the positive power of Government purchases to provide a market for advanced technology vehicles or hybrids.

We also have a greater emphasis on joint research and development. The administration has proposed an approach, which is a very useful approach, built on what was called the "partnership for a new generation of vehicles," which the last administration put into place, which is based on partnerships between the Federal Government and the private sector in trying to develop new technology. The administration now has talked about moving with greater emphasis on fuel cells—they call it the "freedom car."

We would add about 40 percent additional funds to advanced technology research and development between the private sector and the Federal Government. That is the second thing we do in terms of positive incentives to try to achieve greater fuel economy.

A third thing that we would do, we would do it in a separate bill, so that this bill would not be subject to a point of order, or subject to a slip that the House of Representatives might be able to file against it. We do something on the tax credit side. We would significantly enhance the tax credits—tax deductions—that are provided for both advanced technologies and for new technologies. In the provision that is going to be offered, I believe, which has been adopted by the Finance Committee, for electric vehicles, we would increase the existing electric vehicle tax credit up to a maximum of \$6,000 for 6 years, beginning this year going through 2007. For fuel cell vehicles, we would establish a tax credit up to a maximum of \$11,000 for 8 years, beginning in the year 2004, ending in 2011. For hybrid vehicles, the separate amendment we will be offering would establish a tax credit up to a maximum of \$5,000 for hybrid vehicles for 6 years, beginning in 2004.

We also would have a greater emphasis on using tax deductions for infrastructure equipment and infrastructure for fuels and alternative fuels—for hydrogen. We would take the existing tax deductions and make them last longer. We would apply them to a greater range of equipment, and we would also establish a tax credit of up to \$30,000 for the cost of installation of alternative fuel and hydrogen distribution equipment, beginning in 2002 and ending in 2007.

There are—in addition to what I have just outlined—some research and devel-

opment programs that we would emphasize. On diesel research, we would coordinate with the Secretary of Energy on an accelerated R&D program to improve diesel combustion. We would have a fuel cell demonstration program between the Department of Defense and the Department of Energy.

Those, briefly, are the things we would do to create positive incentives, market pull, and partnerships between the Federal Government and the private sector, to try to get us to a greater level of fuel economy.

Our third policy is based on our belief that there are a host of factors that should be considered before the CAFE requirement is adopted. We think there should be a new CAFE requirement. Our provision calls upon the Department of Transportation to increase—that is our word—standards for cars and light trucks based on the consideration of a number of factors. Then we list the factors that we hope the Department of Transportation will consider. They include technological feasibility. That is the only one that is in the bill before us.

The bill says it would take the most advanced technologies, assume they will be incorporated into vehicles, and then do not consider, however, the other factors that we say logically must be considered before a new CAFE standard is adopted, such as cost-effective Government motor vehicle standards on fuel economy. For instance, what is the impact on our tailpipe emission standards?

The need to conserve energy; that is obvious. We all want to do that. That is a goal. The desirability of reducing U.S. dependence on foreign oil, clearly, that is one of our goals. What is the effect on motor vehicle safety? As the Senator from Missouri pointed out, the study of the National Academy of Sciences shows that there is a loss of lives and a significant number of injuries which result when you raise the CAFE standards, as we did some years ago. I will get back to the safety issue in a moment because it is a factor that should be considered. That is all we are saying. We are saying that it is logical and rational to have a process where other factors beside potential technological advances should be considered in setting a new CAFE standard.

The adverse effects of increased fuel economy standards on the relative competitiveness of manufacturers, I will come back to that issue because the CAFE structures had a discriminatory impact on the American auto industry with vehicles just as fuel efficient, I emphasize. I want to spend some time on that issue in a moment.

The American-manufactured vehicles are just as fuel efficient, and they are put in a negative position, vis-a-vis the imports, because of the CAFE structure—the fact that it looks at a fleetwide average rather than looking at class of vehicles compared to class of vehicles.

Instead of saying the same size vehicle will be subject to the same CAFE

standard, the same mileage standard, it lumps together all vehicles of a manufacturer, and the results are, in my judgment, bizarre and costs huge numbers of American jobs without the benefit to the environment.

We would ask the Department of Transportation, during this period of time that we give to them, to consider rulemaking would also take a look at the effect on U.S. employment, the effect on near-term expenditures that are required to meet increased fuel economy standards on the resources available to develop advanced technology.

What is the relationship between requiring short-term gains on the need to make leap-ahead technologies available to us earlier, to make the advanced hybrids available earlier—and I emphasize advanced hybrids available earlier—to make the fuel cells available to us in 10 years instead of 20 years? What is the impact on taking arbitrary numbers requiring the auto industry year by year to meet those standards on what our ultimate goal I hope will be, which is huge reductions in the use of oil by the advanced technologies called advanced hybrids and fuel cells?

Another thing we would require is that the National Research Council, the part of the National Academy of Sciences that reported in a report entitled "Effectiveness and Impact of Corporate Average Fuel Economy Standards," which was issued in January of this year—we would require that report be considered.

I am going to give some quotations, as the good Senator from Missouri did, from that report because we think that report is an important report.

The time line we would give the Department of Transportation is 15 months to complete the rulemaking for light trucks, and 24 months to complete their rulemaking for passenger cars. If they do not complete it, it would be in order, under an expedited process, for Congress to then take up alternatives which could be considered. It at least puts in place a rational system of looking at many criteria which are relevant to the question of where the new standards for fuel economy ought to be instead of arbitrarily picking a number out of the air, having staff, for instance—apparently we are told staff is considering some numbers—and come up with a conclusion that we could impose a 36-mile-per-gallon or a 34-mile-per gallon requirement on the entire fleet, lumping together trucks and passenger cars.

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

Mr. LEVIN. I will be happy to yield at the end of my remarks. I thank the Senator.

Instead of doing that, we should have a rational rulemaking process that is put in place for a fixed period of time that then makes a decision on what the new standards should be. That would be subject to legislative review under existing law, under an expedited process.

It can then be vetoed, and under our bill, if there is no report within that fixed period of time, it would then be in order, under the expedited process, to offer alternatives to it.

Those are some of the provisions of our alternative. We think it is a much more rational process. It takes advantage of a rulemaking opportunity where various criteria can be considered, where safety factors can be considered—and I want to get to safety factors in a moment—where we can look at the discriminatory impact on various manufacturers that are put in different positions, put in worse positions. Even though their cars are equal or better in terms of fuel efficiency, they are put in a negative position vis-à-vis their competition.

What is truly bizarre, it seems to me, is it is the American manufacturers that are put in that discriminatory position, that negative position, not based on their efficiency, because we are going to go through that in a minute, but based on the way this CAFE provision is structured. It puts American jobs at risk with no benefit to the environment. It does not help our environment or the air to push somebody into an equally efficient or less efficient imported vehicle than a domestic vehicle that is equally efficient or more efficient. We are not doing anything for the air, and we are costing American jobs.

That is the effect of the CAFE structure. It seems to me, at a minimum, we should ask the Department of Transportation to include in their rulemaking review what are the adverse effects of increased fuel economy standards on the relative competitiveness of manufacturers.

I wish to show a few charts.

This is a chart which I have produced which compares, class by class, some American-made and imported vehicles. This is not a chart which was produced by the auto industry. It was produced by me. It obviously does not include every vehicle, but we believe it makes an important point, which is that American vehicles, class by class, are at least as fuel efficient as foreign vehicles.

This chart shows trucks, pickups, SUVs, and the minivan. Those are the three vehicles we studied.

A similar chart can be made for passenger vehicles. We did not do that because that has not been the focus, but we are perfectly happy to compare numbers on passenger vehicles provided we are comparing apples and apples, providing we are comparing classes of vehicles of the same relative size.

We can also look at passenger vehicles, and we can reach basically the same conclusion. The problem is, if you lump all the different classes of vehicles together, at that point you come up with a system which has a discriminatory impact on some manufacturers, and it is the American manufacturers that carry the brunt of that disparate impact.

Take a look, for instance, at the large SUVs. Ford Expedition gets 15 miles per gallon. GMC Yukon gets 15 miles per gallon. Dodge Durango gets 15 miles per gallon. The Toyota Land Cruiser gets 14 miles per gallon. If people want to choose a Toyota, that is their business, but it seems to me we should not be creating a system which pushes people to imports because Toyota can produce hundreds of thousands of additional Land Cruisers without any negative effect in terms of their bumping up against the CAFE limit when the Land Cruiser is not as fuel efficient as the American vehicles.

Midsize SUVs: Ford Explorer, 17 miles; Chevrolet Trail Blazer, 18 miles; Jeep Liberty, 17 miles; Toyota 4Runner, 17 miles—equal or a little better fuel efficient in case of the Trail Blazer. It is the same with the small SUV, the large pickup, and the small pickup.

We can go through these one by one, but in each case, the U.S. vehicles are either as fuel efficient or slightly more. One can also pick cases where an imported vehicle may be 1 mile per gallon or somewhat more efficient. Those cases will exist if one looks at it enough.

If we look at the entire picture class by class, American vehicles are as fuel efficient as imported vehicles, or in the cases I gave—and in many other cases—more fuel efficient.

We have a situation called CAFE where foreign manufacturers are relatively unconstrained by CAFE because of a fleet mix, not because they are more fuel efficient class by class.

Nothing is gained for the environment if an imported SUV is bought instead of an American-made SUV where the American SUV is at least as fuel efficient as the foreign SUV. Nothing is gained for the air, but a lot of American jobs are lost.

If we look at the opportunity for just one manufacturer—let me back up 1 minute.

This is the impact of a 36-mile-per-gallon combined car/truck standard on five manufacturers. Honda only has to increase theirs by 20 percent; Toyota, 36 percent; GM, 51 percent; Ford, 56 percent; DaimlerChrysler, 59 percent.

Again, I emphasize, because this is the key point, those disparate impacts have nothing to do with the relative fuel efficiencies of the vehicles of the same class. It has to do with the fleet mix.

What we have put in place—I guess the word "bizarre" is as close as I can come to it, because this does not do anything for the environment to push people into an imported vehicle which is no more fuel efficient than a domestic.

If people want to buy an imported vehicle, that is their judgment, that is their business, but for us to have a structure which pushes people in that direction because we constrain the number of larger vehicles which the American manufacturers can produce,

although they are equally efficient and many times more efficient in terms of fuel than the imports, it seems to me does not do anything for the environment and it costs American jobs. That is something we should avoid. We ought to take the time to avoid it.

We ought to have a regulatory process where people can look at the disparate impacts on various manufacturers, as well as all of the other criteria which ought to be used, such as vehicle safety.

I will read a couple of statements from the National Academy of Sciences study relative to safety. Page 27: The downsizing and downweighting of the vehicle fleet that occurred during the 1970s and early 1980s still appear to have imposed a substantial safety penalty in terms of lost lives and additional injuries. Page 70: There would have been between 1,300 and 2,600 fewer crash deaths in 1993. That is the year they studied. They picked the year, not me. They picked the year 1993 to look at the impact of CAFE on safety. The National Academy of Sciences said—not the American auto industry, not the insurance industry but the National Academy of Sciences—there would have been between 1,300 and 2,600 fewer crash deaths in 1993 had the average weight and size of the light-duty motor vehicle fleet in that year been that of the mid-1970s.

Similarly, it was estimated there would have been 13,000 to 26,000 fewer moderate-to-critical injuries. These are deaths and injuries that would have been prevented in larger, heavier vehicles given their improvements in vehicle occupant protection and the travel environment that occurred during the intervening years.

In other words—and this is the bottom line for me—these deaths and injuries were one of the painful tradeoffs that resulted from downweighting and downsizing and the resultant improved fuel economy. Painful tradeoffs. Should somebody consider that? Is it worth considering between 1,300 and 2,600 deaths in 1993? That is the typical year they picked. Should that not be at least a factor on the scale?

It is not on the scale in the language that is in the substitute before us. We want to put it on that scale. There is no one of these factors which by itself ought to result in any particular outcome. All of these factors ought to be weighed, but that is not what is in the substitute. In the substitute is a number, arbitrarily selected, which in the judgment of some—and we do not know how, we do not have a committee report to help us through that mine field. All we know is we have a number and then we are told that is reasonable; they can do that.

Look, they can produce vehicles that get 40 miles per gallon. Sure, they can. They can produce electric vehicles which even do better than that. The question is, Are there people who want to buy them? That is always the question. In trying to determine that, do

we want to try to factor in what is the cost?

I urge people to take a look at the National Academy of Sciences tables when it comes to costs. They are complicated, they are technical, but they are worth looking at.

Now, the National Academy does not conclude what a new CAFE number should be. We should set the policy, it says, and we are. In this amendment, we are setting the policy. Our policy is, we want to rely more on positive incentives. Our policy is, we want to increase fuel economy. Our policy is, we want to look at a lot of provisions which are relevant to the question of what the new CAFE numbers should be; not just the one factor which the proponents of the language in the substitute rely on, which is potential technological feasibilities, but other factors: costs, safety, adverse effects on relative competitiveness of manufacturer, effect on U.S. employment and the National Research Council's entire report.

I talked about the disparate effects.

The amendment I have made reference to I would now send to the desk on behalf of myself, Senators BOND, STABENOW, and MIKULSKI.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. BOND, Ms. STABENOW, and Ms. MIKULSKI, proposes an amendment numbered 2997 to amendment No. 2917.

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

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

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

Mr. LEVIN. The National Academy of Sciences report also makes some references to these disparate impacts on different manufacturers of CAFE, and this is what they say on page 102: That one concept of equity among manufacturers requires equal treatment of equivalent vehicles made by different manufacturers.

Equal treatment of equivalent vehicles made by different manufacturers seems pretty reasonable to me. This is what they say about that: The current CAFE standards fail this test. If one manufacturer was positioned in the market selling many large passenger cars, thereby was just meeting the CAFE standard, adding a 22-mile-per-gallon car would result in a financial penalty or would require significant improvements of fuel economy for the remainder of the passenger cars.

Then they also say on page 69: A single standard that did not differentiate between cars and trucks would be particularly difficult to accommodate. On page 15: For foreign manufacturers, the standards appear to have served more as a floor towards which their fuel economy descended in the 1990s. This is

the result of CAFE. This is the additional sales of large pickups and SUVs which would be allowed under CAFE under today's standard because of the way it is based.

GM, again whose vehicles are equally fuel efficient class by class with their imported competitors: Toyota and Honda, zero. They are up to the limit. Because of the fleet mix, Toyota can sell 312,000 additional, Honda 324,000 additional. If one adds credits which have been built up over the years to that, it reaches, I believe, a million. That is the CAFE system.

Should somebody look at that system? Is that a system which is worth looking at again to see whether or not in fact it has these kinds of disparate impacts?

The National Academy acknowledges that the current CAFE standards fail the test of manufacturers of equivalent vehicles receiving equal treatment.

That ought to be enough, it seems to me, to say we should take another look at the CAFE structure. Someone ought to take another look at it. There ought to be a regulatory process where people can come in, make arguments, where people who have the responsibility to look at all the criteria weigh the criteria, publish a proposed rule for comment, and get comment on it. That is not what is proposed in the substitute. It is proposed we get an arbitrary number and say that is what it will be because some people think that is doable. Some people here, apparently, and some of the outside folks they rely on think that is doable.

That is not a rulemaking process, it seems to me, that looks at all the criteria that need to be looked at when we have something as important as this is for the economy of this country.

I will be happy to answer questions of my friend from Massachusetts if they are still on his mind after I close.

In conclusion, the stakes we have are huge for the environment and for the economy. I have been sensitive to the environment all my life, coming from a State where the environment is absolutely critical, where water and air mean everything. We are in the middle of the greatest batch of fresh water in the world, the Great Lakes. We care deeply about it. We are a State where environment is high on everybody's list.

I will take a back seat—since we are talking about vehicles—to nobody when it comes to my belief we should protect the environment. I believe we can protect the environment in a way which does not negatively impact our economy if we will do it the right way, if we will go at this the right way, with greater emphasis on positive incentives, but greater caution, before we pick a number which we then impose on an industry, particularly when we know from the NAS study that the CAFE system has not been equitable, that it treats equivalent vehicles of different manufacturers in an equal way.

We can fix that—it will take a little time—if we will turn this over, with a fixed calendar and schedule, to a regulatory body which has the responsibility to do this, and then watch them go through a process, issue a regulation, publish that regulation, either adopt it or veto it under existing law, and if they do not comply with the calendar we set for them, we then have an expedited process here to consider alternatives, including those offered by my good friend from Massachusetts and my friend from South Carolina.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise this afternoon to strongly support the Levin-Bond-Stabenow-Mikulski amendment.

First, I thank my colleague from Michigan for all his leadership and hard work on this proposal which I believe strikes a balance to be able to bring together the common goals of increasing fuel efficiency and also making sure we are protecting jobs and supporting the growth in the American economy. I support and thank my friend from Missouri for his hard work and leadership on this issue as well.

I begin by saying that this debate is not about whether or not we should increase vehicle fuel efficiency. I agree with Senator KERRY about the importance of creating more fuel efficient cars and SUVs, not only because it would decrease our oil consumption and our dependence on foreign oil, but because of the important benefits it has our environment. What this debate is really about is what is the best way to increase fuel efficiency without having negatively affected U.S. manufacturers and American jobs.

Before I discuss the Kerry-McCain CAFE proposal, I address the myth that the Big Three's vehicles are not as fuel efficient as their foreign competitors. When CAFE was first enacted as a part of the 1975 Energy and Policy Conservation Act over 25 years ago, the Big Three were criticized for lagging behind their foreign competitors by making bigger, less fuel efficient cars. A lot has changed since the CAFE system was first implemented and this is not your mother's Big Three. When you compare foreign and American vehicles that are in the same weight and class, the American vehicles are as fuel efficient, and often more fuel efficient than their foreign counterparts.

For example, the Toyota Camry, one of the most popular cars in Toyota's fleet, is less fuel efficient than all of its Big Three competitor passenger cars we compare. Both the Ford Taurus and the DaimlerChrysler Concord have a city/highway fuel economy of 23 miles per gallon, which is 1 mile per gallon more fuel efficient than the Toyota Camry. The GM Impala has a city/highway fuel economy of 25 miles per gallon—it is 2 miles per gallon more fuel efficient than the Toyota Camry. This is true across the Big Three's fleets—

pound for pound, as my colleague from Michigan likes to say, American cars are as fuel efficient as their foreign competitors.

This is true even for the biggest, heaviest American SUV. This chart shows the fuel economy of the largest SUV models, all of which have larger, more powerful engines. All of the Big Three SUVs have better fuel economy than the Toyota Land Cruiser Wagon. The DaimlerChrysler Durango, Ford Expedition, and GM K1500 Suburban have a city/highway fuel economy of 15 miles per gallon, which is 1 mile per gallon more fuel efficient than the Toyota Land Cruiser Wagon.

The question becomes, with all of these more fuel efficient vehicles in their fleets, why does the Big Three have a lower CAFE number than its foreign competitors? It is because the CAFE system does not reflect the real fuel economy of the cars and trucks in an automaker's fleet; instead it really reflects what vehicles consumer purchase. The CAFE number does not reflect the fuel economy improvements of each vehicle; instead CAFE represents the averaged fuel economy of an automaker's entire fleet which depends on how many of each model consumers actually buy. Therefore, an automaker can increase the fuel efficiency of all of their vehicles but still have a declining CAFE average depending on what models sell the most.

For example, over the past 3 years GM has introduced new truck and SUV models that are more fuel efficient than the models they replaced. They are introducing more fuel-efficient trucks and SUV models than the models they replaced. But GM's light truck CAFE number has either remained flat or actually gone down.

This is the bizarre situation that Senator LEVIN talked about. That doesn't make any sense. But in 2000, GM introduced reengineered full-size SUVs—the Chevrolet Tahoe and the GMC Yukon—which have an increased fuel economy of 4 percent over the models they replaced. The more fuel efficient 2000 models sold were 190,000 more than the previous models, but the GM's light truck CAFE number actually decreased because of increased sales of these more fuel-efficient SUVs.

That doesn't make any sense. That is why we are objecting to the current process for CAFE.

Let me talk about another chart.

In model year 2000, GM's combined car and truck CAFE average was 24.2 miles per gallon. For model year 2001, GM made fuel economy improvements to eight different vehicles in their fleet—the Ventura, the Park Avenue, the Bonneville, the Impala, the Grand Prix, the DeVille, and the Aurora. For all of these models, the fuel efficiency numbers went up.

Some of the vehicles had a 17-percent, 19-percent, or 6-percent improvement in fuel economy over the models of the previous years. But do you know what GM's combined car and truck

CAFE average was for model year 2001? It was 24.2, the same as model year 2000. GM improved the fuel economy of eight vehicles, and their CAFE numbers stayed the same. How does a system that does not reflect actual improvements in vehicle fuel economy and penalizes automakers for doing the right thing make any sense?

The proposal of Senator KERRY and others builds upon this flawed system and further compounds the anti-competitive and discriminatory impact on our Big Three automakers. Currently, the Big Three automakers make a higher proportion of trucks than cars. Because of their product mix, this CAFE proposal creates impossible fuel economy targets for U.S. automakers without really affecting the foreign competitors, which is a major concern for me.

DaimlerChrysler, for example, has a fleet mix of approximately 65 percent light trucks and 35 percent passenger cars. Assuming we close the so-called SUV loophole and DaimlerChrysler's light truck fleet achieved 28 miles per gallon, its passenger car fleet would have to average over 76 miles per gallon to achieve the 36-mile-per-gallon fleetwide average.

That is the problem with CAFE. However, Honda, which has a fleet mix of approximately 20 percent light trucks and 80 percent passenger cars, would only have to achieve a passenger car fleet average of 38 miles per gallon to achieve that same 36-mile-per-gallon fleetwide average.

There is something wrong with this picture. Furthermore, this CAFE proposal will not guarantee a more fuel-efficient SUV. But it will guarantee that the SUV will be made by Honda or Toyota instead of an American-made auto company.

I can tell you as someone coming from the great State of Michigan that this is not something the people of my great State want to see happen, nor should we want it to happen nationally. The impact is serious for us in terms of jobs and the economy. Foreign manufacturers already control a large share of U.S. car sales. Trucks and SUVs are the last domestic stronghold, but the same shift to foreign manufacturers is already evident in the truck market.

This CAFE proposal places an anti-competitive cap on how many trucks and SUV's the Big Three can produce, but leaves their foreign competitors unencumbered to expand into the truck and SUV market. Competitors with fewer sales in the truck and SUV market would be able to increase their sales in this area resulting in a transfer of market share, without a net gain in fuel economy. For example, Toyota can produce up to 250,000 more Tundras today, without increasing any vehicle fuel efficiency and without going below the currently mandated CAFE requirements. Imagine how many more Tundras Toyota could build under this CAFE proposal while our American



automakers are restrained from competing in that important market.

These foreign competitors also have more CAFE credits built up from previous model years due to their mainly smaller vehicle mix. By applying these credits to future model years, foreign automakers would be able to further fill the demand for larger vehicles that would be left unmet by the restraints placed on our American automakers. For example, at the end of model year 2001, Toyota has about \$140 million in CAFE credits. This would allow Toyota to produce up to 1.1 million Tundras at current CAFE standards before exhausting its built-up credits.

The Kerry-McCain proposal also does not address the pick-up truck problem in any meaningful way. The Kerry-McCain proposal would exempt heavy duty pick-up trucks weighing between 8,500–10,000 pounds, but that is just a restatement of current law because trucks in this weight range are already exempted from CAFE. This proposal fails to address the concerns of farmers, ranchers and other pick-up truck consumers, since the overwhelming majority of pick-up trucks would fall below this 8500 pound limit.

I want to stress that I am not advocating that we protect the Big Three from market competition. I am not supporting a freeze on CAFE standards because I do not believe the Big Three should avoid producing more fuel efficient cars and SUVs.

We are not arguing about a freeze. We are talking about a better way to do this that moves us forward and that gets us to where we all want to go in a way that does not penalize the domestic automakers and cost jobs.

But like a CAFE freeze, this proposal also protects a group from real market competition and thwarts increases in fuel efficiency; however, the group that this proposal protects is not the Big Three, but their foreign competitors like Honda and Toyota.

It is also important to remember that the 36-miles-per-gallon number in this CAFE proposal is not anywhere in the National Academy of Science's report. Even under the optimistic scenarios in the NAS report, which assume that consumers are willing to recover the higher costs of the technology over a 14-year period instead of a 3-year period and assume "average" technology costs, only subcompact passenger cars are projected to reach the 36 mpg within the 10–15 year timeframe. Under these optimistic 14-year payback and "average" costs projections, the highest level for any light truck, which is for small SUVs—is only 32.6 miles per gallon. This CAFE proposal sets a number that according to the experts at NAS, only a smallest passenger car could meet!

This proposal legislates a market advantage for foreign automakers, while in essence forcing a production cap on our American automakers' most popular vehicles.

The EV-I—an electric car—was produced not 10 minutes from my house in

Lansing, MI. That plant was closed because they weren't getting enough volume in production. People weren't buying it. We need to find ways to make that more attractive, which is what our proposal does by helping with infrastructure, bringing the price down, and creating more volume.

Our American automakers will be forced, unfortunately, under the underlying proposal, to respond in a number of undesirable ways to meet this unrealistic overall CAFE number, all of which make them less competitive in the car and light truck market.

First, they will be forced to cut vehicles from their fleets or place a production cap on certain cars, which will result in more layoffs and plant closures, I fear.

For example, if GM addresses the fairly immediate 3-mile-per-gallon increase in the light truck standard by simply eliminating its least fuel-efficient products, seven plants in five States employing 38,000 auto workers and 154,000 auto and supplier jobs would be at risk. And GM's sales volume in the light truck market would be reduced by over 1 million vehicles.

Our U.S. automakers also could be forced to strip their vehicles of features consumers want, such as engine size and power to meet this high CAFE number, giving foreign automakers that will not have to eliminate these features a huge competitive advantage.

Lastly, they could reduce the weight of cars, which will compromise vehicle safety, as has been talked about before, since producing smaller, lightweight vehicles that can perform using low-power, fuel-efficient engines is the most affordable way for automakers to meet the CAFE standards. None of these options are good for our American automakers or for our consumers.

Placing U.S. automakers at a competitive disadvantage by penalizing their most popular vehicles will lead to more layoffs and a weaker U.S. auto industry. And we certainly do not need this at this time or any time. It is apparent to all of us debating this issue that the auto industry is not at its economic strongest right now. Practically every week one of our U.S. automakers announces another round of layoffs. Over the past year, our big three automakers—GM, Ford, and DaimlerChrysler—have announced almost 70,000 layoffs and job cuts and 11 plant closures. That is 70,000 in 1 year. Our domestic automakers have already been severely weakened by the current recession. I fear that the underlying proposal to raise CAFE standards will only exacerbate this problem by placing uncompetitive restrictions on our U.S. automakers without effectively increasing vehicle fuel economy.

In Michigan, over 1 million people are either directly or indirectly employed by our domestic auto industry. While the economic impact is particularly devastating in Michigan, this is not just a Michigan issue. The auto industry is the largest industry in the

United States and creates over 6.6 million jobs directly or indirectly.

Our amendment—the Levin-Bond-Stabenow-Mikulski amendment—increases vehicle fuel efficiency without placing anticompetitive restrictions on our U.S. automakers. This amendment helps decrease our fuel consumption and dependence on foreign oil in the short term by increasing CAFE for light trucks and cars. But, most importantly, the amendment looks to the future, which is something we all want to do, and provides the market incentives and investments in developing technologies such as hybrids, fuel cells, and clean diesel vehicles that will really revolutionize the American automobile industry.

The amendment directs the National Highway Traffic Safety Administration to complete a rulemaking to increase fuel efficiency for light trucks within the next 15 months and for passenger cars within the next 24 months, but it also requires NHTSA to consider the flaws that we have been talking about today in the current CAFE system as they do this rulemaking. NHTSA would examine important issues that have been talked about, such as adverse competitive impacts of CAFE on our U.S. automakers, impacts on U.S. employment, technology costs, and necessary lead time, the effects of vehicle safety, and the effects on the environment before setting a CAFE number, not after.

The CAFE proposal in the energy bill puts the cart before the horse, I fear, and sets a 36-mile-per-gallon number before having NHTSA have the opportunity to examine all of these factors.

We need to let the experts at NHTSA do their job. NHTSA is properly equipped to address the fundamental changes that have occurred within the industry over the last several years, and to evaluate our current economic situation, technology, and capabilities regarding a higher CAFE standard.

In the past, Congress has enacted a CAFE freeze preventing NHTSA from moving forward with issuing new CAFE regulations. Now that the freeze has expired, we should not interfere with NHTSA's ability to do its job effectively.

Congress also needs to help automakers move in the right direction instead of pulling them in the wrong direction. Foreign and domestic automakers have already invested millions of dollars in developing cleaner, better technologies. These investments are starting to pay off for the American consumer.

For example, DaimlerChrysler will be producing a hybrid electric Dodge Durango SUV starting in 2003, which will have 20 percent better fuel economy than the conventional Durango, without compromising safety or comfort. A hybrid electric version of the DaimlerChrysler Dodge Ram pickup truck also will go into production in

2004. Ford is currently developing a hybrid Ford Escape SUV which will be capable of being driven more than 500 miles on a single tank of gas.

In addition to these great technological developments, automakers have been working on fuel cell vehicles which could revolutionize the automobile sector within the next 15 years. The CAFE proposal in the energy bill will force automakers to divert funding and research away from these important technological advances and make meeting these incremental CAFE increases a funding and research priority. That is a major concern of mine. They are moving in the right direction. The underlying Kerry proposal would force them to change direction to meet some shorter term goals. This CAFE proposal also locks the automakers into a rigid fuel efficiency plan for the next 10 years, setting back the progress they are making putting these important technologies into place.

Instead of placing restrictions on what our automakers produce, we should be looking for ways to help them introduce these better, cleaner technologies. The Levin-Bond amendment includes these incentives, such as Federal fleet purchase and alternative fuels requirements and a real Federal investment in hybrid, clean diesel, and fuel cell research and development—all the things we know have to happen.

The amendment requires that 10 percent of the light-duty trucks in Federal fleets be hybrid vehicles by 2007, and requires the Federal Government to use alternative fuels in all of their dual-fueled vehicles. The amendment also increases funding for the Freedom Car Initiative for fuel cell vehicles by 40 percent.

Finally, the Levin-Bond alternative includes important consumer tax credits for electric, hybrid, and fuel cell vehicles, which will be offered in a separate amendment. These tax incentives will help create and build market demand for the most efficient hybrid, electric, and fuel cell vehicles, instead of locking automakers into costly incremental CAFE increases.

I urge my colleagues today to vote for the Levin-Bond amendment and support increased fuel efficiency and a vibrant, economically healthy U.S. auto industry.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise as an enthusiastic cosponsor of the Levin-Bond amendment on these CAFE standards.

Our amendment, I believe, provides a strategy for energy conservation while safeguarding American jobs. I believe in energy conservation. I believe it is an absolute national necessity. But I also believe in job conservation—American job conservation.

I believe we can improve the fuel efficiency of our cars without sticking a knife through the hearts of our Nation's auto workers.

I believe we can do it by applying four criteria. These are criteria I know the Presiding Officer has helped develop. We need to achieve real savings in oil consumption. We need to preserve U.S. jobs. And whatever we do must be realizable and achievable. That means giving companies a reasonable lead time to adjust their production, to develop, test, road test—not laboratory test—and implement new technologies. What works well in the lab doesn't always work so great on the beltway.

We also have to create incentives to enable companies to achieve these goals. Incentives are a favorable tax policy. I don't believe the Kerry-McCain proposal meets those criteria, but I do believe the Levin-Bond amendment really does.

In terms of the Kerry-McCain language, as I understand it, it will require a 50-percent increase in CAFE standards to reach 36 miles a gallon by the year 2015, enabling the National Highway Transportation Safety Administration to combine car and truck fleets into one category. You have to listen to that. It would combine car and truck fleets into one category—that means we take apples and oranges and say that fruit salad is the same—creating a single standard for both cars and trucks that would help foreign car manufacturers and penalize U.S. automobile workers for selling vehicles that we Americans are absolutely buying.

Why would this help foreign car makers? When you look at the fuel mileage or the achievement in mileage, European and Japanese automobile companies in various categories roughly achieve the same fuel consumption standards, but foreign manufacturers sell many more small cars. They not only sell small cars, they sell microcars, those really little cars that look as if they are golf carts on wheels. Then when you include their SUVs and light trucks, their average fuel efficiency standard is lower—not because their SUV fuel efficiency standards are lower or that their light trucks are lower, it is because they sell more of these microcars. That is why they are able to comply with higher CAFE standards.

I believe we do need conservation. There is no doubt we need to reduce our dependence on foreign oil. We all acknowledge that half of our oil is imported. A quarter of our oil is imported from the Persian Gulf. We know we need to reduce our dependence. But we could do it through the kinds of recommendations made in the Bond-Levin amendment.

Before I go on to talk about Bond-Levin, let me talk a little bit about the Kerry-Hollings proposal. I know my colleagues have worked very hard on this, and we all share the same national goals. But how we get there I am not so sure is in the national interest.

First, it is unfair to American workers because it gives foreign manufac-

turers a leg up in the middle of a recession. It is arbitrary, and it is also unattainable, setting very aggressive standards on too short of a time line. And it would limit consumer choice by effectively capping the sales of light trucks. There are other ways to achieve fuel conservation.

I want to come back to the whole idea about foreign car companies producing smaller cars and that is what their customers buy. There is no doubt that Americans are buying these microcars. There is no doubt about it. They are usually younger or older or often a second car in the family. For middle-class families, though, they are not the core car. The core car is an SUV or a minivan. I will talk about that in a minute.

When we talk about, again, achieving those standards, putting everybody and everything in the same category, quite frankly, it is like putting a bagel in with strawberries, and the strawberries are lower in calories and the bagel is not, and saying, we are going to have the average of calorie consumption. Do you follow that? Or raspberries. I think a lot about this amendment—some of it is raspberries.

We need to recognize that over the past decade the U.S. car manufacturers have struggled to meet CAFE requirements across a full line of vehicles in both cars and trucks.

American consumers are really obsessed with safety. This is why many of them are turning to a larger car. The Kerry-McCain amendment does effectively cap the sale of light trucks, since the default level for light trucks is not achieved by any light truck on the road today.

Some people are talking about exempting the light trucks. I am for that. If there is a pickup truck waiver, I am going to vote for it. But very often that is a guy thing, though many women do drive light trucks. But most women are driving minivans and SUVs. A couple years ago, all we who hold elective office were very busy chasing the soccer mom. We wanted the soccer moms' vote. But while we were chasing the soccer moms, the soccer moms were chasing after car companies that made SUVs and minivans. And why do American women love SUVs and minivans? Because they need increased passenger capacity and they want increased safety.

When you are a soccer mom and you are picking up the kids or you are carpooling or have kids with gear, such as the soccer kids, or the lacrosse kids or the ice-skating kids, they come with their own gear. Some children have backpacks as large as a marine going off to Afghanistan. Those mothers need large capacity.

Do you know what else they need? They need passenger safety. They want to have a bulkier car in order to be able to protect their children on these highways and byways that we are now constructing. Anyone who rides the 495 beltway in Washington or 695 in Baltimore knows we face big trucks; we face

road rage. Mothers want to be in the functional civilian equivalent of a Humvee. Why? Because they are scared. They are scared for their children and for their safety. So they go big and they go bulk.

Do we approve of it? Would we like better fuel efficiency? The answer is, absolutely, yes. I know a lot about these minivans because General Motors makes two of them, the Chevy Astro and the GMC Safari, right in my hometown of Baltimore. Right this minute at Broening Highway in Baltimore, there are 1,600 employees working to produce these Astro and Safari vans. In 1 year they make 80,000 vehicles. That keeps 1,600 workers happy and 80,000 consumers happy.

That 1,600 sounds like a lot of jobs. In 1978, we had 7,000 jobs. We have downsized. We have modernized. We have strategized. But we are down close to 6,000 jobs.

I feel very close to these workers. I grew up 4 miles from this plant. My dad had a grocery store. People who worked at General Motors and Bethlehem Steel were not units of production or those who have to give way to displacements in the info age. They were our neighbors; they are our neighbors.

What did we know about the General Motors plant? It was a union job. We knew it offered a good job at good wages and good benefits. We knew they were good neighbors because they sponsored the little leagues and were one of the largest contributors to the United Fund to be able to help others who didn't quite have the good jobs and the good wages that they did.

For our working men, they could actually go to work and not only put in an honest day but get a fair pay back to be able to raise their families and pursue the American dream.

In my hometown of Baltimore among African-American men, when I grew up, Baltimore was a segregated town. But down there at the steel mill in the UAW line, it is where African-American men went to get a decent job. If you were an African-American male in Baltimore, you had two choices where you could have a decent job, decent benefits, and a chance to be able to move up. It was either a civil servant job, such as at the post office, or it was a union job, such as at General Motors. As more and more women came into the workplace, again, for many women, General Motors was the place to go. We employed the "Norma Raes" of automobile manufacturing.

We are talking about honest Americans who get up and work hard every day. They wanted the American dream, and they had opportunities. People with European ethnic heritage and people with African-American heritage had a chance to work hard and move up. Many of them had a chance to go on to higher education, and their children did also. But we now have these 1,600, and when this goes, it goes. When this goes, it really goes. There is nothing

else there. We can talk about digital harbor or smokestacks and cyberstacks, and we can be cute and clever; but when this goes, it goes forever.

Now, I am on this floor fighting for those people. Do you know why? Their sons are actually the ones who went to Vietnam, the ones who were in Desert Storm, and the ones who are in Afghanistan. During the Vietnam war, there was no draft counseling in that line. Every time America calls, these kinds of workers step forward. Often, their brothers are our firefighters and our police. These are the ordinary Americans who, every day, are willing to step up.

So while we are talking about hybrids, and while we can nibble at our sushi and talk about the future that is going to be ozone-ready, we have to think about who is going to work in this country and where they are going to work. Do we want to give up on our manufacturing base? I don't think so, and I hope not. Whether it is in Detroit, or Maryland, or whether it is other States that employ them—and we are happy to have the Hondas. I have a UAW plant up in western Maryland that is now part-owned by Volvo. We are happy to have them because they honor their contracts.

But I think we ought to start honoring our contract. We ought to have a contract with the American workers. There is something about America we need to remember: That as we defend America from foreign foes, we need to defend America from the loss of jobs to foreign imports, or to something called CAFE, or let's put everybody in the same pot and measure the standards in the same way.

Mr. President, 1,000 workers were recently laid off at General Motors on a temporary shutdown because of a lot of this. I could go on about those workers, but I think I have made my point. Just remember, when these jobs go, they go, and they will never come back. While we are so busy putting everything on a fast track to Mexico, I will tell you that they go to Mexico first, and then they find Mexico too expensive and they go to Central America, and then they go on to China. So we have to start making some tough choices.

We could go on to talk about the other issues, but I know we also need to look at the other alternative. I believe the Levin-Bond amendment is a very sensible alternative. It really works to reduce our dependence on foreign oil, but it also insists that we look at the effect on U.S. employment; that we look at motor vehicle safety; that we look at the cost and lead time for the introduction of new technology. I believe new technologies will help us lead the way.

I think it also gives us an open-ended dodge ball kind of situation because it gives two dates and time lines to the Department of Transportation. It says we have to increase standards for light trucks in 15 months. It says for pas-

senger cars we have to have a rule within 6 months. It also separates out standards for cars and light-duty trucks. Remember, this is one of the crucial aspects of this amendment. It separates out the standards for cars and light-duty trucks. We can compete with anybody in the world. But where you have a disproportionate thing going on in the market, it renders us almost helpless.

The automakers such as DaimlerChrysler have a fleet that is roughly 70 percent light trucks, while manufacturers such as Honda have a fleet that is less than 30 percent light trucks. I believe the Levin-Bond amendment does it very well.

We need tax incentives on electric vehicles, fuel cell vehicles, and hybrid electric vehicles. Everybody likes them. I will see if they work over time. I have seen a lot of these kinds of cars come and go. Some work very well, some sputter and end up in a junkyard clutter. I don't know where they will go, but I will give them the benefit of the doubt. I want to see the technologies road tested more before they are introduced.

I know others want to speak. I believe we can have energy conservation and job conservation, innovative solutions, improved technology, and the setting of realistic goals. That is what Levin-Bond does. When you look at Levin-Bond, you see that it saves energy, jobs, and it saves lives. For those now who are speaking in the Chamber so passionately about energy independence and why it is in our national security interest, I hope we talk about trade adjustment and start standing up for steel and what we need to do to make sure we are steel-independent. I hope we have the same passion in standing up for our steelworkers. I am going to stand up for those hardhats every day any way I can, whether it is in the automobile industry, or whether it is in the steel industry, and so on.

For all of those men and women who, every day, at plant gates shook my hand—and their hands were calloused, and they would go home with bad backs and varicose veins—BARBARA MIKULSKI is on their side, and I hope the rest of the Senate is also.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I have listened with great interest to the comments now of a number of my colleagues—each of those who are the sponsors of the Bond-Levin amendment—and I have really listened with interest because the debate that I think the Senate deserves to have right now is one based on the truth, based on the facts, based on science, and based on history. I have heard some of the most remarkable Alice-in-Wonderland comments in the last few minutes that I find it hard to believe we are really talking about the same thing.

Senator BOND suggested that if we don't accept their amendment, people

are going to actually be driven into getting into golf carts—a string of golf carts—which is not a very efficient way for a family to be transported. I heard another comment that we don't want to push people into imported vehicles. Well, of course, we don't.

I just listened to a very appropriate and distinguished speech about workers in this country. I remember with great pride that moment in 1971 when Leonard Woodcock introduced me to the United Auto Workers and I was inducted as a lifetime member. I don't know anybody who runs for office in this country on a getting-rid-of-jobs platform. I don't know anybody who comes to the floor of the Senate suggesting, knowingly—and I hope not negligently and inadvertently—that a plan they are submitting is going to render Americans jobless.

I am here to defend the workers in Detroit, and in other parts of this country, just as much as anybody else. When I hear the notion invoked about who goes to fight our wars and who comes back as veterans and these are the people who work there—I know those people, and you bet I want them to keep working. I believe they can keep working. There is nothing that suggests that somebody in Detroit cannot make a better car than the Japanese. There is nothing to suggest that a Detroit worker, or one in any other part of the country, can't make a better and more efficient car than the Germans. American workers are the best workers, the most productive workers in the world. Those workers are handicapped by choices made by management.

The worker does not decide what the model is going to be. The worker does not decide which car is going to be manufactured and what the changeover date will be. They report every day and go to the floor. They punch in and make the cars that the designers and the executives give them to make, and they do it well.

I proudly drive one of those minivans. I drive a Chrysler minivan. I think it is a terrific car. It is my second one, and I hope to get another one down the road.

Mr. President, let me tell you something: There is nothing in the CAFE standard that makes me believe I will not be able to drive a minivan at any time in the future. Nothing.

What kind of scare tactic is this? Do you want to put the lie to this, Mr. President? Here it is: "Coming in 2003. The Ford Escape hybrid electric vehicle, the first high-volume, mainstream alternative to the traditional powertrain in nearly 100 years." Bill Ford, chairman of the Ford Motor Company.

Congratulations, Mr. Ford. I hope your stock goes up. I hope you will be recognized as the leading CEO in the country for starting to promote efficient vehicles.

The fact is that on its own Web site, the Ford Motor Company says: "A ve-

hicle"—I want to juxtapose this. I want to read a paragraph from an editorial in *Automotive News*. It is about the CAFE hearings in the Commerce Committee, at a time when the industry refused to discuss any notion of improving fuel economy.

I point out this editorial in *Automotive News*:

Let's get real. It's time for automakers to deal forthrightly with fuel economy issues. These are not the 1970s or 1980s or even the 1990s. To deny or refuse to admit that there is technology that can reduce fuel consumption significantly is ludicrous. The industry's credibility is at stake.

Let me emphasize, this is *Automotive News* writing that the industry's credibility is at stake. I urge my colleagues not to be intimidated by these hollow threats.

This is what Ford Motor Company says:

A vehicle that gives you all the room and power you want, but uses half the gasoline.

Half the gasoline. What kind of situation is this? I do not know how many millions of dollars have been spent in the last weeks on television advertising to farmers that you cannot farm in a compact car. Well, no; whatever. Really? I mean, what a phenomenal concept. People believe that? CAFE standards do not even apply to tractors. They do not even apply to heavy trucks now. And if we do our will in the Senate, they probably will not apply to pickup trucks. What are we talking about here?

The chart of the Senator from Michigan is a very selective chart. It does not show all the vehicles in the mix. I will come back to that in a minute.

We heard a threat about safety. We heard a reading from the National Academy of Sciences about safety. That was page 28 of the National Academy of Sciences. Let me read page 70 from the National Academy of Sciences. It says as follows:

It is technically feasible and potentially economical to improve fuel economy without reducing vehicle weight or size and, therefore, without significantly affecting the safety of motor vehicle travel.

Those workers in Detroit and elsewhere, about whom we all care, can build the cars of the future. They can build a more efficient vehicle. They can build the hybrid electric SUVs with all the room and all the power one would want and twice the mileage if Detroit will choose to ask them to do so.

That is what this debate is about. It is about the future for our country in national security, on environmental issues such as global warming, and even it is about whether or not we intend to be competitive with the Japanese and Germans because, as I will show, the Japanese and Germans are building vehicles that Americans want and increasingly they are growing the marketplace in the United States.

Let me go to that for a moment, if I may. This is a chart—I do not have it blown up—but this is Toyota's North

American operation. In fact, in the last years, we reached a peak of automotive employment in the United States in 1999. We have lost a few workers in the last few years, I acknowledge that, but we did it without CAFE standards. One reason is because the companies moved some plants to Mexico. They do not tell you that.

Even while they are doing that, Toyota and Honda are moving plants to the United States. Look at this map. We have Toyota in New York; Toyota in Buffalo, WV; Toyota in Georgetown, KY; Toyota in Columbus, IN; Toyota in Princeton, IN; Toyota in Huntsville, AL; St. Louis and Troy, MO; Newport Beach, CA; Torrance, CA; Ann Arbor, MI; Fremont, CA; Torrance-Gardenia, CA; Long Beach, CA; Whitman, AZ.

The same pattern can be shown for other automakers. Now they are making something like 600,000 vehicles in the United States. What kind of vehicles are they selling in the United States, even though the Big Three continue to dominate the market? I understand that. But you have to look at trends. You have to look at the direction in which you are moving.

In 1975—and I want to go back to this because this is an important part of the context of this debate. This debate is not just about this moment in time. It has a history and we have to balance the choices we face today against the history of where we have traveled.

I want to show this chart, but let me go to the beginning. Motor vehicle miles in the personal automobile vehicle are at the lowest level in 20 years. We are going backwards in fuel efficiency.

My colleagues say: Oh, we are moving up in this direction; we do not need to have a dictate from Congress; we are going to get there because the automobile industry is going to get there without a mandate.

Let me show the record for the last years. From 1988 until the year 2001, of all the new technologies that were developed by the American automobile industry, 53 percent of those new technologies went into horsepower; 18 percent went into acceleration; 19 percent went into weight; minus 8 percent went into fuel efficiency.

We now have cars on the road that can go 140 miles an hour, even though the speed limit is 65, 70, 80 permissibly in some places. One can only go so fast between stoplights in many cities.

Minus 8 percent on fuel efficiency. I like driving a big car, too. I am just like any other American. Indeed, for a number of years, all of us have been forced to think in the defensive way that has been referred to. You see another big car on the road, you get a little intimidated and say: Gee, if I am going to protect my kids, I am going to have a big car on the road, too.

In fact, what has happened in the last years, according to the National Academy of Sciences that the Senator from Michigan quoted is that the Toyotas and the Honda Civics went from weighing about 1,800 pounds up to 2,600

pounds. The Honda Civic grew in weight, and indeed some of the other big SUVs grew also. It is true if a Honda Civic hits a big SUV, your chances of doing well in the Honda Civic are not as great. I understand that.

The older National Academy of Sciences study, which the Senator relies on when he talks about safety, did not include airbags. It did not include the new standards of restraints. It also did not include what we have in our bill, which are rollover standards, because the biggest single problem for Americans in terms of SUVs is rolling over and being crushed because we have no standard for the roof and for the roll capacity of the car. So the fact is these cars can be made efficient and safe at the same time.

They are trying to scare people with this safety standard. I heard one of my colleagues say we have to do this based on science. Well, it is based on science. It is not arbitrary. This is not a figure picked out of the sky, as one of my colleagues has said. This is a figure that is less than many scientific analysis say we can achieve.

I want to make very clear to my colleagues that this is not a vote between the Kerry-Hollings 35-mile-per-gallon standard and the Levin-Bond proposal. The reason it is not that vote is that Senator MCCAIN, Senator COLLINS, Senator SNOWE, Senator GORDON SMITH, and Senator CHAFEE have joined together with Senator FEINSTEIN and others on our side of the aisle with a proposal that alters the current Kerry-Hollings proposal. It is not my preference, but I understand the votes in the Senate, and it is what we need to do to compromise. It will reduce the standard in the bill today to about 32 miles per gallon if the full trading program is used, which I ask my colleagues to think about.

The current fleet average is about 25 miles per gallon. If we cannot go 7 miles per gallon in 13 years, what can we do? That is the vote. This is a vote whether or not we want no standard at all and you turn it over to NHTSA, which has a long reputation of being managed by administrations and by outside interests and not being able to set the standard. It is not even staffed efficiently enough today to be able to do it. The NAS is in fact better staffed and has had more background research than they have done in years, because on the other side of the aisle in 1995 Speaker Gingrich and the Republicans brought a complete prohibition on the ability of the EPA to even analyze what might be the benefits of raising the standards.

That tells you a huge story. It says what you have is an ongoing process by which the industry is fighting against whichever forum might be the least friendly to it. When Congress might do something, they say go to NHTSA if the administration has a handle on NHTSA. When NHTSA might do something, if they are in control of Congress

they say go to Congress; Congress ought to do it.

In 1989 and 1990, they specifically said, we really think NHTSA is the proper place to do this. Then lo and behold, the Republicans controlled the House and the Senate in 1995 and Andrew Card, then representing the automobile manufacturers, said, oh, no, we do not think NHTSA is the right place, contrary to what they had said for the last few years. They said, we had better go to Congress.

What we see today is an effort to congressionally implement the same kind of forum shopping for the least standard possible for the least environmental effort possible.

I want to show a little bit more of this history. My colleagues may not be familiar with the background, but let me point to some of the comments of the industry in the last years as we analyze where we are trying to go.

I also want to put in proper perspective what I said about these advertisements. In the last 3 weeks, this is what the industry has said publicly:

Make no mistake, the Senate proposals would eliminate SUVs, minivans and pickup trucks. If these proposals pass, the only place you will see a light truck is in a museum.

What they said in 1975 was:

If this proposal becomes law and we do not achieve a significant technological breakthrough to improve mileage, the largest car the industry will be selling in any volume at all will probably be smaller, lighter, and less powerful than today's compact Chevy Nova, and only a small percentage of all models being produced could be that size.

That was the threat in 1975. That was General Motors. Let me read what Chrysler had to say:

In effect, this bill would outlaw a number of engine lines and car models, including most full-size sedans and station wagons. It would restrict the industry to producing subcompact-size cars, or even smaller ones, within 5 years, even though the Nation does not have the tooling capacity or capital resources to make such a change so quickly.

Did that happen? Did any of this happen?

Then Ford said:

Many of the temporary standards are unreasonable, arbitrary—

“Arbitrary,” that is a word we have heard again—

and technically unfeasible. If we cannot meet them when they are published, we will have to close down.

The fact is, the industry flourished. The industry met the standards, and more people were employed. The industry actually turned around and became competitive.

Our colleague, Senator FRITZ HOLLINGS, helped write these laws. He was in the Senate then. I expect he will be in the Chamber to talk about that experience. Senator HOLLINGS heard these same arguments, and Senator HOLLINGS said then:

I am not trying to shut you down. I am trying to save your jobs.

That is in fact what happened. I say the same thing to those workers in De-

troit about whom we care. We are trying to save jobs in America by making an industry that is so reluctant to embrace change live up to a standard that will make their automobiles competitive. In fact, the National Academy of Sciences says the cost of doing this is saved to the consumer in the gasoline savings over the lifetime of a car. The gasoline savings will save the differential in cost, in addition to which we are prepared to provide a tax credit to people who buy the efficient cars. So we can make up the difference of cost to Detroit. We can make up the difference of cost largely to the consumer if that is what we want to do. This is not a zero sum game of jobs or national security, protecting the environment, reducing our dependence on oil, and being more efficient, and reducing, incidentally, extraordinary costs to our citizens of the air quality that they breathe.

I might add, if we were to do what we are seeking to do, we would cut global warming pollution by 176 metric tons by the year 2025. There is no other effort in the United States of America that is as significantly capable of adding now to the Clean Air Act efforts already in effect than to try to join the world in being responsible about global warming. That is part of what this vote is about.

The scare tactics being used by the industry today are absolutely no different than the scare tactics they used 25 years ago, when there was a completely opposite outcome from what they predicted. Every scientific input and analysis shows you can create net jobs at no net cost to the consumer with no loss of safety. That is the finding of the National Academy of Sciences.

I would love to see a list of what consumer group in America, what environmental group in America, supports Bond-Levin. What consumer group in this country will say safety is compromised? None. Not one. Why? Because they do not support Bond-Levin.

I will tell you why. Let me read a statement from the two important automobile safety groups in America, the Public Citizen and Center for Automobile Safety, are both supporting a CAFE standard.

This is what they say: The auto industry is using an outdated, inaccurate, and hypocritical argument about safety to try to derail stronger corporate average fuel economy standards. Public Citizen and the Center for Auto Safety have long been two of the strongest voices calling for safer vehicles in the United States. We do not believe that stricter fuel economy standards must cost lives, and we know that a strong fuel economy bill can save lives by changing the nature of America's vehicle fleet.

How does it change the nature of America's vehicle fleet? Very simply: It reverses this trend where all the technology goes into horsepower and acceleration—for cars that already go

twice the speed limit—and puts some of it into weight and fuel efficiency so you actually reduce the largest weight and size. You do not have to give up any capacity within a car. A minivan will stay a minivan. It will still take soccer moms to soccer games. It can still be filled up with whatever the legal number of kids is, and dogs, and all of the paraphernalia of sports. But guess what. It will get to the soccer game costing less money. It will get to the soccer game in a way that repays the cost of the car over the lifetime and may even create greater savings, and savings when our standards for rollover and safety are adopted.

This is the most bogus argument I have ever heard in my life. The history of this issue proves it is.

Honda, in its testimony before the Senate Commerce Committee, said the following: Honda concurs with the dissenting opinion expressed in the National Academy of Sciences report that the data is insufficient to conclude any safety compromise by smaller vehicles. The level of uncertainty about fuel economy-related safety issues is much higher than stated in the record. Significantly, existing studies do not address the safety impact of using lightweight materials without reducing size, especially for vehicles with advanced safety technologies.

I might add that we specifically looked for a rollover proposal that would greatly improve the safety standard.

The other day in the Washington Post there was an analysis by the Washington Post that said the threats of the industry are false. That is the language of the Washington Post.

Although any increase in gas mileage inevitably will come at a cost—

And I have acknowledged that there is some increase in cost—

the estimates of the National Academy are \$500 to \$2,000 over the period of time.

But the notion that the bill would rid American highways of SUVs and pickup trucks, as some auto industry ads explicitly claim, is false.

I ask unanimous consent that the Washington Post article "Fuel Economy Turns Emotional" be printed in the RECORD.

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

[From the Washington Post, Mar. 10, 2002]

#### DEBATE ON FUEL ECONOMY TURNS EMOTIONAL

With a hearty shove from Detroit, Senate opponents of a bill to raise automotive fuel economy standards—part of broader energy legislation now on the Senate floor—are painting the measure in apocalyptic terms, sketching dire consequences for the nation's armada of SUVs and minivans.

Senate Minority Leader Trent Lott (R-Miss.) calls the proposal—by Sens. John F. Kerry (D-Mass.) and John McCain (R-Ariz.)—an example of "nanny government" that would deprive him of the SUV he uses to haul around his three grandchildren.

Sen. Don Nickles (R-Okla.) whose wife drives a Nissan Pathfinder, warns that higher fuel standards will force such drastic re-

ductions in vehicle size and weight that traffic fatalities will increase "by the thousands."

And Sen. Zell Miller (D-Ga.) believes the legislation should at least make an exception for pickups, which he described as the "think tank of rural America" because "more problems have been solved on the tailgates of pickup trucks after a long day's work than have been solved anywhere."

Such emotive language is typical of the unfolding Senate debate on the legislation, which would raise average fuel economy standards for the American automobile fleet from 24 miles per gallon to 36 miles per gallon by 2015. As described by opponents, the measure is an elitist assault on a cherished national birthright that would compromise safety, limit consumer choice and impose undue hardships on Americans who have come to depend on big, powerful vehicles for work and play, especially in rural areas.

As is often the case when Washington debates policy, however, emotions and symbols are getting more attention than substance. Although any increase in gas mileage inevitably will come at a cost, the notion that the bill would rid American highways of SUVs and pickup trucks—as some auto industry ads explicitly claim—is false.

"The fact of the matter is, you might have to use some of this improved fuel efficiency to improve economy rather than increasing performance, but certainly it doesn't mean that you couldn't have an SUV," said Adrian Lund, chief operating officer of the Insurance Institute for Highway Safety and a member of a blue-ribbon panel that studied the issue for the National Academy of Sciences last year.

Paul Portney, chairman of the panel and president of the think tank Resources for the Future, called the legislation "somewhat aggressive." But he said it was "roughly consistent with what the academy identified as being technologically possible, economically affordable and consistent with the desire of consumers for passenger safety."

He added, "There are technologies out there that would make it possible, if given enough time, like 10 to 15 years, for [manufacturers] to meet these standards without decreasing the size of the cars or increasing the price too much."

Those on the other side of the debate, of course, have also been known to gloss over inconvenient data. As the legislation is structured, for example, manufacturers could choose to improve fuel economy not only by technology but also by cutting weight, which could make vehicles less safe, Lund said.

In similar vein, raising the Corporate Average Fuel Economy, or CAFE, standard would force manufacturers to divert resources into fuel efficiency at the expense of performance improvements sought by consumers, such as better acceleration or new dashboard gadgets like on-board computers and satellite navigation systems.

"There are exaggerated claims on both sides," Portney said. "It's certainly not the case that we can ambitiously boost fuel economy and laugh all the way to the bank doing it. It diverts car companies from doing things they would otherwise do."

But the trade-offs associated with higher fuel economy standards may be less burdensome than some in the auto industry, or Congress, would suggest. For example, the higher purchase cost of a fuel-efficient vehicle would likely be offset by lower gasoline costs over time.

Nor is it clear that stiffer mileage rules would compromise safety. Last month, a consulting firm hired by Honda Motor Co. reported that reducing the weight of cars and light trucks by 100 pounds would actually

improve safety, albeit by a "small and statistically insignificant" margin. The finding contradicted an earlier finding by the National Highway Traffic Safety Administration that higher mileage standards—and lower vehicle weights—had added to highway deaths.

Such nuances get short shrift in industry ad campaigns. The Coalition for Vehicle Choice, which is backed by the three major auto manufacturers, is running print ads in New Hampshire urging voters to contact their senators on behalf of "the endangered SUV and pickup." The ad shows a snowmobile blasting through a drift above the caption, "Without SUVs, you're looking at one expensive piece of garage furniture."

"Imaging climbing an icy mountain, towing your snowmobile, but instead of driving a pickup or an SUV, you're driving a compact car," the ad says. "That's what you could be forced to do, if some U.S. senators get their way."

A similar ad—paid for by groups such as the U.S. Chamber of Commerce and the National Automobile Dealers Association—shows a forlorn looking man next to an SUV, a canoe strapped to the roof and two small girls sitting on the hood. "We work hard all year so our family can go fishing and camping together," the ads says. "We couldn't do it without our SUV."

Many of those arguments were repeated almost verbatim last week on the Senate floor. Lott said the CAFE measure would rob him of quality time with his grandchildren because he likes "them to be able to ride in the same vehicle with me."

As it happens, Lott is already doing his part for conservation. He drives Honda CRV, one of the smallest and most fuel-efficient SUVs on the market.

Mr. KERRY. Mr. President, in 1972, 1973, and 1990, each time the auto industry has said: We cannot do this.

They said it about seatbelts. They said it about laminated windshields. They have said it about every single requirement, each time Congress has agreed we ought to try to do these things. This is not arbitrary. Congress has made decisions about safety, fuel efficiency.

We invited Ambassador Stuart Eizenstat to testify before our committee. In 1975, Mr. Eizenstat was the domestic policy adviser to President Carter. He was part of the team that developed the first CAFE standards. His testimony speaks very directly to this issue. I will quote from his testimony. He said: In spite of the obvious merits of the standards, the American automobile manufacturers were opposed to the regulations. I remember their opposition well. In my role as domestic policy adviser to President Carter, I was part of the team that developed the first CAFE standards. Those standards set the fuel economy levels for the period 1977 to 1985, starting at 18 miles per gallon in 1977 and rising to 27.5 in 1985.

He said: I specifically remember a meeting in the Cabinet office with President Carter and the heads of the Big Three automobile manufacturers: Ford, General Motors, and Chrysler, in which all three strongly opposed the imposition of fuel economy standards. They claimed their companies lacked the technology to reach the standard that the administration had in mind.



Does that sound familiar? Yet once the CAFE standards were implemented, all three companies met and exceeded the standards.

I can imagine the pressure you are under from those same companies and others as you consider raising the standards. But as you embark on this process, I strongly urge you to recall our experiences in developing the first set of CAFE standards. You should feel confident that the automobile manufacturers do have the ability to achieve and, in fact, surpass whatever standards you set.

I believe Ambassador Eizenstat has proven himself to be an enormously capable negotiator, and very studious, and I think most people would agree one of the most thoughtful contributors to positive dialog in the political process in this country. He said we should do this; we can do this. He testified before the committee, as, I might add, did countless other entities in this country that were affected one way or the other by the potential of this change.

Mr. MCCAIN. Will the Senator yield?

Mr. KERRY. I am happy to yield.

Mr. MCCAIN. Is it true, in the view of the Senator from Massachusetts, that various claims have been made over the past several years, particularly back in the 1970s, the last time CAFE standards were increased, in fact, these comments were tantamount to the end of Western civilization as we know it? Is there a strange similarity between those comments made in the 1970s and those made today? Has the Senator noticed that?

Let me give an example, Daimler-Benz senior vice president, from the New York Times: We are facing a radical and unrealistic proposal. The proponents are being dishonest. You cannot get 35 miles per gallon and still have sport utility vehicles and minivans.

Bill Burke, the No. 3 man at Ford, in June 1976: In a year to 18 months, I see a rising demand at the small end. It will be pretty hard for any but pint-size cars to get that kind of mileage.

Mr. Morrison, GM spokesman, said it would be virtually impossible to meet standards resembling that. We will have to tear our product line up.

In 1974, a Ford representative said before the Senate Commerce Committee, on which Senator KERRY and I serve, that CAFE will require the Ford product to consist of either all sub-Pinto-sized vehicles or some types of vehicles ranging from a subcompact to perhaps a Maverick.

The spokesman for the Alliance of Automobile Manufacturers said that if these proposals pass, the only place you will see a light truck is in a museum.

Is there a haunting similarity between those comments made back in the 1970s and today that the Senator from Massachusetts may have detected at the same time the Ford Motor Company advertises a 40-mile-per-gallon

SUV by the year 2003? Does the Senator find a certain irony in these historical perspectives on this issue?

Mr. KERRY. Mr. President, let me say to the distinguished Senator from Arizona that each and every one of those comments is just a mirror image of the comments being made by the industry today.

As I mentioned before the Senator came to the floor, I read an editorial which came from one of the automotive magazines that specifically said the industry's credibility is on the line and that they have to get serious.

I met with some of the industry's representatives. I talked to Mr. Ford on the telephone for a few minutes. I said I thought it would be good if we tried to get together and do something thoughtfully.

I asked the industry this question: Is it possible for you to agree that you could get 1 mile per gallon over the next 30 years? They absolutely refused to acknowledge they could get 1 mile per gallon. Why? Because they simply want this issue to go over to NHTSA where they believe they have the ability to have more impact and control the outcome.

The Senator's question is right on point. These are the exact same scare tactics.

The Senator from Missouri came down here and suggested that people and soccer moms will have to drive in a long line of golf carts because they could not drive their minivans. With all due respect to the Senator from Missouri, that is one of the most ridiculous things I have ever heard in my life. The fact is, Ford Motor Company has an ad showing the SUV with all the room and all the power. A soccer mom could get in it and get 40 miles to the gallon, and a minivan can drive with the same engine, or even a better one.

In Europe today, they are making diesel engines that get 40 or 50 miles to the gallon. Shame on the United States. Our automobiles aren't able to give our drivers that kind of gas savings and performance. Why not? We are anxious to try to get our cars that kind of mileage. I want a UAW worker producing that car ahead of some worker in Germany or in Japan. I want our automobile industry to be the industry that is selling those vehicles. The workers in Detroit ought to be rising up not about CAFE standards; they ought to be knocking on the doors of the executives and saying: Why aren't we building better cars, bigger cars, and cars with more improved fuel efficiency? You could build a bigger car—even bigger than the ones we have today.

Incidentally, some Suburbans, one of the biggest vehicles of all, doesn't come under the CAFE standards right now. You can buy all the Suburbans you want. You can buy a heavy duty truck that is under the exemptions.

Mr. MCCAIN. Mr. President, will the Senator yield for another question?

One of the aspects of this issue that has to some degree been ignored in our

desire for comfort and convenience for the American people is the issue of health aspects. I wonder if the Senator from Massachusetts is familiar with the problem that we have in my home State of Arizona, particularly in the valley where 3 million people reside in the sixth largest city in America. The Arizona Republic, a few days ago on March 9, had an editorial entitled "Legislature Must Attack Brown Clouds." It said:

We've always known the Valley's Brown Cloud is ugly and unhealthy. Now we know it can be deadly.

A new study indicates that years of breathing that haze of particulate pollution will significantly raise a person's risk of dying of lung cancer and heart attack.

For lung cancer, the risk is the same as living with a cigarette smoker, according to a report published this week in the Journal of the American Medical Association. The study, funded by the National Institute of Environmental Health Sciences, is compelling because of its breadth: Researchers followed half a million people across the country over two decades.

While the Valley has made strides in reducing carbon monoxide and ozone pollution, we've had trouble getting a handle on pollution from airborne particles.

No, it's not just desert dust. The most dangerous particles are much smaller, 2.5 microns or less, so tiny that it takes at least 28 to equal the diameter of a human hair. These ultra-small particles, which wreak havoc by penetrating deep into the lungs, come from combustion.

In the East and Midwest, the biggest culprits for such particulate pollution are coal-burning power plants. So it's worrisome that the Bush administration is considering changes in the rules for power plant expansion that could bring increased emissions.

Here in the Valley, as elsewhere in the West, a big part of our particulate pollution spews out of tailpipes.

I am not sure. I wonder if the Senator from Massachusetts thinks it is fair for us to address this issue of emission standards without discussing at length the abundance of information concerning health risks to the American people. I have a chart here on sources of carbon monoxide. In Phoenix, AZ, on the road, Mobile, it is 64 percent.

There is another article that I have here of February 1, 2002:

Study Links Smog To Rise in Asthma Cases of Children Who Play Outside.

Guess what States, according to this study, generally speaking, have the highest chronic pollution level in the United States. They are Arizona, California, Georgia, Indiana, Michigan, Missouri, New York, North Carolina, Pennsylvania, and Tennessee.

I wonder if the Senators from Michigan and Missouri are concerned about the fact they are on the top 10 list of pollution problems which cause health problems and difficulties to their citizens.

I wonder if the Senator from Massachusetts agrees that there are compelling health issues here that have to be addressed as a result of the fact that we failed to enact simple, fairly easy changes in our emission standards

which would, perhaps, in the case of one study, save between 650 and 1,000 lives just in Phoenix, AZ, alone.

I am curious if the Senator from Massachusetts believes that perhaps we might be neglecting an important factor in the pollution of places such as my home State of Arizona where people were once sent because they had respiratory problems. Now we have pollution problems that are causing risks to people's health. A lot of that pollution is directly related to that, as the Arizona Republic says, "spewing out of tailpipes."

Mr. KERRY. Mr. President, I appreciate the question very much. I was not aware actually of the particular study to which the Senator has referred. But I appreciate it enormously because he is absolutely correct that the health issue is one of the most important issues.

I call my colleagues' attention to the fact that the existing CAFE standards—the ones we passed in 1975—cut gasoline use. By cutting that gasoline use, incidentally, we cut almost the amount we were then importing from parts of the gulf. But we reduced the amount of hydrocarbon emissions, which is a key source of smog, and which is a key source of particulates, as the Senator from Arizona has just described, which particularly affects seniors and children. It affects all adults, but particularly we have seen an increase in the rise of asthma among children in the United States because of the quality of air that is being breathed.

Higher gas mileage cars and trucks played a key role in virtually eliminating smog in Denver, which during the 1980s, as everybody knows, had a dangerous level of pollution. Los Angeles also gained enormously. And there is a huge gain in public health for the elderly and all asthma sufferers in the country.

I thank the Senator from Arizona. He is absolutely correct.

(Mr. CORZINE assumed the chair.)

Mr. MCCAIN. Finally, I ask the Senator from Massachusetts if he will yield for another question.

Mr. KERRY. I am happy to yield for another question.

Mr. MCCAIN. I wonder if the Senator from Massachusetts would support a proposal that would force any American family to give up a sport utility vehicle. I would wonder—in fact, I am the proud owner of sport utility vehicles. I wonder if the Senator from Massachusetts would not join all of us in seeking Ford Motor Company to live up to their advertising in developing a 40-mile-per-gallon sport utility vehicle, which I would be one of the first to buy.

Wouldn't we reduce some of this rhetoric that has been going on since the 1970s on the part of the automobile manufacturers? And if my memory serves me correctly, every single step of the way—from CAFE standards, to airbags, to seatbelts—the automobile

manufacturers have said they were unable to comply, at least initially, whether it be in safety or whether it be in CAFE standards or any other improvement.

So would the Senator agree with me that if there were any prospect of reducing the options of the American people, if there were any prospect that we were doing anything other than encouraging what is mostly existing technology to be implemented by the automobile manufacturers of America, we would not be proposing this legislation?

The fact is that for every single improvement the automobile industry has made in America, they have been dragged, kicking and screaming, every step of the way. And we have just been over some of those quotes over a period of many years.

So I wonder if the Senator from Massachusetts would respond, again, to the really almost irresponsible charges that have been made, particularly by the manufacturers, about the catastrophic events that might take place, when the fact is, we support strongly the ability of Americans to have a wide choice in their use of conveyance, particularly those of us in the West who travel long distances with our families.

Mr. KERRY. Mr. President, I really welcome that question. I appreciate it from the Senator.

Let me personalize it a little bit.

I drove a Lincoln Navigator until a couple years ago. I got rid of it because of its inefficiency in fuel. I am sorry to say that. I said to the dealer: You really ought to urge the Ford Motor Company to produce a car that is more efficient.

I am proud to say Ford Motor Company is now evidently doing exactly that. I would love to drive one that had the efficiency. My wife drives an SUV. My stepson has an SUV. My daughter is currently driving an SUV.

I have no question but that if we pass a CAFE standard, each and every one of them will continue to be able to drive an SUV. We can all buy an SUV in America that is more efficient, that saves, over the life of the car, the cost of the difference of the technology.

Let me share with the Senator from Arizona that Honda has introduced its Insight. It is a two-seater. It gets about 60 miles per gallon on the highway. It is about to introduce a hybrid Civic, a two-door and a four-door, in 2002. Toyota sells the hybrid Prius. It is a four-door. It gets 48 miles per gallon combined in the United States. There is a minivan in Japan that gets nearly 40 miles per gallon. Within a few years, they are going to sell about 300,000 hybrids globally. They have announced that they are going to be profitable in this field.

I know the Senator from Michigan or some Senator is going to point out that the Ford Motor Company is going to produce at a loss this particular SUV shown in this picture I have in the Chamber. That is true for now because

they have just started it. They do not have the market penetration yet. They have not fully developed the marketing, and they have not gained the market share.

So, indeed, it is similar to the Pentagon. When the Pentagon buys only X number of hammers, as we remember, or toilets, they cost tens of thousands of dollars. But if they are mass produced, then you begin to bring the cost down, and particularly if you market effectively.

I think the first CEO in this country who sells to Wall Street the notion that they are going to be profitable selling the cars of the future is going to drive up the stock of that motor company. And they ought to be thinking about how to grab the market share in the most competitive way that is most effective in the long term.

That is what this can do. That is why Ford Motor Company is already advertising the vehicle that "gives you all the room and power you want"—all the room and power you want—"but uses half the gasoline." That is on their Web site today. They are bringing it out next year.

I am confident, with appropriate marketing, just as the Prius, just as Honda and Toyota, they can begin to get profitable very rapidly. But here is the rub: They did not do it back in 1975, until Congress said: This is our national priority. And they are not going to do it now until Congress sets a goal and begins to push the process forward. What we are reaching for as a goal is not an arbitrary goal.

I ask the Senator from Arizona, without losing my right to the floor, if I may, is it not true that we held a series of hearings in the Commerce Committee, with the best scientific experts from across the country, who came and testified before us regarding the ability to do this without losing jobs?

Mr. MCCAIN. To respond to my friend from Massachusetts, indeed they did. I also believe that since the Senator from Massachusetts and I can count votes pretty well, the opponents of what we are trying to do—let's face it, the Levin-Bond amendment basically does nothing to improve fuel efficiency, and that is a fact.

Sooner or later, we will see more and more pictures such as we have seen here in this editorial, which says: "Valley's Brown Cloud nearly obscures downtown Phoenix from atop South Mountain." You will see that in Albuquerque. We already see it in Detroit. We see it in Boston. We see more and more studies of the health risks that air pollution causes to young and old Americans.

I believe that sooner or later our constituents will demand that we rise up and repudiate and rebuke the automobile manufacturers of America, that refuse to be concerned about the health of Americans, much less the problems with our dependency on foreign oil.

And, yes, every objective observer, every environmental group in America,

believes we need to do a lot more than anything that is embodied in the Levin-Bond amendment.

I thank my colleague for his question.

Mr. KERRY. Mr. President, let me share with all of my colleagues—and I particularly call the attention of the Senator from Arizona to this—an article from the Wall Street Journal dated March 7. I ask unanimous consent the full article be printed in the RECORD.

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

[FROM THE WALL STREET JOURNAL, MAR. 7, 2002]

**FORD AIMS TO SELL A GAS-ELECTRIC SUV THAT WILL OFFER SIZABLE FUEL EFFICIENCY**  
(By Norihiko Shirouzu)

DETROIT.—As the Senate gears up to debate the fuel economy of sport-utility vehicles and pickup trucks, a senior Ford Motor Co. executive said the No. 2 auto maker aims to sell “tens of thousands” of a small, superfuel-efficient Escape SUV powered by a gasoline-electric “hybrid” propulsion system.

Prabhakar Patil, head of Ford’s program that aims to launch the Escape hybrid by the end of 2003, said at an auto-industry conference here yesterday that the hybrid Escape isn’t intended as a niche vehicle. Ford sees a good chance for the vehicle to become a “mass-market vehicle,” he said.

Mr. Patil said that if it was priced today, the Escape hybrid would likely have as much as a 25% price premium over the conventional gasoline-powered Escape, which he said would put the SUV’s price tag somewhere around \$25,000. The vehicle is expected to deliver nearly 40 miles per gallon of gas in city driving.

Ford’s bullish comments about the potential of hybrid vehicles comes amid intensified jockeying in Washington over whether to significantly toughen federal auto-mileage rules.

The National Highway Traffic Safety Administration, which administers the Corporate Average Fuel Economy program, proposed extending for another four years a controversial provision in the rule that lets auto makers get extra credit for building so-called dual-fuel vehicles. Those vehicles can run either on gasoline or on so-called E85, a blend of 85% ethanol and 15% gasoline. NHTSA conceded that the “vast majority of dual-fuel vehicles rarely operate on alternative fuel”—a fact that has led critics to dub the dual-fuel provision a big loophole in the CAFE rule because it gives auto makers leeway to build more gasoline-thirsty trucks. NHTSA Administrator Jeffrey Runge said that having vehicles that are able to run on E85 “contributes to domestic energy security” and “provides consumers an alternative” in the event of a gasoline shortage. NHTSA proposed extending the dual-fuel credit, which was set to expire with the 2004 auto-model year, to the 2008 model year.

Meanwhile, in the Senate, two Democrats, Sen. John Kerry of Massachusetts and Sen. Ernest Hollings of South Carolina, are nearing an agreement with several Republicans including Sen. John McCain of Arizona on a bipartisan proposal to require cars and light trucks together to average 36 mpg by 2015, according to Senate staffers familiar with the discussion. Today, cars and trucks average about 24 mpg, the lowest level in two decades. Sen. Carl Levin (D., Mich.) and Sen. Kit Bond (R., Mo.) were finalizing an alternate proposal that would send the CAFE question to the Bush administration’s NHTSA.

The auto industry has been pushing for such a move.

Mr. Patil noted that whether Ford can turn a profit with the hybrid Escape, with its costly gas-electric propulsion system, hinges largely on whether the government offers tax incentives on such vehicles. Late last month, President Bush said he wants more tax incentives for hybrid and fuel-cell (of hydrogen-driven) vehicles. Those incentives are provided in the bill the Senate will consider.

Another Ford executive, John Wallace, said in an interview that a \$3,000 tax incentive for the purchase of a gas-electric hybrid should “solve the problem” and help make the Escape hybrid profitable immediately. “We welcome tax incentives to get there quickly,” Mr. Patil said, referring to being profitable with the Escape hybrid.

Mr. Patil said Ford is already “looking to expand hybrid offerings” beyond the Escape hybrid. Hybrids are “the first credible alternative to gasoline engines,” he said. Other auto makers are also pushing plans to expand the use of hybrid-drive technology. Masatami Takimoto, a senior Japan-based executive for Toyota Motor Corp., said at the Society of Automotive Engineers conference that Toyota hopes to sell 300,000 hybrids a year around the world within the next five years. Toyota’s second hybrid for the U.S. market will probably be an SUV. Given the popularity of SUVs in North America, “I believe it’s a good idea” to make a second hybrid product a SUV in the market here, he said. Toyota currently sells a small hybrid sedan called the Prius. The auto maker sold 15,500 Prius models in the U.S. in 2001. The only other hybrid currently sold in the U.S. in Honda Motor Co.’s two-seater subcompact called the Insight. Honda’s second hybrid, a Civic, will arrive in showrooms starting in April.

There are no tax incentives currently on either the Prius or the Insight, and neither model line is profitable in dollar terms.

Mr. Takimoto, who oversees powertrain development in Japan for Toyota, said there is a “tough battle” looming between advanced diesel engines and gas-electric hybrid propulsion systems. He believes hybrids are “proceeding a step ahead” of diesels and gasoline-powered engines.

A recent J.D. Power & Associates survey of some 5,200 recent new-vehicle buyers found “a greater willingness to pay for hybrid vehicles than previous believed,” according to the consulting firm. It said hybrids are “getting a solid green light” from consumers. The survey said 30% of the respondents indicated they would “definitely” consider a gas-electric hybrid vehicle. J.D. Power said the survey’s margin of error was plus or minus 1.5 percentage points.

Mr. KERRY. Mr. President, in this Wall Street Journal article, the headline which reads: “Ford Aims to Sell a Gas-Electric SUV That Will Offer Sizable Fuel Efficiency,” the question was asked of somebody at Ford whether they could turn a profit with the hybrid Escape—that is this vehicle shown in the picture I have in the Chamber; it is called the Escape—since it has a more costly system.

I know the Senator from Michigan is going to say, well, this costs more, and it will not turn a profit. Let me just answer that question definitively right now.

Quoting the article:

[A] Ford executive, John Wallace, said in an interview that a \$3,000 tax incentive for the purchase of a gas-electric hybrid should “solve the problem” and help make the Es-

cape hybrid profitable immediately. “We welcome tax incentives to get there quickly,” . . . referring to being profitable with the Escape hybrid.

Mr. President, we have a tax incentive from the Finance Committee. This car can be profitable immediately, according to the Ford Motor Company itself.

I think we really need to start debating reality. The Senator from Michigan has a chart there. The chart shows a number of vehicles. I have a copy of the chart right here. This is a small one of theirs. This chart has large SUV, midsize SUV, small SUV, large pickup, small pickup, minivan. It doesn’t show all the rest of the automobile fleet. It just shows the big cars. But even those vehicles may not be fairly represented here.

By not including cars, the chart excludes entire classes of vehicles, and they exclude vehicles within classes. So you don’t get an entire fair comparison. Let me give an example. At the subcompact class—this is not included here—the Honda Civic is significantly more efficient at 38 miles per gallon than the General Motors Metro which is at 32 miles per gallon, or the GM Saturn at 30 miles per gallon, or the Ford Escort at 28 miles per gallon. You get a distortion of how the fleet works today.

Secondly, the Big Three, sent the Committee charts similar to this one, and they entirely excluded compact cars in their analysis. In this class of vehicles, there are four Toyota and Honda cars: the Prius, Echo, Civic, and Corolla. They are, on average, significantly more efficient than the closest General Motors, Ford, and Chrysler cars. Toyota sells the Prius at 48 miles per gallon, the Echo at 36 miles per gallon, the Corolla at 33 miles per gallon. Honda sells the Civic at 34 miles per gallon. The closest General Motors car is the Prism at 32 miles per gallon. The closest Ford is the Escort at 29. And the closest DaimlerChrysler is the Neon at 27.

None of this is represented in the charts. The Senator from Michigan says it doesn’t make sense to have this system where you have a whole fleet, let’s divide it up into these sectors. Let’s make an attribute system if that’s what is needed. I looked at that because both technology and market mix matter. I am willing to do that, because the Senator is not entirely wrong. Right now, here in the Chamber, let’s go to a back room, divide it up into those sectors, give NHTSA the authority to divide up the classes, but let’s agree to divide it up with a goal that we are going to reach by a certain point in time. If we did that, we could all have agreement.

But they won’t agree to a goal. There is no goal in the Bond-Levin amendment, no goal whatsoever. They want to set up some criteria which can be the subject of lawsuits for years to come, turn it over to NHTSA. And if NHTSA comes up with a 1-mile-per-gallon differential, there is no expedited

procedure, no ability for Congress. All they have to do is come up with something.

It is the artful dodge. It is the great escape—not to do any disservice to the name of Ford's car. It is simply inappropriate to suggest that this does anything. The attributed system the Senator from Michigan talks about is not even in his own bill. There is no requirement that they set up an attributed system.

Why is that true? Because the industry doesn't want it. The industry likes the system they have today. And they testified before our committee that they want to keep the system they have today because the system they have today gives them flexibility. It gives them the ability to choose and to decide what fleet of cars they are going to make. If you had an attributed system, then you would be locked in to what you have to achieve in a particular class and you can't balance other sectors of your fleet against components of that class.

That is why the industry does not want it. It makes for great subterfuge here in the Senate Chamber.

Mr. MCCAIN. Will the Senator yield?

Mr. KERRY. I am delighted to yield for a question.

Mr. MCCAIN. Do you know there is going to be a response from the proponents of the legislation which has already provided some very interesting rhetoric?

I would like to ask the Senator from Massachusetts if he is aware of an article in the Washington Post on Sunday, March 10, entitled "Debate On Fuel Economy Turns Emotional." It starts out by saying:

With a hardy shove from Detroit, Senate opponents of a bill to raise automotive fuel economy standards—part of broader energy legislation now on the Senate floor—are painting the measure in apocalyptic terms, sketching dire consequences for the Nation's armada of SUVs and minivans.

It goes on to quote some of our colleagues, quotes such as "nanny government"; higher fuel standards will force such drastic reductions in vehicle size and weight that traffic fatalities will increase "by the thousands." Then the article goes on to say—I wonder if the Senator has seen it—

As is often the case when Washington debates policy, however, emotions and symbols are getting more attention than substance. Although any increase in gas mileage inevitably will come at a cost, the notion that the bill would rid American highways of SUVs and pickup trucks—as some auto industry ads explicitly claim—is false.

"The fact of the matter is, you might have to use some of this improved fuel efficiency to improve economy rather than increasing performance, but certainly it doesn't mean that you couldn't have an SUV," Adrian Lund, chief operating officer of the Insurance Institute for Highway Safety and a member of a blue-ribbon panel that studied the issue for the National Academy of Sciences last year.

I wonder if the Senator realizes how important that statement is from a chief operating officer of the Insurance

Institute for Highway Safety, a member of a blue-ribbon panel that studied the issue for the National Academy of Sciences.

Continuing from the article:

Paul Portney, chairman of the panel and president of think tank Resources for the Future, called the legislation "somewhat aggressive." But he said it was "roughly consistent with what the academy identified as being technologically possible, economically affordable and consistent with the desire of consumers for passenger safety."

He added, "There are technologies out there that would make it possible, if given enough time, like 10 to 15 years, for [manufacturers] to meet these standards without decreasing the size of the cars or increasing the price too much."

All of us are entitled to our opinion. Everybody is entitled to the rhetoric. That is one of the entertaining things about the floor of the Senate. But when you call in the experts, usually their opinions have some significant weight.

Those on the other side of the debate, of course, have also been known to gloss over inconvenient data. As the legislation is structured, for example, manufacturers could choose to improve fuel economy not only by technology but also by cutting weight.

I hope when Senators decide on this issue, they will listen to the results of scientific studies, listen to the experts who have been involved years and years, as opposed to the rhetoric we see coming out of Detroit, MI, from an organization whose credibility over the years has been sadly strained.

I wonder if the Senator from Massachusetts is aware of these individuals and these findings by a blue-ribbon panel that studied the issue for the National Academy of Sciences as short a time ago as last year.

I thank my colleague for responding.

Mr. KERRY. I thank the Senator from Arizona again. This article is a very important article. He was not here at the time, but I asked unanimous consent, and it is part of the record now in this debate.

What is very significant is that you have neutral people—and the National Academy of Sciences does not try to get into the politics; it is science, and we ought to respect that—who have said point blank that the claims of the automobile industry are false. Americans deserve something better than having some of the major corporations in America lie to them about choices we face in this country. That is what they have been doing.

To hear a Senator come to the floor of the Senate and suggest soccer moms are going to have to get into golf carts and drive down the road in a string of golf carts just defies imagination. It is incredible.

Let me point out to the Senator from Arizona—because I only showed part of the distortion of these charts—the Big Three presented a car assessment to the committee. But, again, they used highly selected vehicles when they did it. They excluded some cars in order to provide a skewed picture. The Big

Three car assessment showed the fuel economy of five different 6-cylinder cars—the Ford Taurus, DaimlerChrysler Concorde, Chevrolet Impala, Honda Accord, and the Toyota Camry. The chart showed that the five cars have similar fuel economy.

In the cars, they failed to show that the Honda Accord and Toyota Camry come with a standard 4-cylinder engine. The 6-cylinder engine is an option. The reason is, the technology they have developed allows the Accord and Camry 4-cylinder engines to offer greater performance and fuel economy—so much so that they can compete with the 6-cylinder Ford Taurus, Chrysler Concorde, and Chevrolet Impala. This is demonstrated by the fact that 70 percent of all the Accords sold are 4 cylinder. So they send you the 6-cylinder comparison, but they don't show the car in the same class. They have a smaller engine and more effective technology. Earlier, I showed the technology differentials.

In the technology, Honda and Toyota have used 4-valve cylinder technology. I might add, there are a series of technologies available now. This is very important for our colleagues to focus on. The technology exists today, according to the National Academy of Sciences. The National Academy of Sciences doesn't even take into account hybrid vehicles. It doesn't even take into account diesel injection. It doesn't even take into account fuel cells, which may come on line within the next 13 years, particularly if we pass the components of our legislation to accelerate that.

So if you include hybrid and diesel injection, 35 miles per gallon is a achievable, and more could be done. Ford is telling you that by advertising a car that can get 40 miles per gallon. There it is. It should be the end of the debate. Ford Motor Company should be ending the debate right now because they are telling us we can have a car next year that gets 40 miles per gallon, and the Ford Motor Company has told us it can be profitable right away with a tax credit.

So this is really crunch time for the Senate, I guess; this is basic choice. Are we going to support the concept that the Senate has a national security interest in saving the barrels of oil and reducing dependency on oil, especially our imports from the Persian Gulf by increasing CAFE standards over the next 15, 20 years? Do we want to vote that we ought to have cleaner air to reduce pollution, reduce global warming, reduce lung cancer, to improve the health of asthmatics and of our seniors? Do we want to vote that we can have a car that is competitive with Japan and Germany and allows our workers in Detroit, and elsewhere in this country, to continue to be employed in this Nation in a competitive industry that is moving into the future and offering America the cars of the future?

That is what this vote is about. It is a straightforward vote about the future

of our country in many different regards. I hope our colleagues will simply not be intimidated by this onslaught of money that is buying advertising time to scare Americans based wholly on some fanciful and totally distorted argument that has no basis in science and, most importantly for our debate, in truth.

I yield the floor.

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

Mr. BINGAMAN. Mr. President, I wish to speak for a few minutes on behalf of the position that the Senator from Massachusetts and the Senator from Arizona have articulated and in opposition to this amendment Senator LEVIN and Senator BOND have proposed.

I want to start by asking the real basic question, which may be obvious to a lot of folks, but it seems basic to me, that is, why are we even dealing with the issue of vehicle fuel efficiency as part of an energy bill? Some people might say energy involves drilling wells, not vehicle fuel efficiency. But it seems to me there is an answer to that.

Let me get one of these charts up and I can make the point I am trying to make. This first chart, which I showed earlier in the debate on the energy bill, tries to talk about U.S. oil consumption, because we give a lot of speeches on the Senate floor about how we want to reduce our dependency on foreign oil, we want to be more efficient in our use of foreign oil, we want to consume less.

Well, this is consumption. Millions of barrels of oil are consumed per day in this country. You can see the top line is for total oil demand. The total oil demand has been going up. The line that comes down on the right-hand side of the chart is for the years 2001 and 2002. You can see that the projection for the remainder of the time covered by this chart—up to 2020, the next 18 years—for the remainder of that time oil consumption in the United States is expected to increase very substantially.

You may ask, why is it increasing so much? It is obviously increasing because of the transportation demand. When we talk about the transportation demand, we are talking about gasoline. The oil comes in, we refine it, turn it into gasoline, put it in our cars, our SUVs, and in our trucks, and that is what is driving total oil demand up and up and up. People say, well, why in the world are we importing more than half of the oil that we are consuming?

The truth is, domestic production of oil peaked in 1970. It has been going down ever since. Whether we open ANWR or not, it will continue, over the long term, to go down because we have 3 percent of the world's reserves of oil. So we need to also look—in addition to production—at consumption. That is what this chart tries to do. That is why we are dealing with vehicle fuel efficiency. We are trying to flatten out that top line, total oil demand, so it doesn't increase dramatically, and we

are trying to flatten out the transportation demand so it doesn't increase so dramatically, and that will flatten out the top line.

There is another chart I want to show to explain why we are trying to deal with fuel efficiency as part of this bill. Let me put that up. This is a chart that came out of the National Academy of Sciences study, which has been referred to so many times by Senators LEVIN, BOND, MCCAIN, and KERRY. It shows what has happened to passenger and light truck fuel economy between the years 1965 and 2000. You can see that between 1965 and about 1975 nothing happened. The miles per gallon of new passenger and light truck vehicles coming onto the market was just flat. That is the red line and the green line over at the left. They are flat. Then you see a dramatic increase between about 1976 and 1985 or 1986. You see a dramatic increase for the top line, new cars, and the next line down is new light trucks. So you can see that all of those have gone up substantially during that time period.

The real issue, and the important thing about this chart, is what happens from about 1989 until the present. The reality is that we have stagnated. There has been no improvement in this country in corporate average fuel economy for vehicle fuel efficiency since 1989. In fact, for the entire fleet, it has declined. We are actually less efficient in our use of gasoline today than we were in 1989.

That is why it is important as part of a comprehensive energy bill that we try, once again, to address corporate average fuel efficiency; that we, once again, try to put in law some requirement.

What is at stake in this amendment that Senator LEVIN and Senator BOND have brought to the floor? The underlying bill, the bill before us, sets a figure. It tries to say: Let's become more efficient, and here is the goal, here is the target, here is what we need to try to do.

Very simply, what we have in the Levin-Bond amendment is an elimination of that goal, an elimination of that target. It sets up a procedure which kicks the issue back to the administration.

The administration has been very outspoken about the fact that they oppose the provision in our bill. The President has opposed it; the administration has opposed it; the Secretary of Energy opposed it. They do not think we should be mandating anything in law in the way of improved efficiency in cars, trucks, and SUVs.

This amendment would kick it back to the administration, to NHTSA, as it is always referred to—the National Highway Transportation Safety Administration—and have them study this issue and come up with a set of regulations.

Quite frankly, when my colleague, my good friend from Michigan, Senator LEVIN, urged at the beginning of this

debate this afternoon that I read his amendment—that is always a dangerous thing to do in the Senate; very few of us read the amendments on which we vote, but I did. I read the amendment.

It has some of the most unusual provisions I have encountered in the Senate. It has what are called expedited procedures. It says, first, if this amendment is adopted, that the Secretary of Transportation would have 6 months to issue proposed CAFE regulations on passenger automobiles. Then he would have 2 years for final regulations to be issued. He would have 15 months to issue final CAFE regulations on non-passenger automobiles.

If the Secretary goes ahead and issues something in the way of regulations, then that is the end of it. It is pretty clear in the amendment. Those become the law.

If, on the other hand, he fails to meet those deadlines in 2 years from now—2 years from the effective date of the act, so perhaps if we actually pass an energy bill, that might be 2 years from this summer or 2 years from this fall—if the Secretary fails to meet those deadlines, the Congress can pass a bill under expedited procedures to override what the administration has determined.

The expedited procedures dramatically limit what we are able to do. Basically, they tell us what the title of the bill is going to be, for any bill to override the regulations; they tell us precisely that we are limited in the bill to inserting a particular CAFE miles-per-gallon number, and a year, and substituting that for what the administration has come up with, and it limits us to four amendments in the Senate, two to be offered by the majority leader, two to be offered by the minority leader, and four amendments in the House of Representatives.

I have been around here a long time, and I have never seen the ability of the Senate to amend and consider legislation in a flexible way so constrained. That is what the amendment proposes, and that is what Senators will be signing on to if they decide to support the amendment.

I urge any Senator who has an interest in the procedures of the Senate and has concern about limiting the ability of Senators to offer amendments to read the amendment in some detail.

The amendment does, as I say, eliminate any specific number. There is no number as to what CAFE standard we hope to get to in the future.

As I see it, this is something of a test in the Senate as we deliberate on these issues. The test is: Can we, as a country, as a Government, as the Senate, do anything significant to increase fuel efficiency when gas prices are as low as they are?

The last time we acted, let's face it, we acted because there was a real crisis in the Middle East—in the seventies. People were shocked into realizing that dependence on foreign sources of oil

was a problem for us. Today that is not that big a problem. One can buy a tank of gas in Albuquerque for \$1.12 a gallon. It is hard to get people worked up about the continued addiction we have to cheap gas under those circumstances. Nobody thinks too much about it.

As to the argument that soccer moms are going to be disadvantaged, the Senator from Massachusetts has talked about that.

I am persuaded that Ford Motor Company can make an SUV that is fuel efficient. They can make a pickup that is fuel efficient. Each of the other major manufacturers can do the same thing. I do believe we need to focus their attention on that as a priority, and that is what the underlying legislation is trying to do.

As to the argument that U.S. manufacturers are going to lose jobs, I think it is sad that we have lost such confidence in U.S. industry and U.S. ingenuity that we are claiming we cannot do this, this is an impossible mountain to climb, our manufacturers cannot possibly be held to this kind of enormous standard.

When President Kennedy challenged the country to put a man on the Moon, it is fortunate we were not tasking the automobile industry to do that. They would have come back, I am sure, and indicated it was just totally impossible.

The country can meet this challenge. We can produce more energy, and we have many provisions in this bill to try to do that. But we can also use the energy we have in a more efficient way, and part of that is through vehicle fuel efficiency. We need to do something significant in this area.

I hope the Levin-Bond amendment is not adopted because it does take the teeth out of the legislation in terms of any real requirement for improved efficiency.

I do not question anyone's motives. I am just telling you that the effect of it will be to essentially say: Status quo is fine; the administration can study this for a couple of years; if the President decides there is something that ought to be changed in current law, he can propose that in regulation; otherwise, Congress should back off.

That is a sad signal to send, and I hope we do not send that message. I urge my colleagues to vote against the amendment when it does come up for a final vote.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I listened to the debate carefully, and I appreciate the points that have been made by my good friend, the chairman of the Energy Committee. I remind all those who are following the debate that it is relatively easy to set targets of achievement, and in this particular bill we have set the year 2013 in which to achieve 35 miles per gallon under CAFE. We are now roughly at 24.

Our past experience with setting these kinds of goals is not very good.

The first thing that is wrong with this is, in another 10 or 11 years many of us are not going to be here, so we are not going to be held accountable, because the goals we set today and our ability to achieve them in 10 or 11 years are fraught with an awful lot of inconsistencies based particularly on past history.

The CAFE programs have led to an increase in fleet average fuel economy from 13 miles per gallon in 1975 to 22 miles per gallon in 1987.

The 1987 fleetwide fuel economy stagnated as consumers shifted their purchase patterns to light trucks and SUVs that were covered by the lower CAFE standards.

Starting in 1995, the Congress—

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

Mr. MURKOWSKI. I prefer to go ahead with the rest of my statement. I will be happy to yield for a question upon the completion of my statement.

Starting in 1995, the Congress prevented changes in fuel economy standards for all vehicles. Such restrictions were lifted starting with the model year 2004. In 1992, the Senate marked up a bill with CAFE, I might add, and ANWR, and dropped it in conference. The only thing we got out of that was low-flush toilets. That was the trade-off: We traded off ANWR and we traded off CAFE and got low-flush toilets, some of which are not quite up to the job.

Tomorrow I will speak a little bit more about this issue. I, again, remind Members of the fallacy of setting goals and not being present to be held accountable.

We are familiar with the amendment, that it would conduct a multiyear rule-making. It would provide new spending authorizations for advanced vehicle technology research and development and that it would require the Federal Government to purchase hybrid and alternative-fuel vehicles and use alternative fuels. When combined with the considerable tax incentives for advanced fuel technology that is in the finance package, why, what we see in the Levin-Bond amendment offers a sensible way to achieve fuel efficiency gains and reduce our dependence on foreign oil. It does so in a way that would not hurt the U.S. consumer. It would not increase vehicle costs to consumers and protect American jobs as well as American lives.

By comparison, my reading of the underlying Kerry proposal would increase the cost of new trucks and SUVs by as much as \$1,200. This is according to the National Academy of Sciences. If we cannot trust them for objectivity, I do not know who we could trust.

It would limit consumer choice by forcing automakers to produce smaller vehicles that do not perform necessarily to all the consumer needs. It would lead to the loss of, as we have seen in the debate, several hundreds of thousands of jobs for hard-working Americans at a time when our econ-

omy obviously needs those jobs. It would reduce the rate of economic growth by as much as \$170 billion over the next 20 years, according to the Energy Information Administration, and cost several thousand additional deaths and tens of thousands of injuries in the coming decades.

We talk a lot about safety. Common sense dictates that a larger and heavier automobile will be safer in an accident. Yet it is clear there is no possible way to meet the drastic increase in fuel economy requirements proposed by the Kerry amendment without reducing the size and weight of vehicles. That is just a fact.

The Energy Information Administration conducted an analysis of the Kerry proposal. The EIA found the average weight of passenger cars and light trucks produced to meet CAFE standards would be substantially reduced: a decrease of 640 pounds for passenger cars and 850 pounds for light trucks and SUVs. Even with the reasonable assumptions and availability of advanced vehicle technology, this is, in my opinion, a dangerous downsizing of automobiles.

EIA's analysis suggests it is simply impossible to attain 35 miles per gallon by 2015 at any cost. That is a pretty broad statement, "impossible to attain at any cost."

To get beyond 30 miles per gallon in that same time frame, even more reduction of weight would be necessary. In study after study, safety experts have concluded that reducing the weight of vehicles leads to higher fatalities and injuries. Using the same relationship used by NHTSA in the studies of automobile size and weight, and passenger injuries, we come up with a recognition that weight reduction resulting from the Kerry CAFE proposal could very likely lead to an additional 15,000 deaths and 65,000 injuries in the next 10 years.

I find it somewhat ironic that some Members of this body who demand environmental regulations regardless, even if one person, one animal, or one plant is threatened, now stand before us with a fuel economy proposal which will undoubtedly kill thousands of American drivers in the coming years because of these lighter cars and injure tens of thousands more.

These are the same Senators who worry about the threat to caribou from exploration activities in ANWR, and I get a little befuddled. Are they the same ones who now propose what a USA Today article in 1993 called "Death By The Gallon"?

We are all entitled to our opinion, but are we somehow to believe our colleagues want us to, perhaps, put caribou first rather than put people first?

What I have behind me is a chart from the National Academy of Sciences, and I think it deserves to be quoted. This is from July 2001. A review of the CAFE program found the following:

In summary, the majority of the committee finds that the downsizing and weight



reduction that occurred in the late 1970s and early 1980s most likely produced between 1,300 and 2,600 crash fatalities and 13,000 and 26,000 serious injuries in 1993.

Mr. KERRY. Will the Senator yield?

Mr. MURKOWSKI. I will be happy to yield at the conclusion of my statement.

That is 26,000 to 52,000 additional deaths since 1980 and nearly a half a million additional serious injuries due to too-rapid increases in CAFE standards.

Why is this? Well, again we have the National Academy of Sciences, and they said it best. Again, I refer to this chart:

An increase in fuel economy is affected by a system that encourages either downweighting or the production and sale of more small cars. Some additional traffic fatalities would be expected.

EIA's analysis predicts this will happen, even as we fall short of reaching the aggressive 36-mile-per-gallon fleet average. If CAFE standards are increased dramatically over too short a period of time, automakers will have no choice but to downsize and downweight their cars and trucks to meet the standard.

Rather than choosing an arbitrary number, or Senators engaging in a bidding war for the endorsement of—well, I say the environmental lobby, because they are the ones behind this primarily—should we not instead rely on the expertise of the engineers at NHTSA to balance the competing concerns of fuel economy, passenger safety costs, and consumer needs? In spite of our efforts to generate consensus at a town hall meeting that is this Senate debate, this type of technology demands engineers who know what they are talking about.

The Levin-Bond approach lets the experts, not the politicians, determine the maximum feasible fuel economy increase. Not only does the Kerry CAFE proposal put the American driver at risk, but I think it puts our economy at risk as well. It should be obvious that technologies needed to increase fuel economy cost money and increase the purchase price of a vehicle. The EIA estimates a cost increase of \$535 per passenger car and \$961 for light trucks and SUVs to get to 30.2 miles per gallon. Without a dangerous reduction in weight, the NAS estimates a cost increase of \$690 for passenger cars and \$1,200 for light trucks and SUVs to reach 30.5 miles per gallon.

If the Kerry proposal is adopted, I think Americans can look forward to getting less car for more money. EIA projects that passenger car horsepower will decline by 24 percent and light truck horsepower, approximately 18 percent. Smaller, less powerful vehicles with fewer features, this is not what the American consumer wants.

That is not reflective of the standard of living we have in this country. Families, especially those with children, want larger and safer vehicles, and most drivers want utility and comfort as well.

Under the Kerry proposal, automakers will be unable to produce minivans and SUVs large enough to meet the needs of the average American family. It is not just families and SUVs. What about a farmer who needs to haul hay? Will he buy a pickup truck with a 4-cylinder engine? Certainly not. What parent driving a carpool will be willing to make multiple trips to pick up half a dozen kids after school? What recreation enthusiast will buy a truck or SUV that will not tow a boat or RV on a weekend vacation? What construction worker, laborer, or contractor will buy a vehicle that requires several trips to haul tools and materials? Without choices for new vehicle purchases, consumers will be far more likely to hold on to their existing vehicles, thereby making fuel economy gains even less and less likely and increase our dependence on foreign oil. The end result will be somewhat catastrophic to our already struggling U.S. auto industry.

The Kerry proposal reduces auto sales by 220,000 in 2010 and 604,000 in 2015. Automakers will also suffer stiff fines, up to \$40 billion over the next 20 years for failing to meet new CAFE standards.

Fewer sales suggest reduced profitability. This adds up to fewer jobs. EIA suggests job losses of 207,000 in 2010 and 435,000 in 2015. Shouldn't a good energy policy create jobs rather than destroy them and put people out of work?

This chart shows jobs in the United States auto industry through the country. In Texas there are 318,000. New Mexico has 21,000. Massachusetts has 117,000. Need I say more?

America's auto industry drives the economy in all 50 States, including my home State of Alaska. The automobile industry is one of the Nation's largest, 6.6 million jobs directly or indirectly created. For every autoworker who loses his or her job, seven others are lost in related industries: Steel, iron, textiles, plastic, and so on. Certain States, some whose Senators support this amendment, would be hardest hit. In Michigan, over a million; in Ohio, half a million; in California, 492,000; in Illinois, 312,000; in New York, 274,000. Imagine factories shutting, whole towns wiped out, all the jobs in any of these States eliminated overnight—moved overseas, as foreign automakers gain an increasing share of the U.S. automobile market.

We have quotes from labor businesses, safety experts, and so forth. It is no small wonder that the American workers, the United Auto Workers, AFL-CIO, the American Iron and Steel industry, oppose the Kerry proposal. So does the American Chamber of Commerce, American businesses, the Business Roundtable, the Associated Builders and Contractors. They support Levin-Bond as a way to improve fuel economy without sacrificing hard-working American jobs.

The United Auto Workers say:

It [Kerry-McCain] calls for excessive, discriminatory increases in CAFE standards

that would lead to substantial job loss for American workers in the auto industry.

The Chamber of Commerce:

The proposal would dramatically affect the functionality and performance of vans, pickup trucks and sport utility vehicles that businesses and consumers rely upon.

The AFL-CIO:

The proposed increase is too high and too quick, exceeding even the most optimistic projections by the National Academy of Sciences.

And finally, the Insurance Institute for Highway Safety:

Any fuel conservation measure that increases the use of light cars will do so at a cost of unnecessary crash deaths and injuries.

That is the analysis, Mr. President.

And now national security. If it was clear that the Kerry CAFE proposal would guarantee energy independence or substantially reduce our need for foreign oil, we might be willing to bear its harsh costs. The reality is, CAFE standards have provided few, if any, of the security benefits promised by the proponents. There is little reason to believe that further increases in CAFE will provide any national security benefit.

The CAFE program was introduced 25 years ago with the intention of reducing U.S. oil imports and consumption. Yet today we import more foreign oil than ever and our gasoline consumption is at an all-time high for a very simple reason. We have a high standard of living in this country. We have no other mode of transportation to generate movement of individuals other than oil. The world moves by oil. America moves by oil. The planes do not move in and out of here on hot air.

The reasons are simple. While passenger car fuel economy has doubled and light truck fuel economy has increased by over 50 percent, the CAFE program has had no effect on any other factors that determine our transportation fuel use: the size of the vehicle fleet, which is dictated by our population; how vehicles are driven, including vehicle miles traveled in a calendar year; and the kind of vehicles consumers call for.

In each survey of consumer preferences, safety, performance, comfort, and utility rank above fuel economy in determining what vehicles are preferred. Automakers currently offer 50 different vehicle models that get 30 miles per gallon or better, but the 10 most fuel-efficient vehicles make up only 1½ percent of the sales.

This suggests that the American consumer is making a determination of his or her choice and that choice is not made necessarily on fuel-efficient vehicles but on other considerations: Safety, comfort, and so forth.

As we look at this chart which shows passenger car and light truck sales by State, we can see the States whose 2000 new light truck registrations are 60 percent or over are in the green. These are the western areas that have to drive farther. The blue States are those

whose 2000 new light truck registrations are 50 to 59 percent, and the others are States where new light truck registrations are 49 percent or under. In 36 States, consumers favor light trucks. That is just the harsh reality between passenger cars and light trucks.

Again, it is a matter of choice. Consumers have voted with their wallets. Sales of light trucks and SUVs surpass sales of passenger vehicles in 36 out of 50 States. In 1980, light trucks and SUVs comprised only 17 percent of sales, and now they are more than half. Consumers have chosen performance and features over fuel economy and fuel savings. Analysis suggests this trend will continue.

Even with CAFE, petroleum demands are expected to increase by 25 percent to more than 25 million barrels per day in the year 2020. The actual petroleum saved by higher CAFE standards, according to EIA, is roughly 1.3 million barrels per day, about the same as we can produce from ANWR during the same period. While production of domestic oil from ANWR and Alaska would obviously reduce foreign oil imports, higher CAFE standards may not. Instead of reducing the need for crude oil, high CAFE standards reduce the needs for gasoline and diesel. Rather than reduce our dependence on Persian Gulf crude oil, higher CAFE standards would reduce the needs for import of these products primarily from Canada and the Virgin Islands. Clearly, the national security threat due to our dependence on Middle East oil remains, even with CAFE.

Finally, by fostering the use of advanced vehicle technologies, expanding alternative fuel use, the Levin-Bond approach to fuel economy will reduce our dependence on foreign oil, create hundreds of thousands of new jobs, protect American families and workers from injury or death, provide consumers with vehicle choice they need, and increase economic growth.

In contrast, in my opinion the dramatic and ill-advised increase in CAFE standards proposed in the underlying bill will hardly make a dent in our imports of foreign oil and do nothing to ensure our national security, throw hundreds of people—thousands of people—on the street, out of work, and lead to tens of thousands of new deaths and crippling injuries on the roads of America; deprive workers and small businesses of their vehicles they need to go about their daily lives, and potentially make the difference between economic growth and prosperity or economic gloom and recession.

Clearly, the Levin-Bond amendment is a better way forward to truly improve the economy. I intend to vote for it, and I encourage my colleagues to do the same.

I would like to show one chart in conclusion. This was as a consequence of our discussion earlier about what a difference the increase in domestic production means relative to our overall

consumption. I want to go back and show what happened to the Alaska production, represented by the blue line, from 1973 to 1999—clear across the board.

During this period from 1973 to 1999, you see the production of Alaskan oil in blue starts and goes up and comes across. The interesting thing is something happened in 1977. You see that big jump that occurs? What happened is we came on line with Prudhoe Bay. It made a tremendous difference.

What happened in the red chart when we did that? This is what we were importing in the early 1970s. We were importing somewhere in the area of 6 million barrels a day. It suddenly dropped. It dropped dramatically because we increased domestic production in this country.

I am tired of hearing arguments that say, if you bring on oil from ANWR, it will not make a difference. It will make a dramatic difference, and this is proof.

What did we bring on at that time? We brought an additional 2 million barrels on line. That is what we brought in during that period, right in there. When you see the significant drop in the red line, that is why it happened. If we can open up ANWR, we will see the same drop in imported oil. It will not relieve us, but it will make a difference.

I yield for a question to my friend from Massachusetts.

The PRESIDING OFFICER (Mr. REED). The Senator from Massachusetts.

Mr. KERRY. Has the Senator finished?

Mr. MURKOWSKI. Yes.

The PRESIDING OFFICER. The Senator from Alaska yielded for a question to the Senator from Massachusetts.

Mr. KERRY. If the Senator has finished, I want to claim the floor, and then I will ask a question, if I may.

Mr. MURKOWSKI. I will be happy to respond to the question now.

The PRESIDING OFFICER. Does the Senator from Alaska yield the floor?

Mr. MURKOWSKI. No, but I will be happy to yield for a question.

Mr. KERRY. Mr. President, I will ask the Senator a number of questions, if I might.

First, the Senator quoted a study. It is the EIA study. The Senator quoted a study and suggested the study says you cannot reach 35 miles per gallon.

Is the Senator aware that the study did not analyze the Kerry-McCain substitute at all, which seeks to get 36 miles per gallon but with a cushion for trading? Is he aware that was not even analyzed?

Mr. MURKOWSKI. Yes, this Senator was aware of that. We asked for an analysis of the bill as it was at the time of our request.

Mr. KERRY. So in effect we have a proposal on the floor that the study of the Senator does not address at all, or we will have a proposal.

The second question: Is the Senator aware the model he referred to is not a

fuel economy model, it is an economic model of the U.S. energy system which has a series of statements about pricing and efficiencies that it does not take into account?

Mr. MURKOWSKI. Account, if I may, of what?

Mr. KERRY. Specifically, I quote from the study. The study says that predicting energy prices depends on events that shape energy markets that are "random and cannot be anticipated."

Mr. MURKOWSKI. That should not prevent us from trying to predict future events, should it? I would say that statement, in general terms, is consistent with the reality that the price of fuel is primarily controlled by OPEC through their cartel and they have set a floor and set a ceiling. The floor is \$22; the ceiling is \$28. They have exceeded that. Any time they have fallen below that, they have quickly reduced the supply and the price has gone up. So that is what controls the price of fuel in this country. It is OPEC.

Mr. KERRY. But it did not take into account what the benefits might be if, in fact, that happened again and we went back to the 1973 situation. So in effect the study does not take into account the potential of that major price differential.

But much more important, is the Senator aware that the list of technology on which the assumption is based, that you cannot meet 35 miles per gallon, is a very different list from the list of technology available under the National Academy of Sciences? And is the Senator also aware that the study assumes that you include all 8,500-pound vehicles, which we do not include? So if you take out the 8,500-pound vehicles, the study of the Senator is completely inapplicable.

Is he aware of that, that we do not have 8,500-pound vehicles in our proposal?

Mr. MURKOWSKI. I don't think the Senator from Massachusetts has offered his bill as yet, so we do not know what is in it. What we do know is the EIA's projections are not statements of what will happen but what might happen, given known technologies, current technology, demography, and the trends in current laws and regulations. We had EIA analyze the proposal as it was at the time of our request, several weeks ago, and before the Senator from Massachusetts made his changes.

I find the argument the Senator from Massachusetts makes on technology to be interesting: on one hand, he is suggesting the technology is likely to occur for vehicle efficiency, but, on the other hand, I am promoting ANWR, saying technology advancements will allow us to do it safely. He dismisses technology on one hand and promotes it on the other. I happen to believe that technology is applicable in both areas.

But what I find objectionable is the idea of setting a goal in the year 2013, or thereabouts, and not being held accountable. It is very easy for Members

to say let's go ahead and vote for the 35 or 36 miles per gallon, because we are not going to be here to be held accountable for it. The experience we had has been disastrous, relative to meeting these goals, because obviously the American public has a certain concern about what they want to buy. It is associated with a standard of living. It is associated with the advancement, obviously, in technology.

Mr. KERRY. Let me say to my friend from Alaska, first of all, I would ask him to speak for himself as to whether or not—I know he does not intend to be here in 12 or 13 years, but a lot of other of my colleagues do.

Second—

Mr. MURKOWSKI. I just might be here.

Mr. KERRY. If I may say to my friend from Alaska, who may be—on this subject of this technology—I completely accept the technology. I am not arguing about the technology availability in Alaska. That has nothing to do with the Alaska argument. It is a question, not about technology, it is a question about good energy policy. That is another debate. It will happen in the next few days. But I say to my friend from Alaska, with respect to technology, these are technologies that are currently available. They are not taken into account in the study.

The National Academy of Sciences has listed these technologies. The study he cites does not even take into account hybrids.

My friend from Illinois has a chart over there—I had it over here earlier—that shows what can happen with hybrids. You bring a hybrid SUV on line and you get double the mileage. The study doesn't even take that into account.

Mr. MURKOWSKI. Let me respond to the last question, if I may. The same National Academy of Sciences study on which the Senator bases his legislative proposal, with new technologies, has estimates of cost and impact as in the EIA study. I think what the Senator is suggesting is the use of additional technologies which EIA believes are not necessarily cost efficient.

Higher CAFE standards means higher costs. Data from the National Academy of Sciences make this clear—\$690 more for passenger cars at 33.5 miles per gallon, and \$1,260 more for light trucks and SUVs at 27.5 miles per gallon in 2015. The Energy Information Administration clearly says cost is going to be higher—\$535 for passenger cars and \$961 for light trucks and SUVs.

The Senator from Massachusetts can argue the point, but I suggest he argue with the National Academy of Sciences or EIA.

Mr. KERRY. Mr. President, again there is nothing to argue about with the National Academy of Sciences because they did not take it into account either. But they acknowledge it. They acknowledge they did not take into account hybrids. My colleague has not answered the question.

Mr. MURKOWSKI. The question is a matter of choice for the American public in purchasing these hybrids. They can purchase them now. You can go out and get a car that gets 50 miles per gallon if you wish.

Mr. KERRY. Mr. President, I appreciate the Senator mentioning \$1,200. That is an accurate statement of the upside cost that is talked about in the National Academy of Sciences report. They also talk about the low side of \$500—so, \$500 to \$1,200. I accept that. He is absolutely correct. It will cost a little bit more. But what he doesn't say and what they never say is that the savings in gasoline over the life of the car pay for the cost. Moreover, we are prepared to give a tax credit.

Is the Senator aware that Ford Motor Company executive, John Wallace, said in an interview that with a \$3,000 tax incentive for the purchase of the gas-electric hybrid, that would solve the problem of profitability and they would be profitable immediately with the Ford Escape? Is the Senator aware that Ford Motor Company says they can be profitable immediately with the tax credit which we are going to pass?

Mr. MURKOWSKI. I wonder if the Senator from Massachusetts is aware that in order for the car to basically amortize the cost of saving gasoline, the individual would have to keep that car about 14 years. The American public is not of a mind to keep a car that long.

Mr. KERRY. That is not my question. With a tax credit, is it profitable immediately?

Mr. MURKOWSKI. One could argue that it is profitable because a tax credit is a subsidy.

Mr. KERRY. That is only to bring it on line. The Senator said you can't be profitable.

Mr. MURKOWSKI. I quoted the National Academy of Sciences, and the Senator from Massachusetts is arguing the point that it wasn't included in his particular amendment.

Mr. KERRY. Actually, the National Academy of Sciences—I have the report right here—says specifically that without the cost, without loss of jobs, and without loss of safety, you can have a car that increases fuel efficiency up to 37 miles per gallon. That is what the National Academy of Sciences says. They don't tell you you have to do that, but they say you can do it. It is technologically feasible today. So you can, in fact, do that.

Mr. MURKOWSKI. I think the Senator from Massachusetts has to be careful in his generalities because the Ford Escape isn't a real SUV. I understand its towing capacity is only 1,000 pounds. That means you can't really tow your boat to where you are going to launch it because it is simply not heavy enough, if indeed it can only tow 1,000 pounds.

The Senator from Massachusetts can argue the point. But it is either fact or fiction. Is the Ford Escape a real SUV, or a mini-SUV, and is it limited to a certain load area?

Mr. KERRY. Mr. President, let me say to the Senator that is their first report. Let me say that over the course of the next 15 years, given the technologies that are available to us, you have the reliability to bring on line a car that can tow any size boat, and the vehicles you need for that fall outside the CAFE standard because of weight—this perfect capacity to have all the towing you want, all the carrying capacity, and all the lift capacity and still drive a more efficient vehicle. But I also want to ask the Senator—he said we are going to lose safety. I want to have the Senator from Illinois have a chance. He mentioned safety.

Mr. MURKOWSKI. Mr. President, I have the floor, as the Senator from Massachusetts is aware.

Mr. KERRY. Mr. President, if I may, the Senator said we will lose the safety. He quoted the National Academy of Sciences. Is the Senator aware that the National Academy of Sciences said specifically on page 70 of the report that it is technically feasible and potentially economic to improve fuel economy without reducing vehicle weight or size, and therefore without significantly affecting the safety of motor vehicle travel?

Is he also aware that the most important entities in this country with respect to safety—Public Citizen and the Center for Auto Safety—are both opposed to the Levin amendment and support the effort to have CAFE standards for a safety basis?

I want the Senator to hear this, if I may.

Mr. MURKOWSKI. I assumed the Senator from Massachusetts was going to ask me a question.

Mr. KERRY. I asked the question. I want to supplement the question. I want to see if the Senator is aware of this finding. This is Public Citizen:

The industry's primary support for its position comes from a highly controverted study by the National Academy of Sciences, which, in turn, based its conclusions on research by Charles Kahane of the National Highway Traffic Safety Administration.

The data used in the study are from 1993 and, therefore, fails to reflect advances in passenger protection, such as dual airbags and head injury protection.

The study misleadingly held crashworthiness protection constant, despite the fact that many lives could be saved by design changes and cost-effective safety improvements.

Mr. MURKOWSKI. I would be happy to respond.

Mr. KERRY. There are additional findings. In fact, the finding of the National Academy of Sciences is that it would not affect safety. That is, in fact, the current finding.

Mr. MURKOWSKI. If I may respond, this comes from the National Academy of Sciences. It reads as follows:

Contrary to recommendations, the NAS report says that the proposal establishes both unreasonable targets and unreasonable time-tables.

According to the NAS report, technology and changes require a very long

time to be introduced into the manufacturer's product line, which I think paraphrases what the Senator from Massachusetts said because he said it will take time for the minivan, if you will, to evolve into what we would all like, and that is a multipurpose minivan.

They further go on to say that technology changes require a very long time to be introduced. Any policy that is implemented too aggressively—that is, too short a period of time—has the potential to adversely affect manufacturers, their suppliers, their employees, and consumers.

The NAS report says further:

But it is clear that there were more injuries and more fatalities than otherwise would have occurred had the fleet in recent years been as large and heavy as the fleet of the mid-1970's.

Those facts are on the basis of experience.

To the extent that size and weight of the fleet have been constrained by CAFE requirements, the current committee concludes that those requirements have caused more injuries and more fatalities on the road than would otherwise have occurred. Recent increases in vehicle weight, while resulting in some loss of fuel economy, have probably resulted in a reduction of motor vehicle crash deaths and injuries.

This is in the NAS report, page 2-29.

Mr. KERRY. Mr. President, the Senator hasn't answered my question. I agree with that. I know exactly what they say with respect to that. But he hasn't acknowledged that the findings of Public Citizen and the Center for Auto Safety point to the fact that the analysis on which the conclusion was based is flawed because it is not based on current safety capacity. It is not based on dual airbags. It is not based on lighter materials. It is not based on new technology. It is based on what happened in the transition. I want to explain why it happened.

Mr. MURKOWSKI. Isn't it based on a historical evaluation of what has happened? And so it is factual in relationship to actual statistical information.

Mr. KERRY. Let me again say what it relates to.

Specifically, the data used in the study is from 1993—not 2002. It fails to reflect the changes in passenger protection. It doesn't reflect dual airbags. It doesn't reflect what we have in our bill, which is rollover safety. Ten thousand people lost their lives last year because SUVs roll over. They have a 75-pound roof. The car is so heavy that it crushes them. The industry has resisted that protection. For a small cost, you could save those 10,000 lives.

That is in our bill. It is not in their bill.

Mr. MURKOWSKI. Is that portion in the bill?

Mr. KERRY. Yes. This is in our bill. It is introduced. It is on the floor now. You are about to strip it. But that is what is here.

Mr. MURKOWSKI. That is not my understanding. I would appreciate the Senator from Massachusetts advising us just where specifically that is.

Mr. LEVIN. Will the Senator from Alaska yield for a question?

The Senator from Massachusetts is taking the NAS study.

Mr. MURKOWSKI. I noticed that.

Mr. LEVIN. In the same breath, the Senator from Massachusetts says NAS found an increasing safety standard, and that his proposed level will not affect safety. There was no such finding by the NAS.

Would the Senator from Alaska agree?

Would the Senator from Alaska agree that when the NAS said that it is technically feasible and potentially economical to improve fuel economy without reducing vehicle weight or size, and, therefore, without significantly affecting the safety of motor vehicle travel, they were not talking about increasing fuel economy to the Kerry level?

Mr. MURKOWSKI. That is correct.

Mr. LEVIN. They were just simply saying, it is possible to increase fuel economy. You might be able to increase fuel economy by 1 mile per gallon without affecting safety. They did not reach a conclusion there. This line has been quoted—

Mr. KERRY. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Alaska controls the time.

Mr. LEVIN. Mr. President, I am asking the Senator from Alaska a question.

Does the Senator from Alaska agree that the National Academy of Sciences does not specify what increase in CAFE would be possible in a way which does not affect, in a negative way, safety? Would the Senator from Alaska agree with that?

Mr. MURKOWSKI. Absolutely. That is my understanding.

I ask the Senator from Massachusetts, is there a committee report on the proposal, the Kerry proposal? And has the Commerce Committee given any views on the proposal?

Mr. KERRY. No. Mr. President, no there is none.

Mr. MURKOWSKI. Is there a reason why that has not occurred?

Mr. KERRY. Because we ran out of time. The leader made a decision that there was not time for the committee to act. There, clearly, would have been a majority in the committee, but we did not have time because of the schedule of the Senate. And the majority leader made a decision to try to meld it with the energy bill in order to keep his commitment to you, I believe, to bring the energy bill here at the appropriate time after the recess.

Mr. MURKOWSKI. Well, as the Senator from Massachusetts knows, the leadership has seen fit to basically go around the committee process because the Energy and Natural Resources Committee has not met in a markup since October. We had no opportunity to address amendments and bring in debate and develop a consensus. That is why I think it is unfortunate that so much of the process we are going

through now is a matter of educating Members. Because it did not occur in the Commerce Committee, it did not occur in the Finance Committee, and it certainly did not occur in the committee of jurisdiction, the Energy and Natural Resources Committee because the majority leader saw fit to pull it from the committee in October.

I think the Senator from Massachusetts is well aware of why it was pulled. It was pulled because we had the votes to vote out an ANWR amendment, which would have put us in a position, as we debate the energy bill, of not having to come up with 60 votes, as the Senator from Massachusetts has threatened in his filibuster statement that he is going to filibuster the ANWR amendment.

But from the standpoint of equity and fairness, what we have not had an opportunity to do within the Energy Committee is to have amendments come up, develop a bill, and vote it out. And it was done for one specific reason. And it was done very early. This was done back in October. So we did not work, in the Energy Committee, on a bill so that we would have a consensus of both Democrats and Republicans as we address some of these complex issues.

So from the standpoint of not having time, we are all in the same boat, only I think it is fair to say the Energy Committee really took it in the shorts, if you will pardon the abbreviation.

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

Mr. MURKOWSKI. For a question.

Mr. KERRY. Mr. President, I ask the Senator, in his memory here—he has been here quite a while—is it not fair and accurate to say that when the Republicans were in control, the majority leader, on a number of different occasions, did exactly the same thing? Is that fair?

Mr. MURKOWSKI. I am so pleased the Senator from Massachusetts—

Mr. KERRY. Is that accurate?

Mr. MURKOWSKI. Has asked that question because it is totally inaccurate. The Republican majority leader—

Mr. KERRY. Is totally inaccurate?

Mr. MURKOWSKI. Has never ever taken away—

Mr. KERRY. Never circumvented?

Mr. MURKOWSKI. May I finish the answer—has never ever taken away the function and responsibility of the committees to meet.

Mr. KERRY. That is not what I asked.

Mr. MURKOWSKI. If the Senator will look up the RECORD, they have never seen, in the 22 years I have been here, an occasion where the majority leader has absolutely forbid the committees to meet. The Republican leader may have moved bills without going through the committee, but never, never, never. So there is a difference. There is a significant difference here.

This is a usurping of the committee process and function by the dictate of

the majority leader because he knew we had the votes to vote out ANWR. That is what is so undemocratic about this process.

Is the Senator from Massachusetts willing to give us an up-down vote on ANWR?

Mr. KERRY addressed the Chair.

Mr. MURKOWSKI. I am asking the question.

Mr. KERRY. I am going to answer. I am asking recognition to be able to do that, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska controls the time, and I believe he has yielded to the Senator for the response.

Mr. KERRY. Mr. President, I would be delighted to answer the question. And, at the same time, may I say to the Senator, look, my question to him was whether or not a majority leader on the other side has circumvented. I did not ask him whether they met or not.

Mr. MURKOWSKI. Because he has never done it.

Mr. KERRY. And he has circumvented.

Mr. MURKOWSKI. He has never done it by pulling the authority—

Mr. KERRY. But he has done it.

Mr. MURKOWSKI. Of the committee of jurisdiction away from the process going on in the committee or forbid the committee from even holding markups for fear they would be somewhat confrontational.

Mr. KERRY. Mr. President, I can't speak to the question of methodology. I simply am asking about the result. My result answer is affirmative.

Mr. MURKOWSKI. If the minority leader were here, he would cite the specific differences. The Senator from Massachusetts can either accept my explanation or not. But factually, what happened is that the committee was forbidden to address any business before the committee. So we have not had any markups. We have not had opportunities to offer amendments.

That did not occur in the Commerce Committee. You had a process. He finally pulled it. It did not occur in the Finance Committee because he finally pulled it. But in the Energy and Natural Resources Committee we were simply forbidden, and that was it.

Mr. KERRY. Mr. President, I think that the assistant majority leader may or may not have a better history of that than I do, but I just want to say something. With respect to—I ask the Senator from Alaska about this. The other day, in the Washington Post, Paul Portney, who is the chairman of the National Academy of Sciences panel that the Senator referred to—and he is the president of the think tank—said that what we are proposing in our bill is—I am quoting—"roughly consistent with what the Academy identified as being technologically possible, economically affordable, and consistent with the desire of consumers for passenger safety." Is the Senator aware that the chairman of the panel signed off on that?

Mr. MURKOWSKI. I thought the Senator from Massachusetts was going to respond to my question; which was, Is he going to allow a 50-vote on ANWR? I don't think he addressed that.

Mr. KERRY. I will. Mr. President, let me say pointedly, I have been here now for 18 years. And in the 18 years that I have been here, as the Senator from Alaska knows, there are certain kinds of issues that rise to such a level of both emotional as well as substantive quality and contest that they always require 60 votes.

I have seen time after time on both sides of the aisle—it is just the difficulty here—if you have a contested issue, that is significantly contested on both sides, almost every time here it does not happen unless one side or the other musters 60 votes. It may be regrettable, but many people believe that is one of the great protections of the Senate, so we do not rush to do things that we regret or even as a way of protecting the minority. It is what our forefathers put in place. And I have said that I will exercise that privilege afforded us by the rules of the Senate. And that is what I intend to do on that subject.

Mr. MURKOWSKI. I am glad that the—

Mr. KERRY. May I say, it is not with any disrespect for the Senator from Alaska. I admire his tenacity. I know this means a great deal to him. We just happen to differ. And I think it is an issue that has to be resolved with those 60 votes.

Mr. REID. Will the Senator yield?

Mr. MURKOWSKI. If I may respond to my friend from Massachusetts.

To suggest that we do not want to move into these things too rapidly, this issue has been before this body for many, many years.

Mr. KERRY. I agree.

Mr. MURKOWSKI. It is not a movement of rapidity. We passed opening ANWR in 1995, as the Senator from Massachusetts will recall, and it was vetoed.

Mr. KERRY. Let me say to my friend, I am not saying rapidly. I am saying that sometimes applies.

Mr. MURKOWSKI. It was vetoed by President Clinton. Had we proceeded with it at that time, we would now know what we had. And I think that the Senator from Massachusetts has forgotten one thing. On matters of national security—and certainly national security is an issue, as we look at our situation with Iraq, our dependence on imported oil from Saddam Hussein, the fact that we are enforcing a no-fly zone, risking the lives of men and women—on September 11, we were importing over a million barrels of oil a day from Iraq. We are threatened now relative to the exposure of terrorism from that part of the world. And the Senator from Massachusetts has chosen not to let 50 percent of the Senate make a decision on a matter of national security. He has chosen on his own to filibuster something that has

never been done in my understanding of the traditions of the Senate on a matter of national security.

This is what the ANWR issue is. It is the national security of our country because, obviously, as the Senator from Massachusetts knows very well, when there is a shortage of oil, the price goes up. The Senator from Massachusetts would recall in 1973, when we had the Arab oil embargo, when we had the Yom Kippur War, we were 37-percent dependent on imported oil. Today we are 57- to 58-percent dependent. What happened in 1973, we had gas lines around the block. There was frustration. People were blaming government.

I would hope this never happens again, but if it does, I suggest the Senator from Massachusetts will have to reflect on the attitude he proposes to take.

On national security items, it is uncalled for to try to establish a filibuster to reflect an individual and a particular group that has milked this issue for virtually all it is worth. I am talking about America's extreme environmental community.

There is absolutely no evidence that ANWR can't be opened safely. And the residents of my State of Alaska happen to support it. The Native residents of Kaktovik, the area that is affected, support it. ANWR can be on-line in a relatively short period of time. It can mean as much in oil coming into this country and being produced as Prudhoe Bay did. That was 20 to 25 percent of the total crude oil produced in the United States for the last 27 years.

Those are the facts. The debate we will have on that issue will take care of it. It certainly is not in the best traditions of the Senate to take a national security interest and mandate a closure 60 vote point of order. That is what the Senator has chosen to do.

Mr. REID. Will the Senator yield for an announcement to the Senate, without the Senator losing his right to the floor?

Mr. MURKOWSKI. Surely.

Mr. REID. We have had a number of calls in both cloakrooms as to what will happen tonight. We are very close to having a unanimous consent agreement proposed to the Senate that would set up a vote on this matter that is now before the Senate at 11:30 tomorrow morning. We also have recognized Senator MILLER has been waiting to offer his amendment. He would do that after we come in in the morning so we would be able to have the two votes in the morning.

Mr. LEVIN. Mr. President, if the Senator will yield, I had a discussion with Senator MILLER. My understanding was that the debate on his amendment would occur after the disposition of the Levin-Bond amendment.

Mr. REID. That is correct.

Mr. LEVIN. I thank the Senator.

Mr. REID. If I misspoke, I am sorry. We have a lot of people waiting, and we are going to offer a unanimous consent request to set up things in the morning

and tomorrow afternoon. If people would be kind enough when there is a break in the speeches in the next 10 minutes or so, I would like to offer the request so we can move on.

Mr. MURKOWSKI. I thank the majority whip.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. KERRY. Mr. President, point of personal privilege.

Mr. MURKOWSKI. I yield the floor to Senator BOND.

The PRESIDING OFFICER. The Senator may not yield the floor to another Senator.

Mr. BOND. Mr. President, I had an inquiry to the distinguished deputy majority leader. We have been promised to see a copy of the amendment that is to be offered. Before we agree on the unanimous consent request on this side, we would like to see a copy of that amendment. I wonder if we could be accommodated.

Mr. REID. I say to my friend, we have so ordered the unanimous consent agreement that that should not be a concern to the Senator. None of his rights or privileges would be lost. We will go over that with him prior to offering it.

The PRESIDING OFFICER. The Senator from Missouri now has the floor.

Mr. BOND. Mr. President, I appreciate the chance to address a number of things that have been said on the floor. Before doing that, I would ask if the distinguished majority whip had further comments. I did not mean to cut him off.

Mr. REID. I appreciate that. The Senator certainly has not lost his right to the floor. Tonight anyone who wants to speak on this amendment should talk as long as they want. We have a number of people in the Chamber who wish to talk. Certainly we are going to complete debate on this tonight. That is mainly what the unanimous consent agreement does. It sets up a vote in the morning. So if everyone would be understanding of that, in the immediate future we will offer the request.

Mr. LEVIN. Will the Senator from Missouri yield?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. BOND. I am happy to yield to the distinguished Senator from Michigan.

Mr. LEVIN. For a question of the majority whip, if I could: Did I understand the majority whip to indicate that the debate on this amendment would be completed tonight under this proposed UC?

Mr. REID. Let me respond to the Senator from Michigan, yes, the debate would be finished tonight. We would have 5 minutes on each side in the morning.

Mr. LEVIN. Prior to the vote?

Mr. REID. Yes.

The PRESIDING OFFICER. The Senator from Missouri has the floor. Does the Senator from Missouri yield for a parliamentary inquiry to the Senator from Illinois?

Mr. BOND. For a parliamentary inquiry, I am happy to do so.

Mr. DURBIN. May I inquire of the Chair, is there any control in a unanimous consent or rule of the Senate relative to the order of speaking as to whether Members will each have a chance to speak once before a Member speaks a second time or what order Members will be recognized?

The PRESIDING OFFICER. There is no controlling unanimous consent at this time with regard to debate on this amendment.

Mr. DURBIN. Could I inquire of my colleague from Missouri if he could give me an indication of how long he wishes to speak?

Mr. BOND. Mr. President, I thank my colleague from Illinois. I have been waiting since about 3:45 because there were a number of points that were raised by my good friend from Massachusetts. He was kind enough to pay attention to some analogies I drew. It is probably going to take me 10 to 15 minutes to correct the RECORD. But I am very sympathetic to the needs of my other colleagues who wish to speak, and I do need to straighten that out. With the Chair's permission, I will go ahead and reclaim my time and begin by making, first, a request.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. KERRY. I realize that. I am asking if I could ask him just a quick inquiry.

The PRESIDING OFFICER. Does the Senator from Missouri yield for a request of the Senator from Massachusetts?

Mr. BOND. Mr. President, I have enjoyed listening to the Senator's speeches and questions, and I have a number of answers to questions he has already raised. I prefer to answer those questions, and then I shall be happy to entertain such remaining questions. But he has addressed in his statements a number of questions to me. I am looking forward to the opportunity to attempt to answer those questions.

Mr. DURBIN. Will the Senator yield for a unanimous-consent request?

Mr. BOND. Mr. President, unless it is from the majority whip, I would prefer to go on with my statement. I have told the Senators that I would hope to be able to complete this in less than 15 minutes, if I could reclaim the floor.

First, there was a statement by my friend, the Senator from Arizona, that there is nothing going to be done to improve fuel efficiency under the Levin-Bond amendment.

I refer the Senator from Arizona to section 801, the very first page. It directs the Secretary of Transportation to issue new regulations setting forth increased fuel economy standards for automobiles that are determined on the basis of maximum feasible average fuel economy levels, taking into consideration the matters set forth in subsection F. That essentially lists all of the factors included in the National Academy of Sciences study.

Frankly, it says, "setting forth increased average fuel economy standards."

There have been questions raised by the Senators from Massachusetts and Arizona as to whether there would be any action by the Department of Transportation. It is important to point out to whoever still remains that Secretary Mineta, in July of 2001, requested that Congress remove riders preventing the Department of Transportation from revising the current CAFE standards.

Once Congress did that, the National Highway Traffic Safety Administration—which I will refer to as NHTSA—moved expeditiously in resuming CAFE rulemaking and published a notice on January 24, and on February 7 issued a request for comment for new CAFE standards for light trucks, requested public input. On February 1, the Secretary sent a letter to Congress urging that DOT be given the necessary authority to reform the CAFE program. The administration has requested an increase in NHTSA's budget to accomplish the development of the new standards and has begun updating its 1997 analysis of vehicle size.

So I think NHTSA, which the National Academy of Sciences study said should move forward, has shown it is willing to do so and that it is anxious to do so.

Now, one other item has been raised. My colleague from Massachusetts had a great line, a wonderful line, saying they had the most efficient workers and the U.S. auto industry can turn out the best cars around but they are forbidden to do so by the "terrible management." It is all the management and the designers. Do you know something, Mr. President. The people saying they don't want those minicars are the consumers. The people who determine what the national auto- and truck-buying public consume are the consumers themselves.

There are some in this body who think we can tell them that it is good for you, eat your spinach—even if you don't like it. They tried to tell them to eat their spinach. They got 50 different small cars that meet very high standards. Yes, by God, some of them are golf carts. I love the golf carts. They are going to be all over the place if we have this absolutely arbitrary 37-mile-per-gallon fleet average, or 35, or whatever they come up with in their secondary amendment. We are going to be driving lots of golf carts because they will make it. But only 1.5 percent of vehicle sales in the United States today—even though there are 50 different models—are of the mini subcompacts that get the very high miles per gallon average.

For those people who want to drive them and want to save gasoline, more power to them. That should be their choice. That should be the consumer's choice. There have been a lot of statements made about the fact that, well, the only arguments against increased



CAFE are from the automakers. There are those of us who are supporting the Levin-Bond amendment who believe that the basis for our concern and for our amendment is the National Academy of Sciences study.

I had my breath taken away by the attacks on the National Academy of Sciences, but I will quote some figures from it.

The Senator from Massachusetts said it is technically feasible and potentially economical to improve fuel economy without reducing vehicle weight or size. It goes on to say that two members of the committee believe it may be possible to improve fuel economy without any implications for safety, even if down-weighting is used. So that statement from the National Academy of Sciences shows that the rest of the members of the panel said it would have an impact on safety.

Furthermore, the committee states that it recognizes the automakers' responses could be biased, but extensive downsizing that occurred after fuel economy requirements established in 1970 suggest that a likelihood of a similar response to further increases in fuel economy requirements must be considered seriously. From this, I repeat the message previously received—that we will be getting into smaller cars that are more dangerous.

Speaking of smaller cars, my colleague from Massachusetts talked about the Escape hybrid electric vehicle. Well, the rest of the story, and what he did not tell you, is that the Escape, which is the basic car, can only tow 1,000 pounds. It is a small front-wheel drive. The hybrid would cost \$3,000 to \$5,000 more, and it is 1,000 pounds lighter. Now, 1,000 pounds is a significant factor because that is basically what the lower weight of vehicles after the CAFE standards went into effect—what resulted in the roughly 2,000 deaths per year that the National Academy of Sciences foresaw.

There may be some people who want the hybrid electric vehicle. But if I were driving young children in my family around, I don't think I would want to go with a smaller car. There is no assurance that the consumers are going to buy it. That is the problem with some of these command-and-control decisions from Washington. They say that if we direct the manufacturers to build it, then the consumers will buy it. Well, American consumers like to make choices themselves. Sometimes they say we are not going to buy them.

The 10 most fuel-efficient cars in America account for only 1.5 percent of auto sales. In a recent survey of attributes, they show that the consumers value safety, comfort, utility, performance, and fuel economy ranks at the bottom.

In addition, when we talk about the technological improvements, Congress is not making the laws of physics. We are not changing science.

The safety improvements add weight to the vehicles. The heavier the vehi-

cle, the more energy it takes to move it down the road and it results in a decrease in fuel economy.

The National Committee of Sciences report said:

If an increase in fuel economy is affected by a system that encourages either downweighting or the production in sale of more small cars, some additional fatalities would be expected.

In addition, the Senator from Massachusetts said unequivocally that NAS, in its report, said a fleet of 37 miles per gallon could be reached with existing technology and without any loss of jobs.

That is just simply not true. Nobody can find a reference in this wonderful National Academy of Sciences report. I hold it up. It is a little dog eared. I have been looking for the statement cited as gospel by the Senator from Massachusetts. It is not in there. There are not even any fleetwide numbers in the report. Rather, there are cost-efficient fuel economy levels for 10 different subclasses of light-duty vehicles. Nowhere are those numbers sales weighted to yield a fleet average.

Of the six cost-effective scenarios examined by the National Academy of Sciences panel, is there even 1 of the 10 classes estimated to be able to reach that level? There are subcompact and compact cars which under a 3-year payback period could get up to 30 miles per gallon, and the highest light truck value is only 24.7 miles per gallon.

The National Academy of Sciences report in no way suggests that a 37, 35, 32—whatever number you want to give me—is achievable.

Also, my friend from Massachusetts cited a Consumers Union study on possible safety effects. Unfortunately, that CU study used an invalid comparison of vehicle crash death rates published by the Insurance Institute for Highway Safety to suggest that drivers of Honda Civics are at less risk than drivers of Chevrolet Suburbans. The Insurance Institute says:

Such a claim is absurd on the face of it. Plus, the comparison is invalid. The two death rates are not statistically different, as indicated by the confidence bounds we published. Also . . . nonvehicle factors such as use patterns and driver demographics influence vehicle death rates, and these are likely to vary across different vehicle types such as small cars . . . and very large sport utility vehicles.

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

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

INSURANCE INSTITUTE FOR  
HIGHWAY SAFETY,  
Arlington, VA, March 6, 2002.

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

DEAR SENATOR BOND: This is in response to your request for reactions to statements in a letter sent by the Consumer Union (CU) to members of the Senate on possible safety effects of pending fuel economy legislation. The CU letter seriously misrepresents the adverse safety consequences of reducing vehicle weights to improve fuel economy.

First, CU uses an invalid comparison of vehicle crash death rates published by the Institute to suggest that drivers of Honda Civics are at less risk than drivers of Chevrolet Suburbans. Such a claim is absurd on the face of it. Plus the comparison is invalid. The two death rates are not statistically different, as indicated by the confidence bounds we published. Also (as noted in our publication) nonvehicle factors such as use patterns and driver demographics influence vehicle death rates, and these are likely to vary across different vehicle types such as small cars (Civics) and very largest sport utility vehicles (Suburbans).

Even though we pointed out to CU the potential influences of nonvehicle factors on the computed death rates, the letter claims that "when we take all crash factors into account in the real world the Honda Civic had fewer driver fatalities than the Chevrolet Suburban." This is a complete misrepresentation. Nonvehicle factors such as use patterns and driver demographics were not taken into account. The claim that "all crash factors" were taken into account is wrong. No nonvehicle crash factors were accounted for when the death rates were computed.

Second, the CU letter distorts basic facts concerning occupant safety and vehicle weight. The evidence is overwhelming that the lightest passenger vehicles (which consume less fuel per mile) offer much less protection to their occupants than heavier vehicles (which consume more fuel per mile). It also turns out that the safety benefits to vehicle occupants diminish as vehicles get heavier and heavier, so we don't have to choose the heaviest passenger vehicles to get good crash protection. Still, we should avoid the lightest ones.

It is sometimes claimed that the high crash risks for occupants of light vehicles are entirely due to the adverse consequences of collisions with heavier passenger vehicles and, therefore, it is the heavy vehicles that are the problem. It is correct that heavier vehicles increase the risks for occupants of light vehicles in two-vehicle crashes, but this effect makes only a relatively small contribution to the high risks for light car occupants. Our October 30, 1999 newsletter, *Status Report* (enclosed), pointed out in an article on crash compatibility that almost 60 percent of the deaths of occupants of the lightest cars (<2,500 pounds) occur in single-vehicle crashes, crashes with big trucks, or crashes with three or more vehicles. Two-vehicle crashes with other cars (including other light cars) account for 23 percent of the deaths in light cars, and crashes with sport utility vehicles and pickups of all weights, not just the heaviest ones, account for 15 percent of the deaths of small car occupants.

The high risks for occupants of light cars in crashes are due to the inherent lack of protection these vehicles offer in *all* kinds of crashes. Additional vehicle safety standards cannot offset the higher crash risks for occupants of lightweight vehicles. Such standards may make light vehicles safer, but they also will make heavier vehicles safer, so the disparities in risk will remain.

The laws of physics dictate that light vehicles consume less fuel per mile and are less protective of their occupants in crashes. This means fuel conservation measure that increases the use of light cars will do so at a cost of unnecessary crash deaths and injuries.

Sincerely,

BRIAN O'NEILL,  
President.

Mr. BOND. Mr. President, finally, it has been suggested that the Honda

manufacturing motor company is supporting the effort to get the 36 miles per gallon. Today's National Journal Congress Daily on page 9 reports that it opposes the bill sponsored by Senators KERRY and MCCAIN, and it says it supports the measure supported by the distinguished Senator from Michigan and myself.

Honda's representative in Washington said:

The Kerry provision is just too aggressive. Ultimately, NHTSA ought to decide the standard.

The Levin-Bond amendment would do that. For all those who have complained that there is going to be no progress, that it is going to be in the hands of the auto companies, I refer them simply to the Levin-Bond amendment which says that NHTSA must increase fuel economy, it must do so in consideration of the scientific and technological information developed and presented in the National Academy of Sciences proposal.

Their report is called "The Effectiveness and Impact of Corporate Fuel Economy Standards." We are seeking to do something that is rather unusual, and that is to say, use the best science, the best economics, continue to make progress but do not throw hundreds of thousands of people out of work, do not endanger lives, and do not destroy consumer choice.

This is not a command-control economy like the old Soviet Union where we could say we are going to put out one car and that is what you are going to drive. Frankly, American consumers have developed their own tastes. Yes, we are going to push for better technology, but we are not going to tell them that you can only drive a mini subcompact or, as I say to my friend from Massachusetts, a golf cart.

I look forward to continuing the debate tomorrow, and I urge my colleagues to support the Levin-Bond amendment. I am happy to yield the floor.

Mr. REID. Mr. President, I ask unanimous consent that upon the conclusion of debate today with respect to the Levin amendment No. 2997, the amendment be set aside, to recur at 11:30 a.m. tomorrow, Wednesday, March 13; that at that time there be 10 minutes equally divided and controlled in the usual form remaining for debate prior to a vote in relation to the amendment; that upon disposition of the Levin amendment, Senator MILLER be recognized to offer an amendment regarding CAFE and pickup trucks; that there be 10 minutes for debate with respect to the Miller amendment, with 4 minutes controlled by Senator MILLER and 5 minutes under the control of Senator GRAMM of Texas, and the remaining 1 minute under the control of the opponents; that upon the use or yielding back of the time, the Senate vote in relation to the Miller amendment; that upon disposition of the Miller amendment, Senator KERRY or Senator SNOWE, or their designees,

be recognized to offer an amendment regarding CAFE; that the Miller and Kerry amendments be in order regardless of the outcome of the vote with respect to the Levin amendment, with no second-degree amendments in order to the Levin or Miller amendments, nor to any language which may be stricken by those two amendments; provided further that if an amendment is not disposed of, then the Senate continue its consideration of that amendment until disposition and then resume the order of this unanimous consent agreement, as previously announced, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Mr. President, reserving the right to object, two things. For the 11:30 a.m. vote, several on this side have asked for more time. So I will respectfully request that that be extended to 20 minutes. I have a basic problem. We still have not seen the amendment that is to be offered by Senators KERRY or SNOWE, and, until we see it, we don't know if the time is adequate. We would like to see that.

Mr. REID. We have provided no time for that. We changed that.

Mr. BOND. OK. Then with the change to 20 minutes equally divided, we have no objection.

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

Mr. REID. If the Senator will yield, the majority leader has asked me to announce that there will be no more rollcall votes tonight. I ask, if the Senator will allow me, that following the statement of the Senator from Missouri, the Senator from Illinois be recognized for up to 25 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Senator from Illinois is recognized.

Mr. REID. Mr. President, I know the order allows the Senator from Illinois to speak.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I did speak to my friend from Illinois. I ask unanimous consent that I be allowed to speak for 3 minutes.

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

Mr. REID. Mr. President, first, this Energy Committee has been defamed several times over the last several weeks. There were a number of meetings held. My friend from Alaska said there were no meetings held since October. Nine people have been confirmed, and they had to come out of the committee. That is one example.

I also say this about my friend, JOHN KERRY. Something was said that what he was doing was not supportive of national security. No one should ever talk about JOHN KERRY and national security. He has done more than talk about national security. He put his life on the line in the jungles of Vietnam

and was injured. He received a Silver Star, which is a significantly high medal for heroism. JOHN KERRY was a hero in the battles in Vietnam. I have spoken with people who were with him in Vietnam, and the things he did there were very heroic.

JOHN KERRY believes what he is doing deals with the security of this country. I agree with JOHN KERRY.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for up to 25 minutes.

Mr. DURBIN. I thank the Chair. Mr. President, I thank the Senator from Nevada, the majority whip, for propounding this unanimous consent request. I would like to join in this debate. We will talk about a lot of different aspects of the energy bill, but I think this debate on fuel economy standards for automobiles and trucks in America goes to the heart of the issue.

There are many who believe we can discuss the future energy needs of America without engaging the American people; that we can offer to them the false promise and the false hope that we can become close to energy independent without any change in lifestyle, without very many changes in law, and without any sacrifice by business or families or individuals. I am not one of those people.

I believe if we are going to be honest with the American people about our energy challenges in the years ahead, we have to tell them that it is going to call for sacrifice; it is going to call for commitment; it is going to call for an understanding of our role in the world.

The reason I say this is the following: The United States currently imports 51 percent of its oil. That number is expected to increase to 64 percent by the year 2020. Forty-two percent of U.S. oil consumption is used for gasoline for passenger cars and light trucks. It is predicted that passenger fleet consumption will rise to 56 percent by the year 2020.

We cannot have a meaningful and honest discussion about reducing American dependence on foreign oil without addressing the question of fuel efficiency of the passenger cars and light trucks that we drive as Americans.

For the record, my wife and I own a Chrysler product, a Ford product, and a Saturn. With our kids growing up, we have had a variety of cars, mainly American cars, but we do our best to buy American cars.

Some of the things I am talking about are going to reflect on the American automobile industry, and I am sorry if it is taken as a negative comment but I have to get some of these things as part of the record and part of my feelings about this issue.

Let me tell you the history of fuel efficiency in America so you can understand for a moment what we are discussing today.

In 1975, there was a heated debate in Congress about establishing for the

first time in history fuel economy standards for automobiles and trucks manufactured in the United States. At that time, the average fuel efficiency was about 14 miles a gallon for the fleets that were being built primarily by the Big Three in Detroit but by other manufacturers as well.

This Congress decided at that time to dramatically increase the fuel efficiency required of automobile manufacturers to a level of 27.5 miles a gallon by 1985. In a 10-year period of time, we virtually doubled the fuel efficiency of cars and trucks in America. Now, trucks I will have to say were an exception, and because of that exception, which I will allude to later, perhaps it was not the entire fleet taken into consideration, but when it came to automobiles we moved from 14 miles a gallon in 1975 to 27.5 miles a gallon in 1985.

There were many critics who said that was impossible, technologically unachievable, it was going to require Americans to run around in kiddie cars, and that, frankly, it would push manufacturing of automobiles overseas.

If any of these arguments sound familiar, it is the same litany of complaints we have heard today about improving fuel efficiency standards. When one looks back at the history of that debate in 1975, some of the things that were said are nothing short of incredible.

In 1974, a statement before the Senate Commerce Committee from Chrysler Corporation about the new fuel efficiency standard that would move fuel economy from 14 miles a gallon to 27.5 miles:

In effect, this bill would outlaw a number of engine lines and car models, including most full-size sedans and station wagons. It would restrict the industry to producing subcompact-size cars, or even smaller ones, within 5 years, even though the Nation does not have the tooling capacity or capital resources to make a change so quickly.

Thus spoke Chrysler in 1974 facing the first fuel efficiency standard increase.

General Motors in 1975, published in *Oil Daily*, said as follows:

If this proposal becomes law [to increase fuel efficiency] and we do not achieve a significant technological breakthrough to improve mileage, the largest car the industry will be selling at any volume at all will probably be smaller, lighter and less powerful than today's compact Chevy Nova and only a small percentage of all models being produced could be that size.

It is not just the resistance of the Big Three to fuel economy. The Big Three have virtually resisted any efforts to establish new standards for fuel economy, safety, and auto emissions throughout the years. They have been resistant to change.

In 1966, Ford said, when we were imposing national safety standards:

Many of the temporary standards are unreasonable, arbitrary and technologically unfeasible. If we cannot meet them when they are published, we will have to close down.

That was from Henry Ford II. He was referring to the onerous Government

requirements of laminated windshields, seat belts, and other safety requirements.

In 1971, Ford again, and this was Lee Iacocca, who was with Ford at the time:

The shoulder harnesses, the headrests are a complete waste of money and you can see that safety has really killed all of our business. We are in a downhill slide the likes of which we have never seen in our business, and the Japanese are in the wings ready to eat us alive.

That was Lee Iacocca of Ford Motor Company in 1971 talking about any law requiring safety equipment on automobiles in the United States.

I will not read through all of the quotes on emissions controls. Trust me. Year after year, the Big Three have come before Congress, testified, and stated publicly that any changes in their design and manufacture mandated by law would result in their bankruptcy in the production of vehicles, that Americans would not buy and, frankly, would jeopardize our security as a nation as it shifted jobs overseas.

Despite all of those protests, in 1975 this Congress enacted that law which virtually doubled the fuel economy of cars in the United States. So one might ask then, what happened next? The answer is, absolutely nothing.

Since 1985—for 17 years now—Congress has been unwilling to even address the issue of improving fuel economy of automobiles in the United States. That is an incredible statement, that after 10 years of a dramatic technological breakthrough, doubling fuel economy, for 17 years we have done nothing. And the automobile manufacturers in Detroit have done nothing either. If anything, they have gone in the opposite direction.

The cars that are sold today, particularly SUVs, are less fuel efficient. Of course, as a result of that, our dependence on foreign oil continues to increase.

The premise of those who come before us today and oppose the underlying bill, which improves fuel economy to 36 miles a gallon—35 miles a gallon. I keep getting the numbers confused, but I believe it is 35 miles a gallon. There are three premises behind that. First, those who oppose it would say improved fuel economy is a goal beyond the capacity of American science and technology. We have heard it over and over again. They refer to study after study. They cannot see that we would move from 27.5 miles a gallon as a fleet average to 35 miles a gallon and do that with our ability to bring together the best scientists and those involved in automobile technology. They are very despondent that if Detroit were challenged to meet this goal, they would ever be able to meet it.

Does that sound familiar? Does that not sound like the debate in 1975, when the Big Three came and told us this cannot be done, it is technologically impossible?

The second premise of the opposition to increasing fuel efficiency standards is that the American consumers should not be asked to change their buying habits in any way whatsoever.

Frankly, I think those who take that position are underestimating the people in this country. I think Americans are prepared to accept a change in lifestyle, a change in the vehicles they buy, if we explain to them that if they pay that price, America will come out ahead; we will lessen our dependence on oil coming from Saudi Arabia, from the gulf states, from overseas. We will be able to take positions on foreign policy and on potential battles with other countries based on the fact that we will be less dependent on them.

To me, that makes eminent sense, and I think I could go home to my State, or to virtually any State in this country, and say to people across this country: Americans, we need to gather together. We need to stand united as we have in the last 6 months since September 11. We need to accept the reality that tomorrow's automobile is going to look a little different from today's; tomorrow's truck is going to look a little different, too, but it will be more fuel efficient and it will lessen our dependence on foreign oil.

Is that not a valuable thing for us to do as a nation? I think most Americans would agree. But some would not even bring that question to the American people. They do not want to even raise the possibility or the specter that we would have to change our buying habits.

The third premise of most of those who oppose improvement on fuel economy and fuel efficiency is the Senate is prepared to abdicate any responsibility to meaningfully reduce American dependence on foreign oil. Trust me. If we will not address fuel efficiency and fuel economy, which we know is going to account for more than half of the oil that will be imported into the United States by the year 2020, then the rest of this conversation about energy is simply eyewash. It is not serious. It is not substantive. It is not going to achieve what America needs: Leadership on energy. Unfortunately, that is where we stand today.

I received a letter from a constituent of mine. He sent it to my office, and I will read it into the RECORD. He is in Chicago, IL. His name is "Z" Frank. Those who are from the Chicago area are familiar with him and will know immediately that he is the world's largest Chevrolet dealer, that he is the President of "Z" Frank Chevrolet. This man is the largest dealer of Chevrolets and is writing to Members of Congress, all of us, on the issue of fuel efficiency. Keep in mind, the company that makes the cars he sells is opposing an increase in fuel efficiency.

Listen to what Mr. Frank writes to all of us in reference to this debate.

The letter is dated February 25, 2002, and reads as follows:

I write in support of raising fuel economy standards, as the President of "Z" Frank

Chevrolet, having sold well over 1,000,000 Chevrolets. My family has been selling and leasing cars and trucks in Chicago since 1936. Before entering the family business in 1976, I graduated from George Washington University and then the University of Chicago Graduate School of Business. I have been a Chevrolet dealer since 1982 and since then have also held franchises from Oldsmobile, Hyundai, Mazda, Subaru and Volkswagen.

I call on you to support the Kerry-Hollings fuel economy bill to raise miles per gallon standards to 35 miles per gallon by 2013. Making cars go farther on a gallon of gas is a responsible step to use less oil.

I ask you to support raising CAFE standards as the best way to manage our energy future and encourage automakers to implement fuel saving technologies that are currently available.

Here is why:

1. Auto manufacturers are like the boy who cried wolf. Every time the federal government proposes new regulations, they cry the same story that it will limit choice, make vehicles less safe, cost jobs and hurt the economy. During the same period in the 1980s that fuel economy increased, traffic fatalities fell by half. And when new laws are passed, compliance follows. Now ask yourself, didn't the year 2000 set the all time record for light and medium weight vehicles sales? Even after September 11, car companies have been selling a vast number of vehicles. It doesn't seem to me that regulations have hindered volume or employment so far. Can you remember one instance when the manufacturers' cries of gloom and doom have materialized? I can't.

2. American technological innovation can lead the way to safe, fuel efficient vehicles that sip gas rather than guzzle it. I would like to see General Motors provide me with a competitive high mileage vehicle to sell, and we'll sell it!

3. Fuel-efficient technology can be implemented without jeopardizing safety. Technology such as better engines and transmissions will be the driving force in making more fuel-efficient vehicles. General Motors recently announced that it had technology to improve the engines it uses in the Suburban, their largest SUV, by 25%. Technology, such as air bags and vehicle design, is also a driving force behind vehicle safety. High fuel economy standards can help improve overall safety by encouraging the use of strong but lighter materials in the heaviest vehicles.

4. As technology has improved, performance has consistently improved as well. Competition will continue to improve performance. Under the CAFE system, the pickups and SUVs that have the torque and horsepower needed to haul heavy loads can retain their power. Consumers will continue to love their cars and buy the best cars that their monthly payments will allow.

5. There are real benefits to our environment from raising CAFE standards. Cars, SUVs and other light trucks now consume 8 million barrels of oil every day, and account for 20% of US global warming emissions. High demand for oil also increases the pressure to drill in areas that should be left unspoiled. Raising fuel economy standards will save oil and slash global warming pollution.

6. I have a personal reason for supporting higher CAFE standards. Air pollution is a very serious and growing problem, and my wife, who suffers from asthma, finds it increasingly difficult to breathe. While making cars use less gasoline will not directly reduce air pollution from a car's tailpipe, by cutting gasoline consumption, it will dramatically reduce air pollution that comes from refining, transporting and refueling. Raising CAFE standards will, in fact, help clean the air.

It pains me to be at odds with the manufacturer I represent. For 65 years, my family has been selling cars and trucks—almost 50 of those years, Chevrolets. Selling Chevrolets has been very financially beneficial for my entire family and me. I do not want to be at odds with General Motors and my fellow dealers or threaten my economic future. I want to support my manufacturer—but first, they must give me the vehicles to sell that are in the best interests of our citizens and our country. I believe they can and will do it if required.

Please support the Kerry-Hollings bill as a responsible step towards a better future.

Sincerely,

CHARLES E. FRANK,  
President, "Z" Frank Chevrolet.

Mr. Frank, in that 2-page letter, summarized the most compelling arguments for Members to have the courage, the political courage, to vote for higher CAFE standards. Here is a man who sells the product. If he believed for a second what we have heard on this floor, that what he would sell would be something American consumers would never buy, he would not write that letter. If he believed for a second this were beyond the technology and ability of American auto manufacturers, he would not have written this letter. But he believes otherwise. And so do I.

Let me put this in historic perspective. From 1975 to 1985, there was a 100-percent increase in fuel efficiency. From 1985 to 2002, no change whatever. We are still stuck with the 1985 standard.

Let me put in perspective what we are debating. The underlying bill wants to move the fuel efficiency standard to 35 or 36 miles per gallon, depending on the amendment before the Senate. And 35 or 36 miles per gallon means we will take the 27.5-gallon fleet average now and raise it by about 30 percent. From 1975 to 1985, we increased fuel efficiency 100 percent. Under the Kerry provision before the Senate, we are asking that in the 30 or 32 years since, Detroit and the automobile manufacturers increase their fuel efficiency by 30 percent.

I am sorry, but I have to say I don't believe that is an ambitious or impossible goal. If I believed for a minute this was beyond the ability of American science and technology, I would throw in the towel, as are those who are opposing the Kerry provision and stand to say we cannot ask America's engineers and scientists to come up with a means over the next 13 or 14 years to improve the fuel efficiency of our vehicles by 30 percent.

But I do not believe that. As I stand today, I know the Congress of 1975, which had the courage to say to automobile manufacturers, you can do 100 percent better in 10 years, was on the right track. There is not a single proposal today that even gets close to setting that kind of ambitious goal. Yet it is doubtful we are going to pass any meaningful fuel efficiency improvement standard as part of this energy bill. That is a sad commentary. It is a sad commentary on our automobile manufacturers. It is a sad commentary on this Congress that we do not have

the courage to stand up and do what is right for this country at a time when we know what our dependence on foreign oil means.

If we look at some of the things before the Senate, we understand why the debate is getting out of hand. Look at the Kerry-Hollings provision on increasing fuel efficiency to 35 miles per gallon by 2013—in other words, in 11 years to reach 35 miles per gallon, a 30-percent increase over where it is today.

This charts shows the amount of oil that would be saved, millions of barrels a day; 3.5 million barrels a day would be saved if this were in place.

Look at what the other side argues. They suggest there is a painless way to do this. We have spent more time in this Chamber talking about one piece of Alaskan real estate than any other issue regarding America's energy picture. Senator MURKOWSKI and others stand before the Senate and say the real answer to our problem and dependence on foreign oil is to go ahead and drill in the Arctic National Wildlife Refuge. Look at the savings or production that comes from the Arctic National Wildlife Refuge compared to the savings if we move toward fuel efficiency. It is not even close.

I have numbers which tell the story. The U.S. Geological Survey says there are 3 million barrels of oil in the Arctic National Wildlife Refuge and it will be 8 or 9 years before we can bring it out. We can have several times this amount of savings through automobile and industrial efficiency. That is why we need a strong CAFE provision in this bill. By 2030, the cumulative savings from CAFE reform will be over 18 billion barrels of oil. In other words, the cumulative oil savings from CAFE reform by the year 2030—to the end of this chart—would be 6,000 times the amount of oil we could ever drill out of ANWR according to the U.S. Geological Survey.

It is not an honest debate to say to the American people, keep driving as big a car as you want, do not ask Detroit to come up with anything that is more fuel efficient, no sacrifice to Detroit, no challenge to our technology and science, drive whatever you want, when you want, no questions asked, and do not worry at all about our dependence on foreign oil because we can drill in the Arctic National Wildlife Refuge.

That is what I hear from the other side of the aisle. I think that is a ludicrous position. I don't think that even gets close to squaring with the reality of the challenge we face in America.

So I hope my colleagues, when they consider this debate, will recall what we have been through in this country over the last 20 or 30 years. I hope they will remember the great debate in 1975 where Members of Congress stood up and said to the American people: We are tired of these long lines, waiting at gas stations. We don't want to increase our dependence on foreign oil. We are going to put a challenge out.

They put that challenge out and the sad reality is, foreign automobile manufacturers rose to the challenge, and Detroit fought them all the way.

There was an old saying. When Congress passed the 1975 law, the Japanese automobile manufacturers went out and hired a team of engineers to comply with the new standards that had been imposed on them by Washington and the Big Three in Detroit went out and bought a team of lawyers to fight the new standards in court.

I don't know how true that is. But I tell you, I think we can do a lot better. It is a source of embarrassment to me that the first hybrid vehicles that came on the market in America were produced by foreign automobile manufacturers. We can do a lot better. Detroit obviously will not do it on its own. It needs to have a standard, a goal, and, frankly, a law which says we are going to dramatically improve the automobiles and trucks that we sell in America.

I genuinely believe we can meet this. I genuinely believe we can rise to this challenge. I am not so despondent and negative to believe we have to throw in the towel whenever faced with something that some call as radical as increasing fuel efficiency by 30 percent over the next 11 or 12 years.

That is a modest goal, a very modest goal. But look at the savings for America in reducing our dependence on foreign oil.

Nor do I believe it is unreasonable to say to the American consumer: Yes, that car or truck is going to look a little different in the years to come, but isn't it worth it? Isn't it worth it to know you are doing something? You are driving a brand new car, brand new truck—it looks a little different, may sound a little different—but when it is all said and done, you will still be living in the greatest Nation on Earth, and we are less dependent on that foreign oil and those who produce it—and lead us around by the nose too often when it comes to foreign policy. I don't think that is an unreasonable thing to ask, nor do I think it is unreasonable to ask this Congress to basically say to those special interests groups that have come to us and said stand in the way and stop any improvement in fuel efficiency, that this is not in the national interest.

Mr. FRANK made that point. We have to do what is best for this Nation in the long run, for workers as well as families across the board. And that means supporting a meaningful fuel-efficiency standard which lessens our dependence on foreign oil. The net result will be a better vehicle, more jobs, a safe vehicle; it will be something we are going to be proud of. I hope Congress has the political courage to rise to the occasion.

Unless someone is seeking recognition—the Senator from Michigan? I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Michigan.

Mr. LEVIN. Madam President, let me briefly comment on a few of the questions which have been raised here today.

First, in terms of the amendment which is offered, we are requiring that there be an increase in fuel economy. That is No. 1. But what we also say is that there are many factors that need to be considered, including safety factors, before that decision is made.

We list those factors. We list every factor that we can reasonably think of that somebody ought to consider before we arbitrarily adopt a number which is then imposed upon this economy and upon the American public.

We have heard a lot about safety today. I want to read some things from the National Academy of Sciences about safety. This isn't the automobile industry and it is not the opponents of the Levin-Bond amendment. This is the National Academy of Sciences.

It creates a lot of difficulty for the opponents of my amendment because it raises an issue they do not consider. As Senator KERRY from Massachusetts simply said: The National Academy of Sciences says that his proposal, "will not affect safety."

Those are the words of Senator KERRY. The National Academy of Sciences says his proposal won't affect safety.

I am afraid that the National Academy of Sciences specifically found that the increase in CAFE, whether you like what we did or do not like what we did back in the 1970's, had an effect on safety. Here is what they said:

Based on the most comprehensive and thorough analyses currently available, it was estimated in chapter 2 of their study that there would have been between 1,300 and 2,600 fewer crash deaths in 1993—

Which is the year they looked at it had the average weight and size of the light duty motor vehicle fleet in that year been that of the mid-1970's. Similarly, it was estimated that there would have been 13,000 to 26,000 fewer moderate to critical injuries.

These are deaths and injuries that would have been prevented with larger heavier vehicles, given the improvement in vehicle occupant protection—

That was raised today: Does this consider the improvements? Yes.

and travel environment that occurred during the intervening years.

In other words, the National Academy of Sciences study says these deaths and injuries were one of the painful tradeoffs that resulted from downweighting and downsizing, and the resulting improved fuel economy.

Those are difficult words for many people to even consider, but they are words of the National Academy of Sciences. They repeat them in a number of places relative to safety. There is a tradeoff. That was the majority vote of the National Academy of Sciences.

For the Senator from Massachusetts to simply say the National Academy of Sciences said it will not affect safety—referring to his proposal—he is simply wrong.

It was amazing to me that then almost in the same breath he attacked the very findings of the National Academy of Sciences as being flawed. Within 1 minute of each other, those two thoughts were uttered by our good friend from Massachusetts: One, the National Academy of Sciences say the increase in CAFE mandated by his bill won't affect safety; second, that the National Academy of Sciences study, which has been quoted on this floor today, is flawed. Then he goes into the reasons why it is flawed.

My point is actually a simpler one. Somewhere, somebody who has some expertise ought to look at some factors that should go into the decision: What should a new fuel economy standard be? We can do it here arbitrarily. We can say it ought to be 35 miles a gallon, that it is technologically feasible using possible advanced technologies. We can say that without consideration of cost, by the way; without consideration of safety; without consideration of disproportionate impacts on different manufacturers.

We could do that here arbitrarily. Or we can do what this amendment does, which is to say there are a lot of criteria that ought to go into that decision: Technological feasibility, economic practicability, the effect of other Government motor vehicle standards on fuel economy—I want to come back to that in a moment—the need to conserve energy, the desirability of reducing U.S. dependence on foreign oil, the effect on motor vehicle safety, the effects of increased fuel economy on air quality, the adverse effects of increased fuel economy standards on the relative competitiveness of manufacturers, the effect on U.S. employment, the cost and lead time required for introduction of new technologies, the potential for advanced technology vehicles such as hybrid and fuel cell vehicles to contribute to significant fuel savings; the effect of near-term expenditures required to meet increased fuel economy standards on the resources available to develop advanced technology, and the report of the National Research Council, which is the National Academy of Sciences.

Do we want these factors to be considered? Do we think they are relevant? Do we think they should be part of a process that addresses where the new standard should be? It seems to me, yes. It is for 15 months. Under our amendment, we direct the Department of Transportation to—I use this word because it is very important—increase standards for cars and light trucks based on the consideration of those facts.

That is No. 1. Those facts are relevant. They ought to be considered. They are the alternative.

One of the things that the NAS also points out is that if new regulations favor one class of manufacturer over another, they will distribute the cost unevenly and could evoke unintended responses.

On page 69 of the NAS study, they say that in general new regulations should distribute the burden equally among manufacturers unless there is a good reason not to. For example, raising the standard for light trucks to that of cars would be more costly for light truck manufacturers.

The Kerry-Hollings proposal affects manufacturers unequally because it looks at fleet average instead of class average. We have gone into this in some detail today. We have pointed out that if you look at classes of vehicles and compare the light trucks, which we have listed here manufacturer by manufacturer but do it class by class, American-made vehicles are at least as fuel efficient as imports.

Is that relevant? It should be. Even if you decide that you want to have an arbitrary number selected in law now without a committee report, without consideration of any factor except potential technological feasibility—one of 13 factors—if you want to ignore all the others, surely we ought to do it in a way which does not have a discriminatory impact on American manufacturers.

I find it incredible, I find it bizarre, that we would build a system that would not say that equal vehicles by size and manufacturer ought to be treated equally. By the way, that is also what the NAS says.

Here I am quoting them:

That one concept of equity among manufacturers requires equal treatment of equivalent vehicles made by different manufacturers.

The suggestion was made today that this proposal of Senators KERRY and HOLLINGS would have a positive impact on air quality. I am afraid that is inaccurate. Air quality standards are set for all light-duty vehicles on a per-mile basis. So that the amount of any exhaust gases that can be emitted and limited to a fixed amount per mile driven, regardless of the fuel economy of the vehicle, makes no difference. Large vehicles, medium-sized vehicles, or small vehicles all have, under the so-called tier 2 rules, which will soon be in effect, exactly the same requirement relative to emissions that go into the air. All full-sized vehicles, including Ford's Excursion, GM's Suburban, the Dodge Durango, the Toyota Land Cruiser, have to meet the same emissions as a Honda Civic or a Chevy Metro.

Talking about the Chevy Metro, the GM dealer, which was referred to by Senator DURBIN, I presume, had Chevy Metros for sale, and could have sold all they wanted, I assume, since they were a GM and Chevy dealer. Yet the percentage of those small subcompacts that were sold is less than 2 percent of the entire sales of this country. They have been available. They are highly fuel efficient. They have some disadvantages in terms of size. But to suggest, as one Chevy dealer did in a letter that was cited by the Senator DURBIN, that somehow or other General Motors

should give to him a fuel-efficient vehicle so he could sell more—2 percent of all of our sales in this country are subcompact, are highly fuel efficient, and with a small number of other disadvantages.

GM provided an electric vehicle, which has much better fuel economy by any kind of a test than any of the proposed vehicles or any other existing vehicles that we have. Yet these vehicles have been, if not a significant disappointment, a serious disappointment. They have had these vehicles. We have probably a dozen vehicles of extremely high fuel economy available for consumers, should they choose to buy those vehicles and should dealers such as the dealer in Chicago choose to or be able to sell those vehicles to their customers.

Just a couple of other points before we finish for the evening:

The NAS does not recommend fuel economy goals. They have said that over and over again. They lay out the facts. We have quoted many of them on our side of this issue. But they say very clearly that the committee cannot emphasize strongly enough that the cost-efficient fuel economy levels they identified are not recommended fuel economy goals.

That is not what they were about. What they were about was to do an analysis of various kinds of technology. What are the possibilities? What they came up with are conclusions which we very much support. We very much rely on them. The amendment of Senator BOND and myself very heavily relies on the NAS study which has been referred to today.

I think a letter from Honda was referred to earlier in the day, the implication being that somehow or other Honda might be supportive of the Kerry-Hollings language. I want to read a Honda document from their government relations folks. It says here that the Levin-Bond amendment requires NHTSA to set new standards for light trucks within 15 months. They support this amendment.

These kinds of technological possibilities are among the factors considered in setting new standards, and, perhaps most importantly, it says:

We ask you to call your Senators immediately to express your support for what is being called the Levin-Bond amendment, and not support alternative amendments.

They write:

Other Senators may offer amendments, but there are none that meet our criteria better than Levin-Bond.

That is the Honda dealer document to which I am referring. It is quite opposite from the implication which was made earlier this evening that somehow or other Honda was supportive of the arbitrary identification of a particular standard in the Kerry-Hollings language.

Again, Honda specifically said:

We ask you to call your Senators immediately and express your support for what is being called the Levin-Bond amendment.

There was a reference made to Europe: Why can't we do what they do in Europe where there is a much different situation? The small car percentage in Europe is 64 percent. Ours is 24 percent. They obviously do better on fuel economy. But they do better for a number of reasons. Not only do they have three times as many small cars in use, mainly because of the cost of gasoline, which is about 2½ times higher than our gasoline prices, but also they use diesel engines. They have 36 percent diesel engines in Europe. We have about 1 percent here.

The reason they are able to do that is diesel engine standards are very different from ours. Our tier 2 emission standards will not allow the European diesel engine to be used here.

I did not hear supporters of Kerry-Hollings today say they would support the European diesel standard. I would be interested as to whether they would. If they will, that has a very different effect on our air quality.

The emission standards in tier 2, which are very tough, and which are stronger than they are in Europe, and which protect our air cannot be met by the European diesel. Maybe someday they will be, but they cannot yet.

When we heard that argument from the Senator from Arizona about air quality, and about being worried about NO<sub>x</sub> and the other components of smog, then what we are talking about is: Are the proponents of the Kerry-Hollings language willing to adopt the European diesel standards which would allow our manufacturers to use diesels of that same quality? That will have a huge impact on CAFE standards and on the CAFE averages of fleets, if our manufacturers can use the European diesel standard. I guarantee you that there would be a huge outcry in this country if there were an effort made to adopt the European diesel standard for American manufacturers and sales here.

To simply say, look, they are doing it in Europe, they are meeting much higher CAFE standards or fleet averages in Europe than they do here, is to completely mix apples and oranges, because the difference, No. 1, in gas prices; and, No. 2, because of the difference in the number of small cars in Europe, mainly because of gas prices, but, most importantly, because of the percentage that diesels have of the market in Europe.

Madam President, I close with this: Senator KERRY, a good friend of the Presiding Officer and myself, suggested that maybe he and I ought to go in a back room—his words—and just adopt CAFE standards class by class for each of these six classes, since I pointed out how discriminatory it is to have one fleet standard for each manufacturer because of the different component makeup of the fleets, and how it is comparing, in a very unfair way, the American automobiles to the imports, and that the only fair way, in my judgment, is to have the same standard fuel economy for the same class vehicle.



Senator KERRY, at that point, suggested—again, his words—I challenge you to go in a back room and set standards for each class.

What he pointed out, accurately, is that our amendment does not set a standard. He wants to set a standard.

My answer to that is, to do so would be to adopt in law six arbitrary standards instead of one—one arbitrary standard for each class.

I do not think we should legislate that way. I think what we ought to do is, at least for a brief period of time—have the people who are designated by law as experts look at all the criteria which are relevant to the setting of fuel economy standards, including safety, impact on jobs, cost, short-term versus long-term benefits, and the other criteria that I mentioned. Then if they do not act within 15 months, we have an expedited process to guarantee that alternatives can be considered by the Congress by under expedited procedures. If they do adopt a regulation that we do not like, under existing law, there is a process called legislative review, under which we can veto that regulation. We have that option after a rational process is pursued.

We can either arbitrarily select a standard now, based on 1 of those 13 criteria—and even that is partial—or we could do something which, it seems to me, is a lot more rational, which is to tell that regulatory agency, which has that responsibility under law: These are our policies. We want you to consider all of these criteria to adopt a rule. If we do not like it, we are going to veto it. If you do not do it, we are going to have an expedited process to consider it.

Madam President, I do not know if there is anybody else who seeks recognition. I see none.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. LEVIN. Madam President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 5 minutes each.

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

#### ENERGY DERIVATIVES TRAINING

Mr. ENZI. Madam President, I rise to address the issue of derivatives. The name itself would almost put people to sleep; the details of it are very complicated. It is a process that is done by major corporations, which is what brings it to our attention at the mo-

ment. Unfortunately, the proposition that is before us is an answer looking for a problem. It is not a solution to what has happened.

Enron has raised many concerns regarding the state of our energy markets. However, as investigations into the collapse of the company are showing, the failure of Enron was likely due to unethical and possibly illegal accounting techniques used by executives at the company. We need to make one thing clear: The trading of energy derivatives had nothing to do with the collapse of Enron. In fact, Enron's trading platform was one of the most lucrative parts of the company.

Enron is not an accounting problem; it is not a business problem. It is probably a fraud problem.

During debate on the Commodities Futures and Modernization Act, we examined extensively the oversight and regulation of energy derivatives. It was done the right way. It was done with hearings, with committee markup, with floor debate. This has been brought directly to the floor. It has bypassed the other processes.

What we concluded using the correct process was the proper amount of oversight for a new and emerging business. We did the debate on the Commodities Futures and Modernization Act, and we examined extensively the oversight and regulation of the energy derivatives—the way it is supposed to be done. What we concluded was the proper amount of oversight for a new and emerging business had been put into law.

If we start to regulate an industry that is in its infancy, we run the risk of stifling competition and reducing the possibility of it reaching its full potential.

Federal Reserve Chairman Alan Greenspan testified last week before the Senate Banking Committee. I want to echo a few of his comments regarding the regulation of energy derivatives.

Chairman Greenspan said it was crucially important that we allow those types of markets to evolve amongst professionals who are most capable of protecting themselves far better than either we, the Fed, CFTC, or the OCC could conceivably do. The important issue is that there is a significant downside if we regulate where we do not have to in this area. Because one of the major—and indeed the primary—areas for regulation and protection of the system is counter-party surveillance—that the individual private parties, looking at the economic events of the status of the people with whom they are doing business. . . . We've got to allow that system to work, because if we step in as government regulators, we will remove a considerable amount of the caution that is necessary to allow those markets to evolve. And while it may appear sensible to go in and regulate, all of our experience is that there is a significant downside when you do not allow counter-party

surveillance to function in an appropriate manner.

I think we are glazing the eyes over here, but essentially Mr. Greenspan said it is too early to do anything based on the act that we already did.

Selling derivatives is a way for companies that can't afford risk to pass it on to companies that are willing. We have done that for a long time in the insurance business. This is another form of corporate insurance.

There is no indication that trading of energy derivatives contributed in any way to the collapse of Enron. However, if, in fact, Members think we need to look at legislation in this area, we should examine it in a reasonable process—not by offering on the floor amendments to a newly enacted piece of legislation. I certainly appreciate and respect Members' attention to examining the energy markets, but we should take that through the committee process so Members have a chance to hear testimony and pose questions to experts in this area.

It is a difficult area; it is a complicated area. Supporters of this amendment claim that Enron has such a large market share of this business that they were able to provide undue influence over the energy trading.

To the contrary, during and after the collapse of Enron, there were no interruptions of trading. Other market participants stepped in and assumed volume. There were no price swings or collapses of the energy market. This is a perfect example of market forces working the way they were intended.

The CFMA provided legal certainty for commercial parties not executed on futures exchanges—legal certainty, taking away some of the risk, selling some of the risk. This amendment could be interpreted to cover all transactions between commercial parties conducted either by e-mail or over the phone. The effect of this amendment would likely be decreased market liquidity because of increased legal and transactional uncertainties. Additionally, energy companies may be discouraged from using derivatives to hedge price risks. This could result in more price volatility in energy markets, which will hurt the very consumers the legislation seeks to help.

This amendment would also require electronic trading exchanges to set aside capital, even if they do not participate in trading. For instance, the Intercontinental Exchange allows buyers and sellers of energy derivatives to exchange offers through an electronic program. This exchange is already regulated by the CFTC and gives the CFTC access to its trading screens. This amendment would require the Intercontinental Exchange to set aside capital, even though it only facilitates transactions and does not trade. This requirement could force ICE to cease operations—forcing buyers and sellers of energy derivatives into the over-the-counter market. This is why CFTC Chairman Newsome has said the CFTC does not require this new authority.

Because of my concern for this issue, I recently wrote to the Chairman of the Securities and Exchange Commission to get his views regarding this amendment. Mr. Pitt responded:

The Securities and Exchange Commission believes this legislative change is premature at this time.

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

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

UNITED STATES SECURITY  
AND EXCHANGE COMMISSION,  
Washington, DC, March 11, 2002.

Hon. MICHAEL B. ENZI,  
U.S. Senate, Senate Russell Office Building,  
Washington, DC.

DEAR SENATOR ENZI: Thank you for your letter concerning proposed amendment #2989 (Congressional Record, March 7, 2002, p. S1685), introduced by Senator Dianne Feinstein and others, to S. 517, the pending Senate energy legislation. This amendment would repeal key provisions enacted as part of the Commodity Futures Modernization Act (P.L. 106-534) applicable to over-the-counter derivatives contracts in certain energy products.

The Securities and Exchange Commission believes this legislative change is premature at this time—barely more than a year after the CFMA's enactment. Because of on-going federal investigations, the lack of rigorous analysis about the CFMA's effect on the derivatives markets as a whole, and the absence of a determination about what role (if any) over-the-counter derivatives played in the collapse of Enron or the California energy crisis of last summer, we do not believe that any action should be taken until all of the facts are available for evaluation.

Thank you for giving the Commission an opportunity to comment on this legislative proposal.

Yours truly,

HARVEY L. PITT,  
Chairman.

Mr. ENZI. I ask that Members step back and, if there is a problem, let's address it in a responsible manner through the normal process. Let's begin to hold hearings on energy trading, and after we have had time to evaluate what we have learned, we can look forward to a reasonable solution. This is too early and takes away the opportunity to sell off risk by some other companies. I ask for you to defeat the amendment.

I yield the floor.

#### IRAQ

Mr. MURKOWSKI. Madam President, I refer my colleagues to an incident that has perhaps occurred without the knowledge of those who are lamenting that our dependence on imported oil has been relieved somewhat because prices are down.

I call to the attention of my colleagues the fact that oil is now at a 6-month high. It is over \$24.50 a barrel and going up. It is the highest in 6 months. This is caused by the cartel called OPEC and its commitment to maintain a price level somewhere between \$22 and \$28. They do that by addressing the supply of oil on the world market.

Another very significant event occurred yesterday. This event was the response of Saddam Hussein to a request from the United Nations that inspectors again be allowed into Iraq. Saddam Hussein in effect told us to take a hike. He refused to allow inspectors into his country. We have not had inspectors in there in over 2 years.

What does this mean? It is in the eyes of the beholder, but clearly he has made his call. The next call has to be made by our President and the U.N. Are we going to force our inspectors to go into Iraq? What are the circumstances surrounding this issue?

One can conjecture that if we look at bin Laden, at the al-Qaida, we will wish we would have taken action prior to what occurred in association with the terrorist attacks on New York at the Twin Towers, the Pentagon, and the situation we are in of fighting terrorism. Could we have initiated an action sooner?

We could have, but we didn't. In the case of Iraq, the recognition that we all are very much aware that Saddam Hussein is proceeding with weapons of mass destruction, many of my colleagues perhaps saw the CNN hour program the night before last on Iraq, the fact that he is using poison gas on some of his own people; that he has developed mass destruction weapons with warheads that obviously have biological as well as perhaps nuclear capability, clearly a delivery system that would take them from Iraq to Israel, one has to wonder just when we are going to address this reality and how we are going to do it.

I won't belabor my point other than to try and draw some attention to the fact that, indeed, it is a time for alarm. This is a time when the United States is importing from Iraq nearly 800,000 barrels of oil a day. As we reflect on how to relieve that increasing dependence, how do Members reflect upon just how serious a threat Saddam Hussein is to peace in the western world? How do we address our concern over the reality that he has weapons of mass destruction? How are we going to reflect on just how we are going to reduce our dependence on oil from the Mideast when we look to the Saddam Husseins of this world to provide us with our needed oil as opposed to developing oil reserves here at home, either in the Gulf of Mexico or in the State of Alaska?

This is a factor we will have to face because at some point in time, clearly, we will have to address the threat of Iraq and Saddam Hussein. It is my hope that we can somehow prevail on getting inspectors in there and relieving this threat. Saddam Hussein has clearly told us otherwise. He told us yesterday to go take a hike.

I know the beliefs of the Chair with regard to the national security interests of our Nation as we continue to depend on unstable sources for our energy. I wish that more Members would concern themselves with this threat.

#### IN MEMORY OF TECHNICAL SERGEANT JOHN A. CHAPMAN

Mr. SANTORUM. Madam President, I rise today to recognize the heroic life of Technical Sergeant John A. Chapman, whose family is from Windber, PA. Sergeant Chapman, who was buried today, was killed on Monday, March 4th, during a fierce firefight after his helicopter was shot down by al-Qaida fighters in Afghanistan.

Sgt. Chapman, who was only 36 years old, is survived by Valerie, his wife of 10 years, and by their 2 young daughters, Madison age 5, and Brianna age 3. While I know that this loss is devastating to the entire Chapman family, I can confidently say to Sgt. Chapman's two young daughters that their daddy died for a great cause and that this cause was to protect the world and this Nation against evil people. These people seek to destroy the very foundation of our country which allows all of us to be free and safe and prosperous.

As a Nation, we have been very fortunate in recent years; we have not had to face many casualties while defending our freedom. The death of Sgt. Chapman and the seven other servicemen killed last week really hit home. These losses are painful, but this war has a real purpose, and a real national security implication. In my mind, the sacrifice made by these men is as important as any made during the great wars that we have fought in the past. We never like to lose even a single life. Each casualty we read about in the newspapers means the world to someone who has lost a father, a brother, or a friend. I grieve with the Chapman family and all of the families that have made this ultimate sacrifice, but it is important to remember that they did not die in vain. Our thoughts and prayers are with the Chapmans as they go through this difficult time. Sgt. Chapman died to protect the core values which define our country, and we will always remember him as a hero.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred November 21, 1999 in Maple Grove, MN. Two men shoved a lesbian woman, verbally assaulted her, and then attacked her. The assailants, two 21-year-old men, were charged with a hate crime in connection with the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation,

we can change hearts and minds as well.

#### CHILDREN AND HEALTHCARE WEEK

Mr. HOLLINGS. Madam President, each day many of our Nation's children face illnesses that require a doctor's office or hospital visit. This can be a frightening experience, and underscores the need to provide quality pediatric health services, while easing the stress children and their families feel. The week of March 18th in Greenville, SC, The Greenville Hospital System Children's Hospital is celebrating Children and Healthcare Week with a number of valuable activities for health care professionals, parents, and community partners.

The activities are aimed at increasing public, parental, and professional knowledge of the improvements that can be made in pediatric health care. In particular, it stresses new ways to meet the emotional and developmental needs of children in health care settings. Among the scheduled events are: continuing education classes for medical residents and support staff, an awards ceremony to honor local individuals who have dedicated their lives to pediatric care, a special tribute service to honor children, and a family event for employees. Lack of quality health care should never be an impediment to the long-term success of our nation's children, and I commend Greenville's dedication to Children and Healthcare Week.

#### RECOGNITION OF WOMEN'S HISTORY MONTH

Mr. SARBANES. Madam President, I rise today in recognition of Women's History Month. This time has been appropriately designated to reflect upon the important contributions and heroic sacrifices that women have made to our Nation and to consider the challenges they continue to face. Throughout our history, women have been at the forefront of every important movement for a better and more just society, and they have been the foundation of our families and communities.

In Maryland, we are proud to honor those women who have given so much to improve our lives. Their achievements illustrate their courage and tenacity in conquering overwhelming obstacles. They include Margaret Brent, who became America's first woman lawyer and landholder, and Harriet Tubman, who risked her own life to lead hundreds of slaves to freedom through the Underground Railroad. Dr. Helen Taussig, another great Marylander, developed the first successful medical procedure to save "blue babies" by repairing heart birth defects. Her efforts laid the groundwork for modern heart surgery. We are all indebted to Mary Elizabeth Garrett and Martha Carey Thomas who donated money to create Johns Hopkins Med-

ical School on the condition that women be admitted. And jazz music would not be complete without the unforgettable voice of jazz singer Billie Holiday who also hailed from Baltimore City. Their accomplishments and talent provide inspiration not only to Marylanders, but to people all over the globe.

My good friend and colleague from Maryland, Senator BARBARA MIKULSKI, is a tremendous example of the commitment and dedication women give to public service. From her background as a social worker to her election to the U.S. Senate, Senator MIKULSKI, who has served longer than any other woman currently in the Senate has always worked to ensure all people are treated fairly. She appropriately played a key role in establishing this month when in 1981, she cosponsored a resolution establishing National Women's History Week, a predecessor to Women's History Month. Today, I wish to honor her dedication and service to the people of Maryland and this Nation.

While we recognize famous women, it is important that we acknowledge the contributions of others who daily touch our lives: Our favorite teacher who gives us the confidence and knowledge to know that we were capable of success; the single mother or grandmother who toiled at a low-paying job for years to guarantee that the next generation in her family received better education and career opportunities; and the professional women who volunteer the little spare time they have to read to children or speak to student groups, inspiring young people to aim for goals beyond what they may have otherwise imagined.

Women's History Month is a fitting time to honor the women of the Armed Services who risk their lives in our fight against terrorism. From the American Revolution and the Civil War through modern day armed conflict, American women have sacrificed next to their husbands, sons, brothers and fathers to preserve the freedom upon which this Nation was founded. Currently, more than 6,000 women in the Armed Services are courageously fighting in our war against terrorism and almost 15 percent of the 1.4 million soldiers volunteering in our military are women. These modern day heroines, giving of their time, knowledge, and lives should not be taken for granted.

Women have made great strides in overcoming historic adversity and bias but they still face many obstacles. Unequal pay, poverty, inadequate access to healthcare and violent crime are among the challenges that continue to disproportionately affect women. Working women earn 74 cents to every dollar earned by men. What is more troubling is that the more education a woman has, the wider the wage gap. According to a recent Census Bureau report, the average American woman loses approximately \$523,000 in wages and benefits over a lifetime because of

wage inequality. Families with a female head of household have the highest poverty rate and comprise the majority of poor families.

Women continue to be under-represented in high-paying professions and lag significantly behind men in enrollment in science programs. A recent General Accounting Office study found that, after controlling for education, age and race, women managers still earned less than full-time male managers. Increasing the number of senior level women in all fields begins with encouraging girls' interest and awareness in school illustrating that their options are limitless.

As our population ages, we must also address the special challenges of older women. Women live an average of 6 years longer than men. Consequently, their reduced pay is even more detrimental given their increased life expectancy as they are forced to live on less money for a longer period of time. In addition, more women over age 65 tend to live alone at a time when illness and accidents due to decreased mobility are more likely. For these women, it is imperative that we guarantee that Social Security and Medicare remain solvent for future generations.

I believe we should use this month as an opportunity to reflect not only on the achievements and challenges of American women, but to recognize those of women internationally. We know that a variety of ills hinder the potential of women in many parts of the world, labor practices that oppress women and girls, the rapid spread of HIV and AIDS, and limited or non-existence suffrage rights. We must broaden access to education, the political process, and reproductive health globally so that girls and women everywhere can maximize their options. To have a credible voice in the international arena, the United States must lead by example, showing that American women enjoy these rights fully.

During my service in Congress, I have strongly supported efforts to address women's issues and eradicate gender discrimination and inequality. I have co-sponsored the Paycheck Fairness Act, which would provide more effective remedies to victims of wage discrimination on the basis of sex. I have also supported the Equity in Prescription Insurance and Contraceptive Coverage Act, which would prohibit health insurance plans from excluding or restricting benefits for prescription contraception if the plan covers other prescription drugs. In order to build a national repository of the contributions of women to our Nation's history, I co-sponsored legislation to establish a National Museum of Women's History Advisory Committee. In addition, I remain a consistent supporter of an equal rights amendment to the Constitution. I am proud of these efforts and I will continue my commitment to bring fuller equality to all women.

While obstacles remain, women have achieved impressive progress. This

good news includes a decline in the poverty rate for single women and an increase in those holding advanced degrees. Recent figures show women received approximately 45 percent of law and 42 percent of medical degrees awarded in this country. This is a dramatic improvement from a few decades ago and should continue as more and more women enter professional programs.

In my home State of Maryland, as in the Nation, women are a guiding force and a major presence in our national business sector. From 1987 to 1999, the number of women-owned firms in the United States grew by 103 percent. Women were responsible for 80 percent of the total enrollment growth at Maryland colleges and universities throughout the last two decades.

Indeed women continue to make great progress. As we highlight their accomplishments in history this month, I believe it is also important to educate present and future generations about gender discrimination so that we do not repeat past mistakes. America must remain vigilant in eradicating these injustices. I am confident that the women of America will lead this journey and continue to exemplify and advocate for those values and ideals which are at the heart of a decent, caring and fair society.

#### INTERNATIONAL WOMEN'S DAY

Mrs. FEINSTEIN. Madam President, history has shown us that a Nation dedicated to equal rights for women and girls is a more prosperous Nation, a healthier Nation, a more educated Nation, a more just Nation, a more peaceful Nation, and a more democratic Nation. Today I rise once again to add my voice and stand in solidarity with women and girls around the world in their struggle for basic human rights. I rise to commemorate March 8, 2002, International Women's Day.

Until the entire world recognizes the simple fact expressed by my friend and colleague, Senator CLINTON, that "women's rights are human rights" we must continue to raise awareness about the plight of women and girls around the world and in our own country. Indeed, while I have been encouraged by the gains made since the United Nations first designated March 8 as International Women's Day in 1975, there is still a great deal of work ahead of us and I would like to take this time to discuss several critical issues that I believe are vital to the lives of women and girls and require U.S. leadership: international family planning assistance, the Convention on the Elimination of All Forms of Discrimination Against Women, CEDAW, rape as an instrument of war, and the plight of women in Afghanistan.

Each of us, I believe, understands very well the issue of United States assistance to international family planning organizations. There have been few issues in recent years that have

been more debated, with people of good intentions on both sides of the issue. Consequently, I was dismayed that the Bush Administration considered withholding the \$34 million U.S. contribution to the United Nations Population Fund, UNFPA, an amount allocated to it by law and, after months of negotiations, and with bipartisan support. I wrote to President Bush urging him not to withhold the funds as such a decision would be a serious mistake and a blow to U.S. leadership in combating overpopulation.

You simply cannot deny the importance of family planning assistance, especially for the very poor. There are now more than 6 billion people on this Earth. The United Nations estimates this figure could be 12 billion by the year 2050. Almost all of this growth will occur in the places least able to bear up under the pressures of massive population increases. The brunt will be in developing countries lacking the resources needed to provide basic health or education services.

Let us strive to ensure that women have access to the educational and medical resources they need to control their reproductive destinies and their health so that they will be able to better their own lives and the lives of their families.

Everyone should recognize that international family planning programs reduce poverty, improve health, and raise living standards around the world; they enhance the ability of couples and individuals to determine the number and spacing of their children.

We must counter the attacks made by the anti-choice wing of the Republican party in recent years and make it perfectly clear that no U.S. international family planning funds are spent on international abortion.

It is worth noting that the Department of State recognized the vital role of the UNFPA in family planning assistance and provided \$600,000 to the Fund for sanitary supplies, clean undergarments, and emergency infant delivery kits for Afghan refugees in Iran, Uzbekistan, and Tajikistan. This is just one of many examples of UNFPA's commitment to bettering the lives of women and children around the world.

Since the debate is unlikely to end, we must work harder to ensure that the United States reclaims its leadership role on international family planning and reproductive issues. On International Women's Day, I urge my colleagues to support full funding for the UNFPA and other international family planning programs.

Another year has gone by and I am saddened and disappointed to note that the Senate still has not acted on the Convention to Eliminate All Forms of Discrimination Against Women. It has been more than twenty years since the United States actively participated in drafting the Convention and President Carter signed it on July 17, 1980. Yet, we are still waiting for the United States, the lone superpower and cham-

pion of democracy and human rights, to take a stand for the rights of women and girls and ratify the convention.

Notably absent from the list of 161 countries who have ratified the convention, the United States joins a rather dubious club of non-ratifiers: Iran, North Korea, and Sudan. Surely this is not the company we want to keep. Surely we want to be known as a leader when it comes to defending the human rights of women and girl who are unable to defend themselves.

Do we want to be the lone democracy not to ratify? Do we want to watch China, the People's Republic of Laos, and Iraq, countries we regularly censure for human rights abuses and who have either signed or agreed in principle, pass us by?

There is no reasonable justification for our failure to act. Is the convention a technically demanding agreement requiring years of study and investigation? Does it ask the United States to go far beyond our own goals and ideals? Nothing could be further from the truth.

Here is what the convention says: It requires States to take all appropriate steps to eliminate discrimination against women in political and public life, law, education, employment, health care, commercial transactions, and domestic relations. Nothing more, nothing less. Simplicity is the hallmark of this agreement.

Every day that goes by without ratification, we further risk losing our moral right to lead in the human rights revolution. By ratifying the convention, we will demonstrate our commitment to promoting equality and to protecting women's rights throughout the world. By ratifying the convention, we will send a strong message to the international community that the U.S. understands the problems posed by discrimination against women, and we will not abide by it. By ratifying the convention, we reestablish our credentials as a leader on human rights and women's rights.

As we commemorate International Women's Day, I call on my colleagues in the Senate to move forward and ratify the convention on discrimination against women.

Eliminating the use of rape as an instrument of war must be a high priority for the United States and the international community. It is an issue that continues to cause me great concern.

We have seen in recent years how rape has moved from being an isolated by-product of war to a tool used to advance war aims. In Bosnia, Rwanda, and East Timor soldiers and militia-men used rape on a organized, systematic, and sustained basis to further their goal of ethnic cleansing. In some cases, women were kidnaped, interned in camps and houses, forced to do labor, and subjected frequent rape and sexual assault.

Something had to be done and so I was pleased that the United Nations, in

setting up the war crime tribunals for the Balkans and Rwanda, recognized rape as a war crime and a crime against humanity.

Finally, on February 22, 2001, following a period of inaction when it appeared that those indicted for perpetrating these crimes would not be brought to justice, the international tribunal in The Hague sentenced three Bosnian Serbs to prison for rape during the Bosnian war. I was very pleased the court took this step but we still have a long ways to go. Estimates are that up to 20,000 women in Yugoslavia were systematically raped as part of a policy of ethnic cleansing and genocide. Many perpetrators still remain at large.

Nevertheless, the court has stated loud and clear that those who use rape as an instrument of war will no longer be able to escape justice. They will be arrested, tried, and convicted. As Judge Florence Mumba of Zambia stated, "Lawless opportunists should expect no mercy, no matter how low their position in the chain of command may be."

I commend the victims who courageously came forward to confront their attackers and offer testimony that helped lead to the convictions. I am hopeful more will come forward. On International Women's Day, I urge the administration and the international community to join me in continuing the fight to end the practice of rape as an instrument of war, and to pursue justice for its victims.

For years when I addressed the condition of women and girls in Afghanistan, I did so with a sense of sadness, anger, and despair. I now do so with a sense of optimism, hope, and determination.

One of the great stories of our campaign against terrorism is the liberation of the women and girls of Afghanistan from the chains imposed on them by the Taliban regime. We all know the story of how women and girls were treated: banned from work and school, confined to their homes behind darkened windows, and required to wear full-length veils, or burka, and to be accompanied by a male relative when in public.

Now, the women of Afghanistan, who have suffered under brutal regimes and seen their families destroyed by war, are beginning to leave their homes without fear, earn a living, receive desperately needed medical attention, get an education, and participate in public life. I am especially pleased that Afghanistan's interim leader, Hamid Karzai, picked two women to serve in his Cabinet. It is a welcome change from the past and a step toward equal rights for all Afghans.

Clearly, there is much work to be done to improve the lives of women and girls in Afghanistan and the United States must be actively involved in that endeavor. I was proud to co-sponsor S. 1573, the "Afghan Women and Children Relief Act of 2001," which authorized the President to provide edu-

cational and health care assistance for the women and children living in Afghanistan and as refugees in neighboring countries. President Bush signed the bill into law on December 12, 2001. This is the first step of a long journey and I urge my colleagues to stay the course and support additional assistance in the coming years ahead.

On International Women's Day, let us reaffirm our commitment to a better future for the women and girls of Afghanistan. We must let them know that they are no longer alone, that we will stand by their side, and we will not abandon them again.

We must debate and ratify the convention on the Elimination of All Forms of Discrimination Against Women. We must rededicate ourselves and our resources to international family planning programs. We must not ignore the use of rape as an instrument of war. We must help the women and girls of Afghanistan realize their hopes and dreams.

We cannot afford to remain silent. We cannot afford to place women's rights on a second tier of concern of U.S. foreign policy. On International Women's Day, the United States and the international community must take a strong stand and issue a clear warning to those who attempt to rob women of basic rights that the world's governments will no longer ignore these abuses, or allow them to continue without repercussion.

Mr. DURBIN. Madam President, as we celebrate National Women's History month, I rise to pay tribute to the extraordinary women, past and present, who have shaped the rich history of our great Nation.

The month of March has been designated as National Women's History month to celebrate the remarkable accomplishments of women throughout history. My distinguished colleagues, Senator BARBARA MIKULSKI and Senator ORRIN HATCH, cosponsored legislation over 20 years ago declaring National Women's History Week. I salute my colleagues for their leadership in establishing this now month-long celebration of the many contributions made by women.

This year's national theme, "Women Sustaining the American Spirit," could not be more appropriate. Our Nation prides itself on the accomplishments of women and their ability to fully participate in our society. I have the distinct privilege of working with 13 women Senators who are powerful examples of the progress that our Nation has made. This spirit of democracy was tested on September 11, when we were reminded that our ideals continue to threaten those who fear the inevitability of progress.

As a consequence of these events, Americans were exposed to the disturbing plight of women in other parts of the world. We learned that under the oppressive Taliban regime, women could not work outside the home and were denied basic rights such as access

to education and health care. Not only were women precluded from contributing to society, but they were denied equal protection under the law.

The attacks faced by our country were aimed at undermining the great strides we have made in our history. Yet the rest of the world watched as our Nation united and demonstrated that even a devastating attack could not crush our spirit—an American spirit that has been molded by the accomplishments of women throughout our history, including the legacy left by a well-known Illinois woman.

Jane Addams of Chicago, IL, was a socially conscious community leader who worked tirelessly to sustain the American spirit. Addams founded the famous Hull House settlement in Chicago in 1889, where she and other residents provided services for the surrounding neighborhood. These vital services included kindergarten and daycare facilities for children of working mothers, an employment bureau, medical care, legal aid, and vocational skills. After a few short years, the settlement was serving over 2,000 people a week.

Despite the enormous success of her charitable efforts, Addams realized that real gains could not be achieved without working to change laws for the better. To achieve this goal, Addams lobbied the State of Illinois to examine laws governing child labor, the factory inspection system, and the juvenile justice system.

As we celebrate the contributions that women have made, the legacy of Jane Addams reminds us of the continuing need for improvement in the areas of social reform that she worked so tirelessly on several years ago. Today, parents rely on childcare arrangements more than ever. The Children's Defense Fund reports that an estimated 13 million children under the age of 6 spend part of their day in the care of someone other than their parents. In Illinois, 61 percent of all children under the age of 6 have working parents. Yet working families at all income levels still struggle to find the high-quality care their children need at a cost that is affordable. Full day care can cost between \$4,000 and \$10,000 per year, frequently surpassing average tuition costs for public universities. At the same time, the Children's Defense Fund reports that more than one out of four families with young children earns less than \$25,000 per year.

Today, parents also encounter a childcare system that is an uneven and inadequate patchwork of services. States and cities vary widely in the areas of provider education and training requirements, availability, and quality of programs. The gap between what we know is so important for children and what we put into practice is too large. As a nation, we have an interest in healthy, successful children who have the tools they need to learn in the classroom. We have an interest in improving child care so that more

families can move off welfare into a steady career. We have an interest in educating and training women so that they can get jobs with decent pay to support their families. As a nation, we should embrace the legacy that Jane Addams has left behind by working on these issues which are in desperate need of reform.

In this month of March, let us not only celebrate the accomplishments of the women who have shaped our Nation's rich history, but let us work to keep their vision alive by continuing to sustain the American spirit that these women helped define.

#### CELEBRATING NINETY YEARS OF GIRL SCOUTS

Mrs. CARNAHAN. Madam President, today I commend the Girl Scouts of America on the anniversary of its 90th year of operation.

The objective of the Girl Scouts is "to discover the fun, friendship, and power of girls together." Experiences such as field trips, community service, and working with others help them to develop their full potential. These actions are greatly needed in America and an amazing feat when you consider that 99 percent of all adults that participate in leading the Girl Scouts are volunteers. The effects of this organization extend not from one generation but to many, with the oldest active member being 97, and the youngest, the new Brownie, starting out at age 5.

The Girl Scouts is a quintessential American institution that has exported its successful strategy to 140 countries, and a worldwide family of 8.5 million girls. The Girl Scouts participate in cultural exchanges that allow many to gather worldwide experiences that they otherwise would not have been able to attain. There is even a bi-partisan Troop Capitol, made up of Congressional members from both the Senate and House. The women of the Senate have dedicated the book *Nine and Counting* to the girls of America, with some of the proceeds going to the Girl Scouts.

The GSA has spent much of its time teaching young women about professional fields that do not ordinarily attract women. The past year's focus was the field of engineering. The girls not only studied engineering but also had the opportunity for a hands-on approach, thanks to the Society of Women Engineers donating their time. Girls succeed when we set the bar high for them. The Girl Scouts gives them the skills, but more importantly the confidence, to reach these goals and beyond.

We must thank Juliette Gordon Low, who on this day in 1912 founded the Girl Scouts. Her desire and foresight to create an organization for young girls started with 18 girls and a budget that was funded by selling her pearl necklace. It has become one of the most recognized organizations in America.

Though some traditions thankfully remain steadfast, notably the excep-

tional Thin Mint cookies, the GSA has evolved to address the events of the day. From Women's Suffrage to Civil Rights to the environment, this organization has not backed away from taking a stand on the issues. They have an amazing past and a bright future. I am sure they will continue to be a force to be reckoned with, a positive force shaping the lives of tomorrow's leaders. Congratulations to the Girl Scouts and thank you to all those who have contributed their time, energy, and love to making this organization an American success story.

#### ADDITIONAL STATEMENTS

##### HONORING THE UNIVERSITY OF KENTUCKY CHEERLEADING SQUAD

• Mr. BUNNING. Madam President, today I have the privilege and honor of sharing with my fellow colleagues the most recent and astounding accomplishment of the University of Kentucky Cheerleading squad. This year the UK Cheerleaders won their eighth straight Universal Cheerleaders Association's, UCA's, National College Cheerleading Championship for NCAA Division 1-A schools. These young men and women deserve our recognition and admiration for their efforts.

The UK squad has now won UCA's National Championship an unprecedented twelve times, in 1985, 1987, 1988, 1992, and 1995–2002, more than any other Division 1-A school. In fact they are the only squad to ever win back to back championships twice and also the only team to win three, four, five, six, seven, and now eight titles in a row. They are widely recognized as the best of the best in the Cheerleading community and have been a key contributor to the University's athletic success. The Wildcat basketball team is arguably the most storied program in the Nation and much of their success can be attributed to the enthusiasm and spirit generated by the Cheerleading squad. For those who have never had the opportunity of seeing a game in Rupp Arena, I can tell you that the atmosphere is absolutely electric.

Besides the attention they receive on the court from the UK students and fans, the Cheerleading squad has also been covered by the national media. The squad has been featured on such programs as, "Evening News," Connie Chung's "Eye to Eye," and the "CBS Morning Show," as well as in "Southern Living," "Gentlemen's Quarterly," "ESPN the Magazine," and "Seventeen" magazines. This recognition does not come without a price however. These young men and women sacrifice a considerable amount of their time and energy practicing, learning, and mastering their extremely difficult routines. This often means long practices and endless hours in the weight room. These young men and women are athletes in every sense of the word.

I applaud the University of Kentucky Cheerleading squad for their commit-

ment and dedication to their goals and dreams. They represent the University and the Commonwealth of Kentucky in a classy and professional manner. I am proud of each and every one of them.●

##### ESSEX FELS CELEBRATES CENTENNIAL

• Mr. CORZINE. Madam President, it is with great pride that I bring to your attention a lovely hamlet in Essex County, NJ, Essex Fells, which is celebrating its centennial year on March 31, 2002. Incorporated as a borough on March 31, 1902, it is governed by an elected body consisting of a mayor and six council members.

Essex Fells is the smallest community in Essex County, covering an area of a little more than 1.3 square miles. However, within the small confines of this bucolic community, Essex Fells maintains many areas for the enjoyment of its residents. The Glen is a green open space that contains native trees, shrubs, vines, and flowers. The Trotter Tract is an 83-acre area that is home to many species of flora and fauna and beautiful nature trails. Each autumn, the brook that runs through Essex Fells is dammed to create a skating pond. Grover Cleveland Park, a county park of approximately 42 acres of lush manicured lawns and large trees, borders Essex Fells and Caldwell, NJ.

Rich in history, the township was established in 1699 by Robert Treat and Jasper Crane and settled by people migrating from Connecticut. A land blessed with rolling farmland and wooded retreats, the acreage was originally named Newark after their home in England—Newark on Trent. Shortly after that, the settlers petitioned the crown for the title to their new homeland. It was granted and in 1701 the settlers purchased an additional 13,500 acres from the Native Americans for \$325,000. Realizing the value of this land, the Crown attempted to rescind the settlers' title and the colonists subsequently revolted earning the area the nickname, "the cockpit of the American Revolution."

In the late 1800s, Anthony J. Drexel, of the Philadelphia banking family, who had successfully developed other residential communities acquired the estate of General William Gould to form a planned residential community. Named for Drexel's son-in-law—John R. Fell and the county, Essex—Essex Fells developed as many turn of the century communities did, as a direct result of the growth of the railroad system. All the same, much care was given to maintain the tranquility and serenity of the original community.

One hundred years later, Essex Fells is still an ideal "small town community." The neighborhoods remain tree-lined and neighbors know each other. Most recently, citizens of Essex Fells were called into service following the horrific attacks on the World Trade Center. Fire Chief Rupert Hauser and



the Essex Fells Volunteer Fire Department immediately deployed to New York to cover station houses for New York firefighters while they worked at Ground Zero on the search and rescue efforts.

I invite my colleagues to join me in congratulating Mayor Edward Abbott and the citizens of Essex Fells on their centennial. May they have another hundred years of prosperity and community.●

#### TWO CALIFORNIA TEAMS ON CHAMPIONS DAY

● Mrs. BOXER. Madam President, today I would like to honor two national collegiate championship teams from my State of California. They are great examples of team spirit and cooperation: the Santa Clara University women's soccer team and the Stanford University women's volleyball team.

The Santa Clara University women's soccer team won the 2001 NCAA College Cup Championship this past fall. The team won its first national title in their fifth trip to the College Cup, and this is the first outright NCAA championship in the school's history.

The members of the 2001 Santa Clara University women's soccer team are: Holly Azevedo; Jessica Ballweg; Emma Borst; Lana Bowen; Jaclyn Campi; Kristi Candau; Ynez Carrasco; Kerry Cathcart; Devvyn Hawkins; Bree Horvath; Anna Kraus; Leslie Osborne; Erin Pearson; Chardonnay Poole; Erin Sharpe; Katie Sheppard; Danielle Slaton; Alyssa Sobolik; Taline Tahmassian; Allie Teague; Aly Wagner; and Veronica Zepeda.

I congratulate the team and their head coach, Jerry Smith.

The Stanford University women's volleyball team won the 2001 NCAA National Championship this past fall. The team won its fifth national championship, which is a record.

The members of the 2001 Stanford University women's volleyball team are: Michelle Chambers; Tara Conrad; Sara Dukes; Leah Hall; Jennifer Harvey; Jennifer Huckle; Ashley Ivy; Emily Lawrence; Robyn Lewis; Sara McGee; Ogonna Nnamani; Anna Robinson; Sara Sandrik; and Logan Tom.

I congratulate the team and their head coach, John Dunning.

Both teams are an inspiration to all, especially to young women and girls who are themselves members of sports teams. I wish all the team members the best in whatever road they find themselves on after this great accomplishment.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages

from the President of the United States submitting a withdrawal and sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

#### PRESIDENTIAL MESSAGE

The following presidential message was laid before the Senate together with accompanying reports, which was referred as indicated:

PM-73. A message from the President of the United States, transmitting, pursuant to law, the Agreement Between the Government of the United States of America and the Government of Australia on Social Security; to the Committee on Finance.

*To the Congress of the United States:*

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (Public Law 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement Between the Government of the United States of America and the Government of Australia on Social Security, which consists of two separate instruments: a principal agreement and an administrative arrangement along with a paragraph-by-paragraph explanation of each provision. The Agreement was signed at Canberra on September 27, 2001.

The United States-Australia Agreement is similar in objective to the social security agreements already in force with Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the lost benefit protection that can occur when workers divide their careers between two countries. The United States-Australia Agreement contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Agreement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act, a report on the effect of the Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Agreement. The Department of State and the Social Security Administration have recommended the Agreement and related documents to me.

I commend the United States-Australia Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, March 12, 2002.

#### PRESIDENTIAL MESSAGE

The following presidential message was laid before the Senate together with accompanying reports, which was referred as indicated:

PM-74. A message from the President of the United States, transmitting, pursuant to law, the Periodic Report on Telecommunications Payments Made to Cuba pursuant to Treasury Department Specific Licenses; to the Committee on Foreign Relations.

*To the Congress of the United States:*

As required by section 1705(e)(6) of the Cuban Democracy Act of 1992, as amended by section 102(g) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. 6004(e)(6), I transmit herewith a semi-annual report prepared by my Administration detailing payments made to Cuba by United States persons as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses.

GEORGE W. BUSH.

THE WHITE HOUSE, March 12, 2002.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5699. A communication from the Executive Officer, Civil Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "September 11th Victim Compensation Fund of 2001" ((RIN1105-AA79)(CIV104F)) received on March 8, 2002; to the Committee on the Judiciary.

EC-5700. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Extensions of Payments of Principal and Interest" (RIN0572-AB60) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5701. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Treasury Rate Direct Loan Program" (RIN0572-AB71) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5702. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pesticide Tolerance Processing Fees" (FRL6774-3) received on March 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5703. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2,4-D: Time-Limited Pesticide Tolerance" (FRL6827-1) received on March 8, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5704. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of Community Income for Certain Individuals not Filing Joint Returns" (RIN1545-AY83) received on March 1, 2002; to the Committee on Finance.

EC-5705. A communication from the Chief of the Regulations Unit, Internal Revenue

Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—October 2001" (Rev. Rul. 2002-4) received on March 1, 2002; to the Committee on Finance.

EC-5706. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Funding Relief Contained in Section 112 of the Victims of Terrorism Tax Relief Act of 2001" (Notice 2002-7) received on March 1, 2002; to the Committee on Finance.

EC-5707. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Time for Performing Certain Acts Postponed by Reason of Service in a Combat Zone or a Presidentially Declared Disaster" (Rev. Rul. 2001-53) received on March 8, 2002; to the Committee on Finance.

EC-5708. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Equity Investment Prior to Section 45D9(f)(2) Allocation" (Notice 2001-75) received on March 4, 2002; to the Committee on Finance.

EC-5709. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure—Update of Rev. Proc. 2001-11 (Adequate Disclosure)" (Rev. Rul. 2001-52) received on March 8, 2002; to the Committee on Finance.

EC-5710. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Mark-to-Market Election Under TRA '97 for Principal Residences" (Rev. Rul. 2001-57) received on March 8, 2002; to the Committee on Finance.

EC-5711. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Proposed Revenue Procedure Regarding the Cash Method" (Notice 2001-76) received on March 8, 2002; to the Committee on Finance.

EC-5712. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Rev. Proc. 2001-59—2002 Inflation-Adjusted Items" (Rev. Proc. 2001-59) received on March 8, 2002; to the Committee on Finance.

EC-5713. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Withdrawal of the Federal Designated Use for Shields Gulch in Idaho" (FRL7157-1) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5714. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Unregulated Contaminant Monitoring Regulation for Public Water Systems; Establishing of Reporting Date" (FRL7157-3) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5715. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Perfluoroalkyl Sulfonates; Significant New Use Rule" (FRL6823-6) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5716. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production" (FRL7155-9) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5717. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112(g) and 112(j)" (FRL7155-8) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5718. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management Systems; Definition of Solid Waste; Toxicity Characteristic" (FRL7157-2) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5719. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Ohio; Technical Amendment" (FRL7155-2) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5720. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of the Clean Air Act Section 111 and 112 Delegation of Authority Updates to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Puget Sound Clean Air Agency, and Spokane County Air Pollution Control Authority" (FRL7153-2) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5721. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Indiana" (FRL7155-3) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5722. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maine; Control of Gasoline Volatility" (FRL7152-1) received on March 8, 2002; to the Committee on Environment and Public Works.

EC-5723. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acquisition Regulation: Administrative Changes and Technical Amendments" (7155-7) received on March 8, 2002; to the Committee on Environment and Public Works.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LIEBERMAN for the Committee on Governmental Affairs.

Jeanette J. Clark, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

\*Louis Kincannon, of Virginia, to be Director of the Census.

By Mr. KERRY for the Committee on Small Business and Entrepreneurship.

\*Melanie Sabelhaus, of Maryland, to be Deputy Administrator of the Small Business Administration.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself, Mr. HATCH, Mr. JEFFORDS, Mr. KERRY, and Mr. TORRICELLI):

S. 2006. A bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit; to the Committee on Finance.

By Mr. INHOFE:

S. 2007. A bill to provide economic relief to general aviation entities that have suffered substantial economic injury as a result of the terrorist attacks perpetrated against the United States on September 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG:

S. 2008. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DURBIN (for himself, Ms. COLLINS, and Ms. SNOWE):

S. 2009. A bill to amend the Public Health Service Act to provide services for the prevention of family violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. DURBIN, and Mr. HARKIN):

S. 2010. A bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 532

At the request of Mr. DORGAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 839

At the request of Mr. CLELAND, his name was added as a cosponsor of S.

839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 940

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 946

At the request of Ms. SNOWE, the name of the Senator from Hawaii (Mr. INOUE) was added as a cosponsor of S. 946, a bill to establish an Office on Women's Health within the Department of Health and Human Services.

S. 952

At the request of Mr. GREGG, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 960

At the request of Mr. CLELAND, his name was added as a cosponsor of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1210

At the request of Mr. CAMPBELL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1210, a bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

S. 1475

At the request of Mr. BREAUX, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1475, a bill to amend the Internal Revenue Code of 1986 to provide an appropriate and permanent tax structure for investments in the Commonwealth of Puerto Rico and the possessions of the United States, and for other purposes.

S. 1606

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 1606, a bill to amend title XI of the Social Security Act to prohibit Federal funds from being used to provide payments under a Federal health care program to any health care provider who charges a membership of any other extraneous or incidental fee to a patient as a prerequisite for the provision of an item or service to the patient.

S. 1749

At the request of Mr. KENNEDY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1760

At the request of Mr. THOMAS, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 1760, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the medicare program, and for other purposes.

S. 1786

At the request of Mr. DURBIN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1786, a bill to expand aviation capacity in the Chicago area.

S. 1860

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1860, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 1918

At the request of Ms. COLLINS, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of S. 1918, a bill to expand the teacher loan forgiveness programs under the guaranteed and direct student loan programs for highly qualified teachers of mathematics, science, and special education, and for other purposes.

S. 1924

At the request of Mr. LIEBERMAN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1931

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1931, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. RES. 207

At the request of Mr. BINGAMAN, the names of the Senator from Montana (Mr. BURNS), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. CORZINE), the Senator from South Dakota (Mr. DASCHLE), the Senator from Wisconsin (Mr. KOHL), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. Res. 207, a resolution designating March 31, 2002, and March 31, 2003, as "National Civilian Conservation Corps Day."

S. CON. RES. 84

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution providing for a joint session of

Congress to be held in New York City, New York.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. HATCH, Mr. JEFFORDS, Mr. KERRY, and Mr. TORRICELLI):

S. 2006. A bill to amend the Internal Revenue Code of 1986 to clarify the eligibility of certain expenses for the low-income housing credit; to the Committee on Finance.

Mr. GRAHAM. Madam President, today I am introducing legislation that will improve the effectiveness of one of the most effective programs we have to help Americans get affordable housing, the Low Income Housing Tax Credit. I am proud to be joined in this effort by my esteemed colleagues Senator HATCH, Senator JEFFORDS, Senator KERRY and Senator TORRICELLI.

The Low Income Housing Tax Credit was created in 1986 to attract private sector capital to the affordable housing market. It has been the major engine for financing the production of low income multi-family housing. The program offers developers and investors in affordable housing credit against their Federal income tax in return for their investment. Since its inception, the Low Income Housing Tax Credit has assisted in the development and availability of roughly 850,000 new and rehabilitated units of affordable housing.

Last fall, the Internal Revenue Service issued its first guidance in the program's 16 year history. That guidance was issued in the form of several technical advice memoranda, or TAMs, and specified which development costs will be eligible and ineligible for the credit, known as eligible basis.

TAMs are not official guidance, reviewed by the Treasury Department, but instead, IRS legal opinion providing direction to IRS agents conducting audits. They are not citable in court proceedings because they are not official guidance. In the absence of official guidance, TAMs could be taken as the official government position. In fact, that is exactly what is happening. The IRS's position is contrary to common industry practice, and eliminates many reasonable, legitimate and necessary costs from the tax credit. This has caused uncertainty among investors as to whether the credits for which they have been paid, will be realized. Moreover, these guidelines could adversely affect the ability of States to target affordable housing to those who need it the most.

It is important to understand, this legislation will not increase the number of low-income housing tax credits available. The maximum amount of credits that states may allocate to developers of affordable housing properties is set by the Internal Revenue Code. Thanks to legislation that we enacted in 2000, the amount available to each state has increased from \$1.50 to \$1.75 times the State's population.

That 40 percent increase is expected to produce about 30,000 more units a year. Since the unmet demand for affordable housing is many times greater than what can be built with the help of the credit, our legislation should not affect revenues. In fact, the only way for this legislation to have a revenue impact is if the legislation makes it easier for the States to use the credits we intend for them to have under present law.

What this legislation does do, however, is very important. To understand its importance, it may be useful to have a little background on how the low-income housing tax credit works.

In economic terms, the credit is equity financing which replaces a portion of debt that would otherwise be necessary to finance a property. By replacing debt, credits work to reduce interest costs. This allows a property owner to offer lower rents than otherwise would be the case.

The most unique feature of the program is that State Housing Finance Agencies award Federal tax credits to developers of rental housing. Since these agencies have considerable flexibility in how they distribute the credits, developers compete for the limited number of tax credits by submitting project proposals. The Housing Finance Agencies rate the proposals, and allocate credits to individual properties based on criteria provided in the Internal Revenue Code, and on the State's particular housing needs and priorities.

The amount of credits a State may allocate to a particular property is also limited by the Internal Revenue Code. The limit is determined as percentage of the basis of a property. The basis is, generally speaking, the costs of constructing a building that is part of an affordable housing project. Non-federally subsidized new construction may receive a 9-percent credit. Existing buildings and new buildings receiving other Federal subsidies may get a 4-percent credit.

The problem at hand is this. The IRS takes the position that certain construction costs should not be included in basis. This position makes a large number of affordable housing properties financially infeasible, and weakens the economics of those that still pass minimum underwriting requirements. The loss of equity would surely affect the properties that serve the lowest income tenants, provide higher levels of service, or operate in high cost areas. The reason that this is problematic is simple. Reducing the amount of credits does not reduce the development costs. It merely removes a source of financing, forcing either higher rents or lower quality construction.

Apparently, the Treasury Department and Internal Revenue Service agree that this is an issue worthy of review, as both agencies have included it in their business plan. As recently as this month, the IRS issued new guidance on one of the items addressed by the TAMs, but there does not appear to

be a full review of the effect of the positions set forth in the TAMs anytime soon.

This legislation would amend Section 42(d) of the Internal Revenue Code to specify that various associated development costs are to be included in eligible basis. In many cases, the largest item excluded from eligible basis under the TAMs is "impact fees." Impact fees are fees required by the Government "as a condition to the development" and considered ineligible because they are one-time costs, unlike building permits which need to be renewed each time a building is built. These fees cover a wide range of infrastructure improvements including sewer lines, schools, and roads. Certainly, whether or not they are includible in basis for the purpose of calculating the amount of tax credit, these costs will be incurred and will impact the economics of the property. As I mentioned previously, the IRS has recently addressed the inclusion of impact fees in eligible basis, but not other costs directly related to building construction.

Other items that would be severely restricted or excluded from eligible basis under the interpretations expressed in the TAMs are site preparation costs, development fees, professional fees related to developing the property, and construction financing costs. The legislation we are introducing today will clarify that any cost incurred in preparing a site which is reasonably related to the development of a qualified low income housing property, any reasonable fee paid to the developer, any professional fee relating to an item includible in basis, and any cost of financing attributable to construction of the building is includible in basis for the purpose of calculating the maximum amount of credit a state may allocate to a low-income housing property.

The intent of these clarifications is simply to codify common industry practice before the issuance of the TAMs. Not only will the legislation allow the low-income tax credit program to provide better quality housing at lower rental rates than would be possible if the positions taken in the TAMs are followed, but clarification will help simplify administration of the credit by giving both taxpayers and the Internal Revenue Service a clearer statement of the standards that apply in calculating credit amounts.

Our economy is not doing as well as we would like, and there is a significant likelihood that we are going to need even more affordable housing in the not too distant future. We should be proud that we increased the amount of low-income housing tax credits that will be available to help finance this housing. What we need to do now is to make sure that these credits are used as efficiently as possible to provide housing for those who need it the most. The legislation we are introducing today will help achieve that goal.

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

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

S. 2006

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

**SECTION 1. ELIGIBILITY OF CERTAIN EXPENSES FOR LOW-INCOME HOUSING CREDIT.**

(a) IN GENERAL.—Subsection (d) of section 42 of the Internal Revenue Code of 1986 (relating to low-income housing credit) is amended by adding at the end the following new paragraph:

“(8) ASSOCIATED DEVELOPMENT COSTS INCLUDED IN BASIS.—

“(A) IN GENERAL.—Solely for purposes of this section, associated development costs shall be taken into account in determining the basis of any building which is part of a low-income housing project to the extent not otherwise so taken into account.

“(B) ASSOCIATED DEVELOPMENT COSTS.—For purposes of subparagraph (A), the term ‘associated development costs’ means, with respect to any building, such building’s allocable share of—

“(i) any cost incurred in preparing the site which is reasonably related to the development of the qualified low-income housing project of which the building is a part,

“(ii) any fee imposed by a State or local government as a condition to development of such project,

“(iii) any reasonable fee paid to any developer of such project,

“(iv) any professional fee relating to any item includible in the basis of the building pursuant to this paragraph, and

“(v) any cost of financing attributable to construction of the building (without regard to the source of such financing) which is required to be capitalized.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2001, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

Mr. JEFFORDS. Mr. President, today I join with my colleagues on the Finance Committee, Senators GRAHAM and HATCH, to introduce legislation to clarify the rules governing the low-income housing tax credit. This tax credit has played a critical role in the construction and renovation of housing for low-income Americans.

The Internal Revenue Service has issued five technical advice memoranda, TAMs, affecting the definition of eligible basis as defined in section 42(d) of the Internal Revenue Code. These TAMs had the effect of reducing the amount of tax credits available with respect to projects financed with low-income housing tax credits. The bill we introduce today recognizes that certain expenses are legitimate development costs that are properly includible in the basis eligible for the tax credits. Among these development costs are: state and local impact fees, site preparation costs, reasonable development fees, professional fees, and construction financing costs, excluding land acquisition costs.

The TAMs drew unworkable distinctions among various costs developers incur when they build low-income housing. For example, under the law as interpreted by the IRS, a low-income housing developer would have to distinguish between those trees and shrubs planted near a housing unit and those planted elsewhere on the property. The costs of trees and shrub near the housing unit could be included in basis; the costs of other landscaping could not. Rules like this are not only illogical; they also impose unnecessary burdens both on developers of affordable housing projects, but also on the IRS itself, whose employees must draw these highly technical distinctions when they audit the project. Our bill includes fair and rational rules, introducing the concept of "development cost basis" in lieu of "adjusted basis" to determine which costs may qualify for tax credits. It assures that reasonable and legitimate expenses which incurred only for the purpose of building low-income housing will be eligible for tax credit.

By Mr. INHOFE:

S. 2007. A bill to provide economic relief to general aviation entities that have suffered substantial economic injury as a result of the terrorist attacks perpetuated against the United States on September 11, 2001; to the Committee on Banking, Housing, and Urban Affairs.

Mr. INHOFE. Madam President, I rise today to introduce the Senate companion to HR 3347, the General Aviation Industry Reparations Act of 2002. This bill directs to the President to provide compensation to General Aviation for losses incurred as a result of the terrorist attacks on September 11, 2001.

Many have the misperception that the entire aviation industry was eligible for compensation under the Air Transportation Safety and Systems Stabilization Act, PL 107-42. However, that act dealt only with scheduled airline service. As a consequence General Aviation, a very important segment of the aviation industry, has yet to be made whole for actions taken by the federal government following the terrorist attacks of September 11th.

The national airspace system reopened to commercial aviation on September 13, 2001. General Aviation was allowed limited Instrument Flight Rules, IFR, flights, operating under guidance and direction from air traffic controllers, with restrictions on September 14th. The more common, Visual Flight Rules, VFR, flights (which cannot be done in inclement weather since pilots are not under the guidance of air traffic controllers) were grounded until September 19 and then only limited flights could operate outside of "enhanced" Class B airspace, the airspace surrounding the nation's 30 busiest airports. In fact, enhanced Class B airspace did not return to the pre-September 11th design until December 19th.

Contrary to what some think, General Aviation is much more than weekend recreational pilots. It is made of a hundreds of small business people who make their living either servicing general aviation aircraft, instructing student pilots, using general aviation aircraft to transport people, products and materials or perform various services such as report on traffic conditions in congested metropolitan areas, check the condition of energy pipelines, crop dusting, banner towing and many other uses. The fact is that general aviation performs a very important function in our economy beyond recreational flying.

Working closely with General Aviation groups such as the Aircraft Owners and Pilots Association, AOPA, which has worked hard to explain the scope of general aviation to members of Congress and how critical it is to the nation, I think we have a very balanced package.

The General Aviation Industry Reparations Act of 2002 would compensate General Aviation and their employees for economic injuries caused by September 11. As defined by the bill "general aviation" includes ancillary businesses as well. Thus, parking garages, car rental companies or other aviation related business that were not covered by PL 107-42 would be eligible for compensation under this bill. In addition, the bill extends compensation to employees who were laid off due to the slow down of business following September 11 in the form of reimbursement for health care costs and it requires businesses who accept compensation to provide health care coverage for existing employees.

The bill provides three forms of compensation. Loan Guarantees of \$3 billion from the amount made available for the commercial airlines. Grants totaling \$2.5 billion and like the commercial aviation industry the opportunity to purchase War Risk Insurance with the assistance of the Department of Transportation.

Finally, spending in the bill would be designated as emergency spending for scoring purposes. Normally I would oppose such a designation but I believe in this instance we have successfully met the criteria for an emergency. These benefits are not open ended, compensation is only available for losses incurred between September 11 and December 31, 2001. Not all losses are eligible under the bill, only those that can be shown to be a direct result of the government actions following September 11. Businesses who choose to take advantage of the loan guarantees must demonstrate an ability to pay back the loans and the government has the right to benefit from profits made as a result of a government backed loan.

In short, I believe this is a responsible bill and I hope that we will be able to fully debate the merits of the package on the floor and eventually have a vote on the bill.

By Mr. GREGG:

S. 2008. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 2008

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

#### SECTION 1. ABORTION NON-DISCRIMINATION.

Section 245 of the Public Health Service Act (42 U.S.C. 238n) is amended—

(1) in the section heading, by striking "REGARDING TRAINING AND LICENSING OF PHYSICIANS" and inserting "REGARDING TRAINING, LICENSING, AND PRACTICE OF PHYSICIANS AND OTHER HEALTH CARE ENTITIES";

(2) in subsection (a)(1), by striking "to perform such abortions" and inserting "to perform, provide coverage of, or pay for induced abortions";

(3) in subsection (c)(2)—

(A) by inserting "or other health professional," after "an individual physician";

(B) by striking "and a participant" and inserting "a participant"; and

(C) by inserting before the period the following: ", a hospital, a provider sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization or plan"; and

(4) in subsection (b)(1), by striking "standards" and inserting "standard".

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. DURBIN, and Mr. HARKIN):

S. 2010. A bill to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal Investigations or defraud investors of publicly traded securities, to disallow debts incurred in violation of securities fraud laws from being discharged in bankruptcy, to protect whistleblowers against retaliation by their employers, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the "Corporate and Criminal Fraud Accountability Act of 2002." I want to thank the majority leader, and Senators DURBIN and HARKIN for joining me as original cosponsors in this effort to prevent corporate and criminal fraud, protect shareholders and employees, and hold wrongdoers accountable for their actions.

This bill is a crucial part of ensuring that the corporate fraud and greed that have been on display in the Enron debacle can be better detected, prevented and prosecuted. We cannot legislate against greed, but we can do our best to make sure that greed does not succeed.

The fraud at Enron was not the work of novices. It was the work of highly educated professionals, spinning an intricate spider's web of deceit. They created sham partnerships with names like Jedi, Chewco, Rawhide, Ponderosa

and Sundance to cook the books and trick both the public and federal regulators. The actions of Enron's executives, accountants, and lawyers exhibit a "Wild West" attitude which valued profit over honesty.

Nor is this web of corporate deceit the end of the Enron story. When they thought that investigators might be coming, what did these "professional" men and women apparently do? First, they warmed up the shredders and began destroying evidence. Then, after they successfully shredded thousands of documents, they began the finger pointing. Now, the Enron executives are blaming their accountants at Arthur Andersen; the accountants are blaming the executives right back; and they are both blaming their lawyers.

The truth is that just as there was enough greed to go around, there is now enough blame to go around. But the blame does not end with the people involved in this case. It extends to our courts, our regulators, and to Congress, whose actions in the past decade helped create the permissive atmosphere which allowed Enron to happen. No one in Congress intended for such outrageous conduct to happen, but now it is our job to stop it.

We must restore accountability. Accountability is important because Enron is not alone. At a Judiciary Committee hearing which I recently chaired, experts gave the public markets grave warnings, it is likely that there are more "Enrons" lurking out there waiting to be discovered. Waiting to be discovered not only by investigators or the media but by the more than one in two Americans who depend on the transparency and integrity of our markets.

The majority of Americans depend on our capital markets to invest in the future needs of themselves and their families, from their children's college fund to their retirement nest eggs. American investors are watching what we do here and want action. We must act now to restore confidence in the integrity of our markets and deter fraud artists who think that their crimes will go unpunished. Restoring such accountability is what this bill is all about.

This bill has three major components that will enhance accountability. First, this bill provides prosecutors with new and better tools to effectively prosecute and punish those who defraud our Nation's investors, which means ensuring our criminal laws are flexible enough to keep pace with the most sophisticated and clever con artists. It also means providing criminal penalties which are tough enough to make them think twice about defrauding the public.

Second, this bill provides tools that will improve the ability of investigators and regulators to collect and preserve evidence which proves fraud. That means ensuring that corporate whistleblowers are protected and that those who destroy evidence of fraud are punished. Third, the bill protects vic-

tims' rights to recover from those who have cheated them. In short, this bill is going to both save documents from the shredder and send wrongdoers to jail once they are caught.

This bill is only one part of the response needed to solve the problems exposed by Enron's fall. Securities law experts, consumer protection groups, and others Members of Congress, both in the Senate and the House of Representatives, have made other proposals and introduced legislation that deserves careful consideration. Working with the majority leader, we have developed a comprehensive plan to attack this problem. Certainly, in light of recent events, we must carefully re-examine both the decisions of the Supreme Court and our current laws. Despite the best of intentions, our laws may have helped create an environment in which greed was inflated and integrity devalued. This bill is an important starting point in that process. Let me explain its provisions.

Section 2 of the bill would create two new 5 year felonies to clarify and plug holes in the existing criminal laws relating to the destruction or fabrication of evidence, including the shredding of financial and audit records. Currently, those provisions are a patchwork which have been interpreted, often very narrowly, by Federal courts. For instance, certain of the current provisions in Title 18, such as Section 1512(b), make it a crime to persuade another person to destroy documents, but not a crime for a person to personally destroy the same documents. Other provisions, such as Section 1503, have been narrowly interpreted by courts, including the Supreme Court in *United States v. Aguillar*, 115 S. Ct. 593 (1995), and the First Circuit in *United States v. Frankhauser*, 80 F.3d 641 (1st Cir. 1996), to apply only to situations where the obstruction of justice may be closely tied to a judicial proceeding that is already pending. Still other provisions, such as sections 152(8), 1517 and 1518 apply to obstruction in certain limited types of cases, such as bankruptcy fraud, examinations of financial institutions, and healthcare fraud. In short, the current laws regarding destruction of evidence are full of ambiguities and limitations that should be corrected.

Section 2 would create a new felony, 18 U.S.C. section 1519, for use in a wide array of cases in which a person destroys evidence with the specific intent to obstruct a Federal agency or a criminal investigation. There would be no technical requirement that a judicial proceeding was already underway or that the documents were formally under subpoena. The law would also be used to prosecute a person who actually destroys the records themselves in addition to one who persuades another to do so. The law would apply to the intentional shredding of evidence in any matter within Federal regulatory or civil jurisdiction, such as an SEC or civil fraud matter, as well as criminal jurisdiction, eliminating another series

of technical distinctions imposed by some courts under current law.

Second, Section 2 creates a 5-year felony, 18 U.S.C. section 1520, to punish the willful failure to preserve financial audit papers of companies that issue securities as defined in the Securities Exchange Act. The new statute, in subsection (a), would require that accountants preserve audit records for 5 years from the conclusion of the audit. Subsection (b) would make it a felony to knowingly and willfully violate the 5-year audit retention period. This section both penalizes the willful failure to maintain specified audit records and sets a bright line rule that would require accountants to put strong safeguards in place to ensure that such records are, in fact, retained. Had such clear requirements been in place at the time that Arthur Andersen was considering what to do with its audit documents, countless documents might have been saved from the shredder.

Section 3 of this bill proposes an amendment to the civil Racketeer Influenced and Corrupt Organizations, RICO, statute, enhance the abilities of Federal and State regulators to enforce existing law. It would give State Attorneys General and the Securities and Exchange Commission, "SEC", explicit authority to bring a suit under the civil RICO provisions. Currently, only the U.S. Attorney General has such authority under RICO. At a Judiciary Committee hearing on Enron's fall, Washington State Attorney General Christine Gregoire strongly supported this change, testifying that State and local law enforcers are on the front lines in protecting consumer's rights. Providing such authority to State Attorneys General and to the SEC would provide them a potent weapon in that battle and would allow us to take advantage of their significant expertise in protecting consumers.

Others have suggested that we also consider repealing the one-of-a-kind securities fraud exception to civil RICO, created in 1995 over the veto of President Clinton. Congressman CONYERS, the distinguished ranking minority member of the House Judiciary Committee, has already introduced a bill to repeal this unique exemption. As someone who voted against the 1995 Private Securities Litigation Reform Act and voted to sustain President Clinton's veto, I did not support this one-of-a-kind exemption when it became law. Now, given what has happened in our markets, I think that we all need to consider whether or not the exemption for securities fraud makes sense. No one who voted for the 1995 Private Securities Litigation Reform Act or voted to override President Clinton's veto meant for Enron to occur, but now that it has occurred, none of us can ignore it.

In addition to giving the SEC the authority to sue under civil RICO, we have to ensure that the SEC has all the powers and resources that it needs to protect our Nation's shareholders. The



SEC needs to have sufficient attorneys, training, and investigative resources, and enough power to pursue the most complex of cases against the best funded defendants in our legal system. In particular, one idea that is worth serious consideration is amending the statutes related to the Federal Rules of Criminal Procedure to allow SEC attorneys in fraud investigations to seek search warrants from a Federal judge, the same way that Department of Justice attorneys currently may, when they can demonstrate probable cause to believe that a crime has been committed. Taking such a step might allow the SEC to act more quickly and to prevent the destruction of documents and evidence in the future, as they were not able to do in the Enron case. The SEC has to have the tools it needs to protect what has truly become a nation of shareholders.

Section 4 of this bill would amend the Bankruptcy Code to make judgments and settlements based upon securities law violations non-dischargeable, protecting victims' ability to recover their losses. Current bankruptcy law may permit such wrongdoers to discharge their obligations under court judgments or settlements based on securities fraud and other securities violations. This loophole in the law should be closed to help defrauded investors recoup their losses and to hold accountable those who perpetrate securities fraud after a government unit or private suit results in a judgment or settlement against the wrongdoer.

State securities regulators have indicated their strong support for this change in the bankruptcy law, and I have received letters supporting the passage of this bill from the North American Securities Administrators Association, whose membership includes the securities administrators in all 50 States and Vermont's chief banking and securities regulator. Under current laws, State regulators are often forced to "reprove" their fraud cases in bankruptcy court to prevent discharge because remedial statutes often have different technical elements than the analogous common law causes of action. Moreover, settlements may not have the same collateral estoppel effect as judgments obtained through fully litigated legal proceedings. In short, with their resources already stretched to the breaking point, these State regulators have to plow the same ground twice in securities fraud cases. By ensuring securities fraud judgments and settlements in State cases are non-dischargeable, precious state enforcement resources will be preserved and directed at preventing fraud in the first place.

Section 5 would protect victims by extending the statute of limitations in private securities fraud cases. This section would set the statute of limitations in private securities fraud cases to the earlier of 5 years after the date of the fraud or 3 years after the fraud was discovered. The current statute of

limitations for such fraud cases is 3 years from the date of the fraud. This can unfairly limit recovery for defrauded investors in some cases. As Attorney General Gregoire testified at our recent hearing, in the Enron State pension fund litigation the current short statute of limitations has forced some States to forgo claims against Enron based on securities fraud in 1997 and 1998. In Washington State alone, the short statute of limitations may cost hard working State employees, firefighters and police officers nearly \$50 million, lost Enron investments which they can never recover under current law.

Especially in complex securities fraud cases, the current short statute of limitations may insulate the worst offenders from accountability. As Justices O'Connor and Kennedy said in their dissent in *Lampf, Pleva, Lipkind, Prupis, & Petigrow v. Gilbertson*, 111 S. Ct. 2773 (1991), the 5-4 decision upholding this short statute of limitations in most securities fraud cases, the current "one and three" limitations period makes securities fraud actions "all but a dead letter for injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within 3 years after the violation occurred." The Consumers Union also strongly supports the bill, and views this section in particular as a needed measure to protect investors.

The experts agree with that view. In fact, the last two SEC Chairmen supported extending the statute of limitations in securities fraud cases. Then Chairman Arthur Levitt testified before a Senate Subcommittee in 1995 that "extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud, who successfully conceals its existence for more than 3 years." Before Chairman Levitt, in the last Bush administration, then SEC Chairman Richard Breeden also testified before Congress in favor of extending the statute of limitations in securities fraud cases. Reacting to the *Lampf* opinion, Breeden stated in 1991 that "[e]vents only come to light years after the original distribution of securities, and the *Lampf* cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse." Both the FDIC and the State securities regulators joined the SEC in calling for a legislative reversal of the *Lampf* decisions at that time.

In fraud cases the short limitations period under current law is an invitation to take sophisticated steps to conceal the deceit. The experts have long agreed on that point, but unfortunately they have been proven right again. As we know from recent experience, it only takes a few seconds to warm up the shredder, but unfortunately it will take years for victims to put this complex case back together again. It is time that the law be

changed to give victims the time they need to prove their fraud cases.

Section 6 of this bill ensures that those who destroy evidence or perpetrate fraud are appropriately punished. It would require the United States Sentencing Commission, "Commission", to consider enhancing criminal penalties in cases involving the actual destruction or fabrication of evidence or in serious fraud cases where a large number of victims are injured or when the victims face financial ruin.

Currently, the United States Sentencing Guidelines recognize that a wide variety of conduct falls under the offense of "obstruction of justice." For obstruction cases involving the murder of a witness or another crime, the guidelines allow, by cross reference, significant enhancements based on the underlying crimes, such as murder or attempted murder. For cases where obstruction is the only offense, however, they provide little guidance on differentiating between different types of obstruction. This provision requests that the Sentencing Commission consider a specific enhancement in cases where evidence and records are actually destroyed or fabricated in order to thwart investigators, a serious form of obstruction.

This provision, in subsections 3 and 4, also requires the Commission to consider enhancing the penalties in fraud cases which are particularly extensive or serious. The current fraud guidelines require the sentencing judge to take the number of victims into account, but only to a very limited degree in small and medium-sized cases. Specifically, once there are more than 50 victims, the guidelines do not require any further enhancement of the sentence, so that a case with 51 victims may be treated the same as a case with 5,000 victims. As the Enron matter demonstrates, serious frauds, especially in cases where publicly traded securities are involved, can effect thousands of victims. The Commission may well have not foreseen such extensive cases, and subsection 3 requires it to reconsider whether they merit an additional enhancement.

In addition, current guidelines allow only very limited consideration of the extent of devastation that a fraud offense causes its victims. Judges may only consider whether a fraud endangers the "solvency or financial security" of a victim to impose an upward departure from the recommended sentencing range. It is not a factor in establishing the range itself unless a bank is the victim. Subsection 4 requires the Commission to consider requiring judges to consider the extent of the fraud in setting the actual recommended sentencing range in cases such as the Enron matter, where many private victims have lost their life savings.

Section 7 of the bill would provide whistleblower protection to employees of publicly traded companies who report acts of fraud to Federal officials

with the authority to remedy the wrongdoing or to supervisors or appropriate individuals within their company. Although current law protects many government employees who act in the public interest by reporting wrongdoing, there is no similar protection for employees of publicly traded companies who blow the whistle on fraud and protect investors. With an unprecedented portion of the American public investing in these companies and depending upon their honesty, this distinction does not serve the public good.

In addition, corporate employees who report fraud are subject to the patchwork and vagaries of current State laws, even though most publicly traded companies do business nationwide. Thus, a whistleblowing employee in one State may be far more vulnerable to retaliation than a fellow employee in another State who takes the same actions. Unfortunately, one thing that often transcends State lines, as we all know from the State tobacco litigation, are certain companies with a corporate culture that punishes whistleblowers for being "disloyal" and "litigation risks."

Most corporate employers, with help from their lawyers, know exactly what they can do to a whistleblowing employee under the law. Unfortunately, Enron has supplied us with another grievous example of corporate conduct as shown by a recently released email from one of Enron's lawyers. The email responds to a request for legal advice after an Enron employee tried to report accounting irregularities at the highest levels of the company in late August, 2001:

You asked that I include in this communication a summary of the possible risks associated with discharging (or constructively discharging) employees who report allegations of improper accounting practices: 1. Texas law does not currently protect corporate whistleblowers. The supreme court has twice declined to create a cause of action for whistleblowers who are discharged . . .

This legal advice lays bare the fact that employees who do the "right thing" are vulnerable to retaliation. After this high level employee at Enron reported improper accounting practices, Enron is not thinking about firing Arthur Andersen, they are considering discharging the whistle blower. No wonder that so many employees are scared to come forward. Our laws need to encourage and protect those who report fraudulent activity that damages investors in publicly traded companies. That is why this bill is supported by groups such as the National Whistleblower Center, the Government Accountability Project, and Taxpayers Against Fraud, who have written a letter calling this bill "the single most effective measure possible to prevent recurrences of the Enron debacle and similar threats to the nation's financial markets."

This bill would create a new provision protecting employees when they take lawful acts to disclose informa-

tion or otherwise assist criminal investigators, Federal regulators, Congress, their supervisors, or other proper people within a corporation, or parties in a judicial proceeding in detecting and stopping actions which they reasonably believe to be fraudulent. Since the only acts protected are "lawful" ones, the bill would not protect illegal actions, such as the improper public disclosure of trade secret information. In addition, a reasonableness test is also provided under the subsection (a)(1), which is intended to impose the normal reasonable person standard used and interpreted in a wide variety of legal contexts. See generally *Passaic Valley Sewerage Commissioners v. Department of Labor*, 992 F. 2d 474, 478. Certainly, although not exclusively, any type of corporate or agency action taken based on the information or the information constituting admissible evidence would be strong indicia that it could support of such a reasonable belief. Under this bill's new protections, if the employer does take illegal action in retaliation for such lawful and protected conduct, subsection b allows the employee to elect to file an administrative complaint at the Department of Labor, as is the case for employees who provide assistance in airplane safety, or to bring a case in Federal court, with a jury trial available for an action at law. See United States Constitution, Amendment VII; Title 42 United States Code, Section 1983.

Subsection (c) of this section would require both reinstatement of the whistleblower, double backpay, and compensatory damages to make a victim whole. In severe cases, where the finder of fact determines that underlying fraud posed a substantial risk to the shareholders' or the general public's health, safety or welfare, punitive damages would be allowed in the discretion of the finder of fact based on a number of enumerated factors. The bill does not supplant or replace State law, but sets a national floor for employee protections in the context of publicly traded companies.

Section 8 of the bill would create a new ten year felony under Title 18 for defrauding shareholders of publicly traded companies. Currently, unlike bank fraud or health care fraud, there is no generally accessible statute dealing with the specific problem of securities fraud. In these cases, Federal investigators and prosecutors are forced either to resort to a patchwork of technical Title 15 offenses, which may criminalize particular violations of securities law, or to treat the cases as generic mail or wire fraud cases and to meet the technical elements of those statutes, with their 5 year maximum penalties.

This bill, then, would create a new ten year felony for securities fraud, a more general and less technical provision comparable to the bank fraud and health care fraud statutes in Title 18. Specifically, it would add a provision

to Chapter 63 of Title 18 which would criminalize the execution or attempted execution of a scheme or artifice to defraud persons in connection with securities of publicly traded companies or obtain their money or property. The provision would provide needed enforcement flexibility in the context of publicly traded companies to protect shareholders and prospective shareholders against all the types of schemes and frauds which inventive criminals may devise in the future.

This bill can only be part of the needed response to the problems exposed by the Enron debacle. It is clear that changes are needed to restore accountability in our markets. As a lawyer and a former prosecutor I am appalled at the role that lawyers and accountants played in the Enron case. Instead of acting as gatekeepers who detect and deter fraud, it appears that Enron's accountants and lawyers brought all their skills and knowledge to bear in assisting the fraud to succeed and then in covering it up. We need to reconsider the incentive system that has been set up that encourages accountants and lawyers who come across fraud in their work to remain silent.

Others have suggested that we restore aider and abettor liability to the law as it existed for almost five decades before the Supreme Court, in another 5-4 decision, took away the ability of private parties to sue aiders and abettors for securities fraud. I hope that Senators on the Banking Committee will seriously consider this change, which restores the ability to hold liable accountants and lawyers who knowingly or recklessly provide substantial assistance in perpetrating a fraud. Others have also proposed to restore joint and several liability in securities fraud cases so that fraud victims are not left empty handed watching the accountants, lawyers, and executives point fingers at each other, until they can blame everything on the one company that files for bankruptcy protection, like Enron, another change worth careful consideration. In short, we have to ask ourselves whether, as a nation, we have unintentionally stacked the deck against fraud victims. I think that we have, and we need to have the courage to admit it and reshuffle the cards to restore basic fairness.

For all of these reasons, I am pleased to introduce the "Corporate and Criminal Fraud Accountability Act of 2002." I look forward to working with members on both sides of the aisle to enact its provisions into law.

I ask unanimous consent for this bill to be printed in the RECORD along with the sectional analysis and a copy of the entire e-mail document to which I referred as well as the letters of support which I have referenced.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 2010

*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 “Corporate and Criminal Fraud Accountability Act of 2002”.

**SEC. 2. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy**

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 5 years, or both.

**“§ 1520. Destruction of corporate audit records**

“(a) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all documents (including electronic documents) sent, received, or created in connection with any audit, review, or other engagement for such issuer for a period of 5 years from the end of the fiscal period in which the audit, review, or other engagement was concluded.

“(b) Whoever knowingly and willfully violates subsection (a) shall be fined under this title, imprisoned not more than 5 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation, imposed by Federal or State law or regulation, to maintain, or refrain from destroying, any document.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

“1520. Destruction of corporate audit records.”.

**SEC. 3. ENHANCED ENFORCEMENT OF LAWS AFFECTING RACKETEER-INFLUENCED AND CORRUPT ORGANIZATIONS.**

Section 1964 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting after “The Attorney General” the following: “, the Attorney General of any State, or the Securities and Exchange Commission”; and

(2) in subsection (d), by inserting before the period the following: “or any State”.

**SEC. 4. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.**

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking “or” after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting “; or”; and

(3) by adding at the end, the following:

“(19) that—

“(A) arises under a claim relating to—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act

of 1934 (15 U.S.C. 78c(a)(47)), any State securities laws, or any regulations or orders issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results, in relation to any claim described in subparagraph (A), from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

**SEC. 5. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.**

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”; and

(2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) 5 years after the date on which the alleged violation occurred; or

“(2) 3 years after the date on which the alleged violation was discovered.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

**SEC. 6. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.**

Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(2) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this Act, are sufficient to deter and punish that activity;

(3) the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50; and

(4) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of 1 or more victims.

**SEC. 7. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.**

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

**“§ 1514A. Civil action to protect against retaliation in fraud cases**

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with securities registered under

section 6 of the Securities Act of 1933 (15 U.S.C. 77f) or section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ELECTION OF ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) bringing an action at law or equity in the appropriate district court of the United States.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) (A) or (B) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) 2 times the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(3) PUNITIVE DAMAGES.—

“(A) IN GENERAL.—In a case in which the finder of fact determines that the protected conduct of the employee under subsection (a)

involved a substantial risk to the health, safety, or welfare of shareholders of the employer or the public, the finder of fact may award punitive damages to the employee.

“(B) FACTORS.—In determining the amount, if any, to be awarded under this paragraph, the finder of fact shall take into account—

“(i) the significance of the information or assistance provided by the employee under subsection (a) and the role of the employee in advancing any investigation, proceeding, congressional inquiry or action, or internal remedial process, or in protecting the health, safety, or welfare of shareholders of the employer or of the public;

“(ii) the nature and extent of both the actual and potential discrimination to which the employee was subjected as a result of the protected conduct of the employee under subsection (a); and

“(iii) the nature and extent of the risk to the health, safety, or welfare of shareholders or the public under subparagraph (A).

“(d) RIGHTS RETAINED BY EMPLOYEE.—

“(1) OTHER REMEDIES UNAFFECTED.—Nothing in this section shall be deemed to diminish the rights, privilege, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

“(2) VOLUNTARY ADJUDICATION.—No employee may be compelled to adjudicate his or her rights under this section pursuant to an arbitration agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

#### **SEC. 8. CRIMINAL PENALTIES FOR DEFAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.**

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

##### **“§ 1348. Securities fraud**

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f),

shall be fined under this title, or imprisoned not more than 10 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”.

#### **SECTIONAL ANALYSIS: CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY ACT OF 2002** **Section 1. Title.**

“Corporate and Criminal Fraud Accountability Act.”

#### **Section 2. Criminal Penalties for Altering, Destroying, or Failing to Maintain Documents**

This section provides two new criminal statutes which would clarify and plug holes in the current criminal laws relating to the destruction or fabrication of evidence, including the shredding of financial and audit records. Currently, those provisions are a patchwork which have been interpreted in

often limited ways in federal court. For instance, certain of the current provisions make it a crime to persuade another person to destroy documents, but not a crime to actually destroy the same documents yourself. Other provisions have been narrowly interpreted by courts, including the Supreme Court in *United States v. Aguilar*, 115 S. Ct. 593 (1995), to apply only to situations where the obstruction of justice can be closely tied to a pending judicial proceeding.

First, this section would create a new 5 year felony which could be effectively used in a wide array of cases where a person destroys or creates evidence with the specific intent to obstruct a federal agency or a criminal investigation. Second, the section creates another 5 year felony which applies specifically to the willful failure to preserve audit papers of companies that issue securities.

#### **Section 3. Amendment to Improve Enforcement of Civil RICO**

This section proposes an amendment to the civil RICO provision found at 18 U.S.C. Section 1964 which would enhance the abilities of federal and state regulators to enforce existing law by giving State Attorneys General and the Securities and Exchange Commission, SEC, explicit authority to bring a suit under the civil RICO provisions. Currently, only the Attorney General has such authority under RICO.

#### **Section 4. Bankruptcy**

This provision would amend the Federal bankruptcy code to make judgments and settlements arising from state and federal securities law violations brought by state or federal regulators and private individuals non-dischargeable. Current bankruptcy law may permit wrongdoers to discharge their obligations under court judgments or settlements based on securities fraud and securities law violations. This loophole in the law should be closed to help defrauded investors recoup their losses and to hold accountable those who perpetrate securities fraud.

#### **Section 5. Statute of Limitations**

This section would set the statute of limitations in private securities fraud cases to the earlier of 5 years after the date of the fraud or three years after the fraud was discovered. The current statute of limitations for private securities fraud cases is the earlier of three years from the date of the fraud or one year from the date of discovery. In the Enron state pension fund litigation, the current short statute of limitations has forced some states to forgo claims against Enron based on securities fraud in 1997 and 1998. Victims of securities fraud should have a reasonable time to discover the facts underlying the fraud.

The Supreme Court, in *Lampf v. Gilbertson*, 501 U.S. 350 (1991), endorsed the current short statute of limitations for securities fraud in a 5-4 decision. Justices O'Connor and Kennedy wrote in their dissent in the *Lampf* decision: “By adopting a 3-year period of repose, the Court makes a §10(b) action all but a dead letter for injured investors who by no conceivable standard of fairness or practicality can be expected to file suit within three years after the violation occurred. In so doing, the Court also turns its back on the almost uniform rule rejecting short periods of repose for fraud-based actions.”

#### **Section 6. Review and Enhancement of Criminal Sentences in Cases of Fraud and Evidence Destruction**

This section would require the United States Sentencing Commission, “Commission”, to consider enhancing criminal penalties in cases involving the actual destruction or fabrication of evidence or in fraud cases in which a large number of victims are

injured or when the injury to the victims is particularly grave, i.e. they face financial ruin.

This provision first requires the Commission to consider sentencing enhancements in obstruction of justice cases where physical evidence was actually destroyed. The provision, in subsections 3 and 4, also requires the Commission to consider sentencing enhancements for fraud cases which are particularly extensive or serious. Specifically, once there are more than 50 victims, the current guidelines do not require any further enhancement of the sentence, so that a case with 51 victims may be treated the same as a case with 5,000 victims. In addition, current guidelines allow only very limited consideration of the extent of financial devastation that a fraud offense causes to private victims. This section corrects both these problems.

#### **Section 7. Whistleblower Protection for Employees of Publicly Traded Companies**

This section would provide whistleblower protection to employees of publicly traded companies, similar to those currently available to many government employees. It specifically protects them when they take lawful acts to disclose information or otherwise assist criminal investigators, federal regulators, Congress, supervisors (or other proper people within a corporation), or parties in a judicial proceeding in detecting and stopping fraud. Since the bill's provisions only apply to “lawful” actions by an employee, it does not protect employees from improper and unlawful disclosure of trade secrets. In addition, a reasonableness test is also set forth under the information providing subsection of this section, which is intended to impose the normal reasonable person standard used and interpreted in a wide variety of legal contexts. See generally *Passaic Valley Sewerage Commissioners v. Department of Labor*, 992 F. 2d 474, 478. Certainly, although not exclusively, any type of corporate or agency action taken based on the information, or the information constituting or leading to admissible evidence would be strong indicia that it could support of such a reasonable belief. If the employer does take illegal action in retaliation for lawful and protected conduct, subsection (b) allows the employee to elect to file an administrative complaint or to bring a case in federal court, with a jury trial available in cases where the case is an action at law. See United States Constitution, Amendment VII; Title 42 United States Code, Section 1983. Subsection (c) would require both reinstatement of the whistleblower, double backpay, compensatory damages to make a victim whole, and would allow punitive damages in extreme cases where the public's health, safety or welfare was at risk.

#### **Section 8. Criminal Penalties for Securities Fraud**

This provision would create a new 10 year felony for defrauding shareholders of publicly traded companies. The provision would supplement the patchwork of existing technical securities law violations with a more general and less technical provision, comparable to the bank fraud and health care fraud statutes. The provision would be more accessible to investigators and prosecutors and would provide needed enforcement flexibility and, in the context of publicly traded companies, protection against all the types schemes and frauds which inventive criminals may devise in the future.

VERMONT DEPARTMENT OF BANKING,  
INSURANCE, SECURITIES AND  
HEALTH CARE ADMINISTRATION,  
Montpelier, VT, March 8, 2002.

Senator PATRICK LEAHY,  
Russell Senate Office Building,  
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: Your staff recently forwarded a copy of a bill you intend to introduce entitled, "Corporate and Criminal Fraud Accountability Act of 2002". I read your proposed legislation with special interest, as I am a trustee of the Vermont State Teachers' Retirement Board. That system recently experienced some losses due to its investment in Enron, as did the other state retirement systems.

I believe that your bill will have a significant and positive effect on how we investigate and punish those involved in cases of corporate and criminal fraud. The provision of your bill making judgments arising from state and federal securities law violations non-dischargeable under the federal bankruptcy code is particularly welcome. This improvement in the law would materially improve the ability of defrauded investors to recoup their losses. I also support your proposed expansion of the statute of limitations in private securities fraud cases. This longer statute of limitations will result in investors, including state retirement funds, enjoying a more level playing field when they are defrauded by complex schemes that they could not reasonably be expected to discover within the current three year period.

I also support the provisions in the bill to clarify the criminal laws concerning the destruction or fabrication of evidence and the enhancement of criminal sentences in cases of fraud and destruction of evidence. As the agency charged with examining financial institutions, the integrity of records is essential to our ability to do our jobs. Clear federal laws and increased criminal penalties will provide powerful deterrents to evidence destruction and securities fraud. I also support the expansion of civil RICO to allow state attorney generals and the SEC to bring civil RICO suits.

Please let me know if I can be of any further assistance on this legislation.

Sincerely,

ELIZABETH COSTLE,  
Commissioner.

NATIONAL WHISTLEBLOWER CENTER,  
Washington, DC, March 11, 2002.

Senator PATRICK LEAHY,  
Chairman, Senate Judiciary Committee, Dirksen  
Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: Since 1988 the National Whistleblower Center has aided or defended hundreds of employees who have disclosed fraud and criminal activities within the public and private sectors. During this time we have become painfully aware of the major loopholes which often leave courageous employees without any legal protection. One of the most notorious loopholes exists under the securities laws, in which employees who report fraud upon stockholders have no protection under federal law. It is truly tragic that employees who are wrongfully discharged merely for reporting violations of law, which may threaten the integrity of pension funds or education-based savings accounts, have no federal protection. This point was made perfectly clear by the recently released internal memorandum from attorneys for Enron. According to Enron's own counsel, employees who raised concerns over that company's accounting practices had no protection under federal law and could be fired.

With this background in mind, the National Whistleblower Center strongly commends you for introducing the Corporate and

Criminal Fraud Accountability Act of 2002. This law would protect employees who disclose Enron-related fraud to the appropriate authorities. It is modeled on the airline safety whistleblower law, which overwhelmingly passed Congress with strong bi-partisan support. The next time a company like Enron seeks advice from counsel as to whether they can fire an employee, like Sharon Watkins, who merely discloses potential fraud on shareholders, the answer must be a resounding "no." That can only happen if the Corporate and Criminal Fraud Accountability Act is enacted into law.

Respectfully submitted,

STEPHEN M. KOHN,  
Chairman of the  
Board of Directors.  
KRIS KOLESNIK,  
Executive Director.

GOVERNMENT ACCOUNTABILITY  
PROJECT AND TAXPAYERS AGAINST  
FRAUD,

Washington, DC, March 11, 2002.

Hon. PATRICK LEAHY,  
Chair, Senate Judiciary Committee, Dirksen  
Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: Thank you for your leadership in introducing the Corporate Fraud and Criminal Accountability Act of 2002. This is a landmark proposal, for which we offer our complete support. The bill promises to make whistleblower protection the rule rather than the exception for those challenging betrayals of corporate fiduciary duty enforced by the Securities and Exchange Commission. It would be the single most effective measure possible to prevent recurrences of the Enron debacle and similar threats to the nation's financial markets, shareholders and pension holders. It also would be a breakthrough in implementing recommendations pending since 1985 by the Administrative Conference of the United States for a consistent, coherent system of corporate whistleblower protection.

The Government Accountability Project (GAP) is a nonprofit, nonpartisan public interest law firm dedicated since 1976 to helping whistleblowers, those employees who exercise freedom of speech to bear witness against betrayals of public trust that they discover on the job. GAP has led the campaign for passage of nearly all federal whistleblower laws over the last two decades, as well as a model law approved by the Organization of American States to implement its Inter-American Convention Against Corruption. Two decades of lessons learned are summarized in GAP's book *The Whistleblower's Survival Guide: Courage Without Martyrdom*. Taxpayers Against Fraud, The False Claims Act Legal Center (TAF) is a nonprofit, nonpartisan public interest organization dedicated to combating fraud against the Federal Government through the promotion and use of the federal False Claims Act and its *qui tam* whistleblower provisions. TAF supports effective anti-fraud legislation at the federal and state level and, as part of its educational outreach, publishes the *False Claims Act and Qui Tam Quarterly Review*.

This bill is outstanding good government legislation. It uses the best combination of provisions that have proven effective in other contexts. It has the modern burdens of proof in the Whistleblower Protection Act of 1989, and offers choices of forum that virtually guarantee whistleblowers will have a fair day in court. Most significant, it closes the loopholes that have meant whistleblowers proceed at their own risk when warning Congress, shareholders or even their own management or Board Audit Committees of financial misconduct threatening the health both of their own company and, in some cases, the nation's economy. You have

our unqualified pledge of helping to finish the public service you started by introducing this legislation.

Sincerely,

JIM MOORMAN,  
Executive Director,  
TAF.  
TOM DEVINE,  
Legal Director, GAP.

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.,  
Washington, DC, March 5, 2002.

Hon. PATRICK J. LEAHY,  
Chairman, Senate Judiciary Committee,  
Washington, DC.

DEAR MR. CHAIRMAN: The North American Securities Administrators Association, Inc. (NASAA), organized in 1919, is the oldest international organization devoted to investor protection. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grassroots investor protection and efficient capital formation.

NASAA members collectively bring thousands of enforcement actions against violators of securities laws in an effort to protect investors from fraud and abuse in connection with the offer and sale of securities.

We have reviewed a draft of the Corporate and Criminal Fraud and Accountability Act of 2002, and we support it. Our focus is on the section that would prevent the discharge of certain debts in bankruptcy proceedings. At the present time, the bankruptcy code enables defendants who are guilty of fraud and other securities violations to thwart enforcement of the judgments and other awards that are issued in these cases.

We support Section 4, as drafted, because it strengthens the ability of regulators and individual investors to prevent the discharge of certain debts and hold defendants financially responsible for violations of securities laws. This issue is of great interest to state securities regulators, and we commend you for addressing it in the proposed legislation.

NASAA and its members are prepared to work with you as the legislative process continues. We support your effort to enhance the ability of state and federal regulators to help defrauded investors recoup their losses and to hold accountable those who perpetuate securities fraud.

Sincerely,

JOSEPH P. BORG,  
NASAA President, Director of  
Alabama Securities Commission.

From: Jordan, Carl.

Sent: Friday, August 24, 2001 7:02 PM.

To: Butcher, Sharon (Enron).

Subject: Confidential Employee Matter.

ATTORNEY CLIENT PRIVILEGED  
COMMUNICATION

Sharon: Per your request, the following are some bullet thoughts on how to manage the situation with the employee who made the sensitive report.

1. I agree that it is a positive that she has requested reassignment to another department. Assuming a suitable position can be found, I recommend documenting in memo form that the transfer is being effected per her request. This would be worded to convey that the company has considered and decided to accommodate her request for reassignment. See comments below re additional items to be addressed in the memo.

2. I suggest that the memo also name a designated company officer for her to contact in the unlikely future event that she believes she is being retaliated against for having made the report. Case law suggests that she then will have the burden of reporting

any perceived retaliation and allowing the company a reasonable opportunity to correct it before quitting and asserting a constructive discharge. (Note: If there is any chance that the decision might be made in the future to discharge the employee for making the report—e.g., if the company concludes that the allegations were not made in good faith—then this assurance probably should not be given, at least until later when (if) the company is satisfied that the employee was not acting in bad faith or otherwise improperly.)

3. The memo should contain language that conveys that the other terms of her employment—specifically, its at-will status—remains unchanged. This is to avoid any future claim that the understandings surrounding the transfer constitute a contractual obligation of some sort.

4. The new position, as we discussed, should have responsibilities and compensation comparable to her current one, to avoid any claim of constructive discharge.

5. As we discussed, to the extent practicable, the fact that she made the report should be treated as confidential.

6. The individual or individuals who are implicated by her allegations should be advised to treat the matter confidentially and to use discretion regarding any comments to or about the complaining employee. They should be advised that she is not to be treated adversely in any way for having expressed her concerns.

7. You indicated that the officer in charge of the area to which the employee may be reassigned would probably need to be advised of the circumstances. I suggest he be advised at the same time that it is important that she not be treated adversely or differently because she made the report. And that the circumstances of the transfer are confidential and should not be shared with others.

You also asked that I include in this communication a summary of the possible risks associated with discharging (or constructively discharging) employees who report allegations of improper accounting practices:

1. Texas law does not currently protect corporate whistleblowers. The supreme court has twice declined to create a cause of action for whistleblowers who are discharged; however, there were special factors present in both cases that weighed against the plaintiffs and the court implied that it might reach a different conclusion under other circumstances.

2. Regardless of the whistleblower issue, there is often a risk of a Sabine Pilot claim (i.e., allegation of discharge for refusing to participate in an illegal act). Whistleblower cases in Texas commonly are pled or replied as Sabine Pilot claims—it is often an easy leap for the plaintiff to make if she had any involvement in or duties relating to the alleged improper conduct. For example, some cases say that if an employee's duties involve recording accounting data that she knows to be misleading onto records that are eventually relied on by others in preparing reports to be submitted to a federal agency (e.g., SEC, IRS, etc.), then the employee can be subject to criminal prosecution even though she did not originate the misleading data and does not prepare the actual document submitted to the government. Under such circumstances, if the employee alleges that she was discharged for refusing to record (or continuing the practice of recording) the allegedly misleading data, then she has stated a claim under the Sabine Pilot doctrine.

3. As we discussed, there are a myriad of problems associated with Sabine Pilot claims, regardless of their merits, that involve allegations of illegal accounting or related practices. One is that the company's accounting practices and books and records

are fair game during discovery—the opposition typically will request production of volumes of sensitive material. Another problem is that because accounting practices often involve judgments in gray areas, rather than non-judgmental applications of black-letter rules, there are often genuine disputes over whether a company's practice or a specific report was materially misleading or complied with some statutory or regulatory requirements. Third, these are typically jury cases—that means they are decided by lay persons when the legal compliance issues are often confusing even to the lawyers and experts. Fourth, because of the above factors, they are very expensive and time consuming to litigate.

4. In addition to the risk of a wrongful discharge claim, there is the risk that the discharged employee will seek to convince some government oversight agency (e.g., IRS, SEC, etc.) that the corporation has engaged in materially misleading reporting or is otherwise non-compliant. As with wrongful discharge claims, this can create problems even though the allegations have no merit whatsoever.

These are, of course, very general comments. I will be happy to discuss them in greater detail at your convenience.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 2995. Mr. CRAIG (for himself, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. DOMENICI, and Mr. THURMOND) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 2996. Mr. MURKOWSKI (for himself and Mr. DASCHLE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2997. Mr. LEVIN (for himself, Mr. BOND, Ms. STABENOW, and Ms. MIKULSKI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

### TEXT OF AMENDMENTS

SA 2995. Mr. CRAIG (for himself, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. DOMENICI, and Mr. THURMOND) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place in the Amendment, insert the following:

#### SEC. . NUCLEAR POWER 2010.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(2) OFFICE.—The term "Office" means the Office of Nuclear Energy Science and Technology of the Department of Energy.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Nuclear Energy Science and Technology of the Department of Energy.

(4) PROGRAM.—The term "Program" means the Nuclear Power 2010 Program.

(b) ESTABLISHMENT.—The Secretary shall carry out a program, to be managed by the Director.

(c) PURPOSE.—The program shall aggressively pursue those activities that will result in regulatory approvals and design completion in a phased approach, with joint government/industry cost sharing, which would allow for the construction and startup of new nuclear plants in the United States by 2010.

(d) ACTIVITIES.—In carrying out the program, the Director shall—

(1) issue a solicitation to industry seeking proposals from joint venture project teams comprised of reactor vendors and power generation companies to participate in the Nuclear Power 2010 program;

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear steam supply systems and major equipment suppliers, and plant owner/operators, with strong and common incentives to build and operate new plants in the United States;

(3) conduct the Nuclear Power 2010 program consistent with the findings of A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010 issued by the Near-Term Deployment Working Group of the Nuclear Energy Research Advisory Committee of the Department of Energy;

(4) rely upon the expertise and capabilities of the Department of Energy national laboratories and sites in the areas of advanced nuclear fuel cycles and fuels testing, giving consideration to existing lead laboratory designations and the unique capabilities and facilities available at each national laboratory and site;

(5) pursue deployment of both water-cooled and gas-cooled reactor designs on a dual track basis that will provide maximum potential for the success of both;

(6) include participation of international collaborators in research and design efforts where beneficial; and

(7) seek to accomplish the essential regulatory and technical work, both generic and design-specific, to make possible new nuclear plants within this decade.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section such sums as are necessary for fiscal year 2003 and for each fiscal year thereafter.

SA 2996. Mr. MURKOWSKI (for himself and Mr. DASCHLE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 417) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place insert the following:

#### TITLE —RURAL AND REMOTE COMMUNITY FAIRNESS ACT

SEC. 01.—This Title may be cited as the "The Rural and Remote Community Fairness Act."

Subtitle A—Rural and Remote Community Development Block Grants

SEC. 02.—The Housing and Community Development Act of 1974 (Public Law 93-383) is amended by inserting at the end the following new title:

"TITLE IX—RURAL AND REMOTE COMMUNITY DEVELOPMENT BLOCK GRANTS

"SEC. 901.(a) FINDINGS.—The Congress finds and declares that—

"(1) a modern infrastructure, including energy-efficient housing, electricity, telecommunications, bulk fuel, waste water and



potable water service, is a necessary ingredient of a modern society and development of a prosperous economy;

“(2) the Nation’s rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;

“(3) in the past, Federal assistance has been instrumental in establishing electric and other utility service in many developing regions of the Nations, and that Federal assistance continues to be appropriate to ensure that electric and other utility systems in rural areas conform with modern standards of safety, reliability, efficiency and environmental protection; and

“(4) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural and remote communities as social, economic and political entities.

“(b) PURPOSE.—The purpose of this title is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, waste water, and bulk fuel, telecommunications and utility services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.

“SEC. 902. DEFINITIONS.—As used in this title:

“(a) The term ‘unit of general local government’ means any city, county, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions that is recognized by the Secretary, and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify.

“(b) The term ‘population’ means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

“(c) The term ‘Native American group’ means any Indian tribe, band group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self Determination and Education Assistance Act (Public Law 93-638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

“(d) The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(e) The term ‘rural and remote community’ means a unit of local general government or Native American group which is served by an electric utility that has 10,000 or less customers with an average retail cost per kilowatt hour of electricity that is equal to or greater than 150 percent of the average retail cost per kilowatt hour of electricity for all consumers in the United States, as determined by data provided by the Energy Information Administration of the Department of Energy.

“(f) The term ‘alternative energy sources’ includes non-traditional means of providing electrical energy, including, but not limited to, wind, solar, biomass, municipal solid waste, hydroelectric, geothermal and tidal power.

“(g) The term ‘average retail cost per kilowatt hour of electricity’ has the same meaning as ‘average revenue per kilowatt hour of electricity’ as defined by the Energy Information Administration of the Department of Energy.

“SEC. 903. AUTHORIZATIONS.—The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of the title. For purposes of assistance under section 906, there are authorized to be appropriated \$100,000,000 for each of fiscal years 2003 through 2009.

“SEC. 904. STATEMENT OF ACTIVITIES AND REVIEW.

“(a) Prior to the receipt in any fiscal year of a grant under section 906 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary a final statement of rural and remote community development objectives and projected use of funds.

“(b) In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—

“(1) furnish citizens information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;

“(2) publish a proposed statement in such manner to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;

“(3) provide citizens with reasonable access to records regarding the past use of funds received under section 906 by the grantee; and

“(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 906 from one eligible activity to another.

“The final statement shall be made available to the public, and a copy shall be furnished to the Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same. Procedures required in this paragraph for the preparation and submission of such statement.

“(c) Each grantee shall submit to the Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 906, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee’s statement under subsection (a) and to the requirements of subsection (b). The grantee’s report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee’s program objectives, and indications of how the grantee would change its programs as a result of its experiences.

“(d) Any rural and remote community may retain any program income that is realized from any grant made by the secretary under section 906 if (1) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and (2) such unit of general local government has agreed that it will utilize the program income for eligible rural and remote community development activities in accordance with the provisions of this title; except that the Secretary may by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable

administrative burden on the rural and remote community.

“SEC. 905. ELIGIBLE ACTIVITIES.

“(a) Eligible activities assisted under this title may include only—

“(1) weatherization and other cost-effective energy-related repairs of homes and other buildings;

“(2) the acquisition, construction, repair, reconstruction, or installation of reliable and cost-efficient facilities for the generation, transmission or distribution of electricity, and telecommunications, for consumption in a rural and remote community or communities;

“(3) the acquisition, construction, repair, reconstruction, remediation or installation of facilities for the safe storage and efficient management of bulk fuel by rural and remote communities, and facilities for the distribution of such fuel to consumers in a rural or remote communities;

“(4) facilities and training to reduce costs of maintaining and operating generation, distribution or transmission systems to a rural and remote community or communities;

“(5) the institution of professional management and maintenance services for electricity generation transmission or distribution to a rural and remote community or communities;

“(6) the investigation of the feasibility of alternate energy sources for a rural and remote community or communities;

“(7) acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water or waste water service;

“(8) the acquisition of disposition of real property (including air rights, water rights, and other interests therein) for eligible rural and remote community development activities; and

“(9) activities necessary to develop and implement a comprehensive rural and remote development plan, including payment of reasonable administrative costs related to planning and execution of rural and remote community development activities.

“(b) eligible activities may be undertaken either directly by the rural and remote community, or by the rural and remote community through local electric utilities.

“SEC. 906. ALLOCATION AND DISTRIBUTION OF FUNDS.—For each fiscal year, of the amount approved in an appropriation act under section 903 for grants in any year, the Secretary shall distribute to each rural and remote community which has filed a final statement of rural and remote community development objectives and projected use of funds under section 904, an amount which shall be allocated among the rural and remote communities that filed a final statement of rural and remote community development objectives and projected use of funds under section 904 proportionate to the percentage that the average retail price per kilowatt hour of electricity for all classes of consumers in the rural and remote community exceeds the national average retail price per kilowatt hour for electricity for all consumers in the United States, as determined by data provided by the Department of Energy’s Energy Information Administration. In allocating funds under this section, the Secretary shall give special consideration to those rural and remote communities that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.

SEC. 907. REMEDIES FOR NONCOMPLIANCE.—The provisions of section 111 of the Housing and Community Development Act of 1974 shall apply to assistance distributed under this title.”.

Subtitle B—Rural and Remote Community Electrification Grants

SEC. 04.—After section 313(b) of the rural Electrification Act of 1936, add the following new subsection:

“(c) RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.—The Secretary is authorized to provide grants to eligible borrowers under this Act for the purpose of increasing energy efficiency, lowering or stabilizing electric rates to end users, or providing or modernizing electric facilities in rural and remote communities.

“(d) For purposes of subsection (c), there is authorized to be appropriated \$20,000,000 for each of fiscal years 2003–2009.”

SEC. 06.—There is hereby authorized to be appropriated \$5,000,000 for each of fiscal years 2003–2009 to the Denali commission established by Public Law 105–227, 42 U.S.C. 3121 for the purposes of funding the power cost equalization program.

Subtitle C—Rural Recovery Community Development Block Grants

SEC. 07.—The Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following:

“Sec. 123. Rural Recovery Community Development Block Grants.

“(a) FINDINGS; PURPOSE.—

“(1) FINDINGS.—Congress finds that—

“(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;

“(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and

“(C) the future welfare of the National and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.

“(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low per capita income levels.

“(b) DEFINITIONS.—In this section:

“(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term ‘eligible unit of general local government’ means a unit of general local government that is the governing body of a rural recovery area.

“(2) ELIGIBLE INDIAN TRIBE.—The term ‘eligible Indian tribe’ means the governing body of an Indian tribe that is located in a rural recovery area.

“(3) GRANTEE.—The term ‘grantee’ means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.

“(4) NATIVE AMERICAN GROUP.—The term ‘Native American group’ means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

“(5) RURAL RECOVERY AREA.—The term ‘rural recovery area’ means any geographic

area represented by a unit of general local government or a Native American group—

“(A) the borders of which are not adjacent to a metropolitan area;

“(B) in which—

“(i) the population outmigration level equals or exceeds 1 percent over the most recent five year period, as determined by the Secretary of Housing and Urban Development; and,

“(ii) the per capita income is less than that of the national nonmetropolitan average; and

“(C) that does not include a city with a population of more than 15,000.

“(6) UNIT OF GENERAL LOCAL GOVERNMENT.—

“(A) IN GENERAL.—The term ‘unit of general local government’ means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia.

“(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or title IV of the Housing and Urban Development Act of 1968.

“(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).

“(d) ELIGIBILITY REQUIREMENTS.—

“(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—

“(A) shall—

“(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and

“(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government, Native American group or eligible Indian tribe, as applicable, on the proposed statement and the proposed eligible activities, and the overall community development performance of the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable; and

“(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—

“(i) a final statement of rural development objectives;

“(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and

“(iii) a certification that the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).

“(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—

“(A) a copy of the final statement submitted under paragraph (1)(B);

“(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;

“(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe under this section in any preceding fiscal year; and

“(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from one eligible activity to another.

“(e) DISTRIBUTION OF GRANTS.—

“(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government, Native American groups and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount described in paragraph (2).

“(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—

“(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population outmigration level (as determined by the Secretary of Housing and Urban Development) and the per capita income for the rural recovery area served by the grantee; or

“(B) \$200,000.

“(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for one or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee:

“(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;

“(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;

“(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;

“(4) activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; or

“(5) affordable housing initiatives.

“(g) PERFORMANCE AND EVALUATION REPORT.—

“(1) IN GENERAL.—Each grantee shall annually submit to the Secretary a performance and evaluation report, concerning the use of amounts received under this section.

“(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—

“(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);

“(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and

“(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.

“(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—

“(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and

“(2) the—  
“(A) grantee agrees to utilize the income for 1 or more eligible activities; or

“(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriate to carry out this section \$100,000,000 for each of fiscal years 2003 through 2009.”.

**SA 2997.** Mr. LEVIN (for himself, Mr. BOND, Ms. STABENOW, and Ms. MIKULSKI) proposed an amendment to amend- ment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In title VIII, strike the heading for subtitle A and all that follows through section 811 and insert the following:

**Subtitle A—CAFE Standards, Alternative Fuels, and Advanced Technology**

**SEC. 801. INCREASED FUEL ECONOMY STANDARDS.**

(a) REQUIREMENT FOR NEW REGULATIONS.—

(1) IN GENERAL.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for automobiles that are determined on the basis of the maximum feasible average fuel economy levels for the automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(2) TIME FOR ISSUING REGULATIONS.—

(A) NON-PASSENGER AUTOMOBILES.—For non-passenger automobiles, the Secretary of Transportation shall issue the final regulations not later than 15 months after the date of the enactment of this Act.

(B) PASSENGER AUTOMOBILES.—For passenger automobiles, the Secretary of Transportation shall issue—

(i) the proposed regulations not later than 180 days after the date of the enactment of this Act; and

(ii) the final regulations not later than two years after that date.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is

amended by inserting before the period at the end the following: “or such other number as the Secretary prescribes under subsection (c)”.

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under this section, the Secretary of Transportation shall also issue an environmental assessment of the effects of the implementation of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Transportation for fiscal year 2003, to remain available until expended, \$2,000,000 to carry out this section.

**SEC. 802. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.**

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 801, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: “A bill to establish new average fuel economy standards for certain motor vehicles.”.

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

“That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

“( ) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year \_\_\_\_\_ shall be \_\_\_\_\_ miles per gallon.”, the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:

“That, section 32902(b) of title 49, United States Code, is amended to read as follows:

“(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year \_\_\_\_\_ shall be \_\_\_\_\_ miles per gallon.”, the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3)

through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed pursuant to subparagraph (A) of this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

**SEC. 803. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.**

Section 32902(f) of title 49, United States Code, is amended to read as follows:

“(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

“(1) Technological feasibility.

“(2) Economic practicability.

“(3) The effect of other motor vehicle standards of the Government on fuel economy.

“(4) The need of the United States to conserve energy.

“(5) The desirability of reducing United States dependence on imported oil.

“(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

“(7) The effects of increased fuel economy on air quality.

“(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

“(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

“(10) The cost and lead time necessary for the introduction of the necessary new technologies.

“(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

“(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

“(13) The report of the National Research Council that is entitled ‘Effectiveness and Impact of Corporate Average Fuel Economy Standards’, issued in January 2002.”.

# **SEC. 804. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.**

Section 32906(a)(1) of title 49, United States Code, is amended—

- (1) in subparagraph (A), by striking “1993–2004” and inserting “1993 through 2008”; and
- (2) in subparagraph (B), by striking “2005–2008” and inserting “2009 through 2012”.

# **SEC. 805. PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.**

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) LIGHT DUTY TRUCKS.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the agency to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies—

(A) five percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and

(B) ten percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.

(2) COUNTING OF TRUCKS.—Light duty trucks acquired for an agency of the executive branch that are counted to comply with section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) for a fiscal year shall be counted to determine the total number of light duty trucks procured for that agency for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.

(c) DEFINITIONS.—In this section:

(1) HYBRID VEHICLE.—The term “hybrid vehicle” means—

(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(2) ALTERNATIVE FUELED VEHICLE.—The term “alternative fueled vehicle” has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(d) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

# **SEC. 806. USE OF ALTERNATIVE FUELS.**

(a) EXCLUSIVE USE OF ALTERNATIVE FUELS IN DUAL FUELED VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, not later than January 1, 2009, the fuel actually used in the fleet of dual fueled vehicles used by the agency is an alternative fuel.

(b) WAIVER AUTHORITY.—

(1) CAPABILITY WAIVER.—

(A) AUTHORITY.—If the Secretary of Transportation determines that not all of the dual fueled vehicles can operate on alternative fuels at all times, the Secretary may waive the requirement of subsection (a) in part, but only to the extent that—

(i) not later than January 1, 2009, not less than 50 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels; and

(ii) not later than January 1, 2011, not less than 75 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels.

(B) EXPIRATION.—In no case may a waiver under subparagraph (A) remain in effect after December 31, 2012.

(2) REGIONAL FUEL AVAILABILITY WAIVER.—The Secretary may waive the applicability of the requirement of subsection (a) to vehicles used by an agency in a particular geographic area where the alternative fuel otherwise required to be used in the vehicles is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency.

(c) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL.—The term “alternative fuel” has the meaning given that term in section 32901(a)(1) of title 49, United States Code.

(2) DUAL FUELED VEHICLE.—The term “dual fueled vehicle” has the meaning given the term “dual fueled automobile” in section 32901(a)(8) of title 49, United States Code.

(3) FLEET.—The term “fleet”, with respect to dual fueled vehicles, has the meaning that is given that term with respect to light duty motor vehicles in section 301(9) of the Energy Policy Act of 1992 (42 U.S.C. 13211(9)).

# **SEC. 807. HYBRID ELECTRIC AND FUEL CELL VEHICLES.**

(a) EXPANSION OF SCOPE.—The Secretary of Energy shall expand the research and development program of the Department of Energy on advanced technologies for improving the environmental cleanliness of vehicles to emphasize research and development on the following:

(1) Fuel cells, including—

(A) high temperature membranes for fuel cells; and

(B) fuel cell auxiliary power systems.

(2) Hydrogen storage.

(3) Advanced vehicle engine and emission control systems.

(4) Advanced batteries and power electronics for hybrid vehicles.

(5) Advanced fuels.

(6) Advanced materials.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2003, the amount of \$225,000,000 for carrying out the expanded research and development program provided for under this section.

# **SEC. 808. DIESEL FUELED VEHICLES.**

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOAL.—

(1) COMPLIANCE WITH TIER 2 EMISSION STANDARDS BY 2010.—The Secretary shall carry out subsection (a) with a view to developing and demonstrating diesel technology meeting tier 2 emission standards not later than 2010.

(2) TIER 2 EMISSION STANDARDS DEFINED.—In this subsection, the term “tier 2 emission standards” means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under sections 202 and 211 of the Clean Air Act to apply to passenger cars, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

# **SEC. 809. FUEL CELL DEMONSTRATION.**

(a) PROGRAM REQUIRED.—The Secretary of Energy and the Secretary of Defense shall jointly carry out a program to demonstrate—

(1) fuel cell technologies developed in the PNGV and Freedom Car programs;

(2) fuel cell technologies developed in research and development programs of the Department of Defense; and

(3) follow-on fuel cell technologies.

(b) PURPOSES OF PROGRAM.—The purposes of the program are to identify and support technological advances that are necessary to achieve accelerated availability of fuel cell technology for use both for nonmilitary and military purposes.

(c) COOPERATION WITH INDUSTRY.—

(1) IN GENERAL.—The demonstration program shall be carried out in cooperation with industry, including the automobile manufacturing industry and the automotive systems and component suppliers industry.

(2) COST SHARING.—The Secretary of Energy and the Secretary of Defense shall provide for industry to bear, in cash or in kind, at least one-half of the total cost of carrying out the demonstration program.

(d) DEFINITIONS.—In this section:

(1) PNGV PROGRAM.—The term “PNGV program” means the Partnership for a New Generation of Vehicles, a cooperative program engaged in by the Departments of Commerce, Energy, Transportation, and Defense, the Environmental Protection Agency, the National Science Foundation, and the National Aeronautics and Space Administration with the automotive industry for the purpose of developing a new generation of vehicles with capabilities resulting in significantly improved fuel efficiency together with low emissions without compromising the safety, performance, affordability, or utility of the vehicles.

(2) FREEDOM CAR PROGRAM.—The term “Freedom Car program” means a cooperative research program engaged in by the Department of Energy with the United States Council on Automotive Research as a follow-on to the PNGV program.

**SEC. 810. BUS REPLACEMENT.**

(a) **REQUIREMENT FOR STUDY.**—The Secretary of Transportation shall carry out a study to determine how best to provide for converting the composition of the fleets of buses in metropolitan areas and school systems from buses utilizing current diesel technology to—

- (1) buses that draw propulsion from on-board fuel cells;
- (2) buses that are hybrid electric vehicles;
- (3) buses that are fueled by clean-burning fuels, such as renewable fuels (including agriculture-based biodiesel fuels), natural gas, and ultra-low sulphur diesel;
- (4) buses that are powered by clean diesel engines; or
- (5) an assortment of buses described in paragraphs (1), (2), (3), and (4).

**(b) REPORT.**—

(1) **REQUIREMENT.**—The Secretary of Transportation shall submit a report on the results of the study on bus fleet conversions under subsection (a) to Congress.

(2) **CONTENT.**—The report on bus fleet conversions shall include the following:

(A) An assessment of effectuating conversions by the following means:

- (i) Replacement of buses.
- (ii) Replacement of power and propulsion systems in buses utilizing current diesel technology.
- (iii) Other means.

(B) Feasible schedules for carrying out the conversions.

(C) Estimated costs of carrying out the conversions.

(D) An assessment of the benefits of the conversions in terms of emissions control and reduction of fuel consumption.

**NOTICES OF HEARINGS/MEETINGS****COMMITTEE ON INDIAN AFFAIRS**

Mr. INOUE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, March 14, 2002, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the President's budget request for Indian programs for fiscal year 2003.

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

**AUTHORITY FOR COMMITTEES TO MEET****COMMITTEE ON ARMED SERVICES**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 12, 2002, at 9:30 a.m., in closed session to receive a classified briefing on current military operations.

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

**COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS**

Mr. REID. 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, March 12, 2002, at 10 a.m. to conduct an oversight hearing on "The U.S. Economic Outlook."

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

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Tuesday, March 12, 2002 at 2:30 p.m. to hold a hearing to receive testimony on the proposed First Responder Initiative in President Bush's FY03 budget. The hearing will be held in SD-406.

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

**COMMITTEE ON FINANCE**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, March 12, 2002 at 10 a.m. to hear testimony on "Welfare Reform: What Have We Learned?"

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

**COMMITTEE ON GOVERNMENTAL AFFAIRS**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, March 12, 2002 immediately following the first roll call vote of the day for a business meeting to consider the nominations of: (1) Louis Kincannon to be Director of the Census, and (2) Jeanette Clark to be an Associate Judge of the Superior Court of the District of Columbia.

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

**COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a vote regarding the Nomination of Melanie R. Sabelhaus to be Deputy Administrator of the U.S. Small Business Administration, on Tuesday, March 12, 2002, immediately following the first vote of the Senate.

The PRESIDING OFFICER. Without objection it is so ordered.

**SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES**

Mr. REID. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 12, 2002, at 2:30 p.m., in open and possibly closed session to receive testimony on special operations capabilities, operational requirements, and technology acquisition, in review of the defense authorization request for fiscal year 2003.

The PRESIDING OFFICER. Without objection it is so ordered.

**SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on International Security, Proliferation and Federal Services be authorized to meet on Tuesday, March 12, 2002, at

2:30 p.m. for a hearing regarding "Critical Skills for National Security and the The Homeland Security Federal Workforce Act (S. 1800)."

The PRESIDING OFFICER. Without objection it is so ordered.

**SUBCOMMITTEE ON PUBLIC HEALTH**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor and Pensions, Subcommittee on Public Health, be authorized to meet for a hearing on The Health Care Crisis of the Uninsured: What are the Solutions during the session of the Senate on Tuesday, March 12, 2002, at 10 a.m.

The PRESIDING OFFICER. Without objection it is so ordered.

**SUBCOMMITTEE ON SUPERFUND, TOXICS, RISK, AND WASTE MANAGEMENT**

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Superfund, Toxics, Risk, and Waste Management be authorized to meet on Tuesday, March 12, 2002 at 10 a.m. to hold a hearing to receive testimony on environmental enforcement. The hearing will be held in SD-406.

The PRESIDING OFFICER. Without objection it is so ordered.

**APPOINTMENT**

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-201, as amended by Public Law 105-275, appoints Dennis Holub, of South Dakota, as a member of the Board of Trustees of the American Folklife Center of the Library of Congress.

**ORDERS FOR WEDNESDAY, MARCH 13, 2002**

Mr. LEVIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9 a.m., Wednesday, March 13; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 9:30 a.m., with the time under the control of Senator ALLEN; further, at 9:30 a.m., the Senate resume consideration of the energy reform bill, for debate only in relation to ethanol until 11:30 a.m., with the time equally divided between Senators NELSON of Nebraska and BOND or their designees; further, that at 11:30 a.m., the Senate proceed under the previous order.

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

**PROGRAM**

Mr. LEVIN. The next rollcall vote will occur at approximately 11:50 a.m. in relation to the Levin CAFE amendment.

ADJOURNMENT UNTIL 9 A.M.  
TOMORROW

Mr. LEVIN. Madam President, if there is no further business to come before the Senate—and I thank the Chair for her patience tonight—I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:49 p.m., adjourned until Wednesday, March 13, 2002, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 12, 2002:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. BRUCE A. CARLSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

CATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. ROBERT C. HINSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DUNCAN J. MCNABB, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. JOSEPH H. WEHRLE JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. THOMAS B. GOSLIN JR., 0000

IN THE ARMY

THE FOLLOWING NAMED UNITED STATES ARMY RESERVE OFFICER FOR APPOINTMENT AS CHIEF OF ARMY

RESERVE AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 3038 AND 601:

*To be lieutenant general*

MAJ. GEN. JAMES R. HELMLY, 0000

CONFIRMATION

Executive nomination confirmed by the Senate March 12, 2002:

THE JUDICIARY

RALPH R. BEISTLINE, OF ALASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 12, 2002, withdrawing from further Senate consideration the following nomination:

MAJOR GENERAL CHARLES F. BOLDEN, JR., UNITED STATES MARINE CORPS, TO BE DEPUTY ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, WHICH WAS SENT TO THE SENATE ON FEBRUARY 26, 2002.