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# *Senate*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Once again, retired pastor emeritus of Georgetown Presbyterian, the Reverend Campbell Gillon, will lead us in prayer.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O God of creation, while the brightest human minds painstakingly uncover the intricate fringes of Thy handiwork, we recognize that the proper attitude before Thee is not arrogance and self-satisfied cleverness but humility and wonder, for the ultimate question is not how, but who, since this mysterious gift of human life with its flawed grandeur, dissatisfied searching, and spiritual promptings point to a Giver who has yet something better in mind.

We come to Thee as recipients, entrusted with all that we have and are. Our gifts are different and disparate, yet Thou hast dealt with us all equally—in the measure of trust shown us, in the measure of responsibility for using what we are briefly given, and in the measure of commendation we shall receive if found faithful.

Lord God, teach us that in Thine economy none is an outright owner, but all are temporary stewards. We enter the world with nothing but the precious gift of life. We leave it with the character we fashioned by our use of the time, talents, and possessions with which we are entrusted. All we take to Thee is the person we have become.

*So teach us to number our days, that we may apply our hearts unto wisdom*—Psalm 90:12.

O Lord, grant such wisdom to the Members of this Senate that in leading they may be divinely led, that in taking counsel together, they may be instructed individually by a truth-quickened conscience, and as they share in enacting the laws of time, they may do so in the light of eternity. So, bless and give grace to each one. In the power of Thy Spirit we pray. Amen.

## PLEDGE OF ALLEGIANCE

The President pro tempore 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.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The deputy leader is recognized.

## SCHEDULE

Mr. MCCONNELL. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. There are currently two LIHEAP amendments pending to the bill, as well as the bipartisan ethanol amendment. At this time, I urge any Member who wishes to offer an amendment to contact the chairman or ranking member of the Energy Committee so that time can be scheduled for the consideration of such amendments.

Members should expect rollcall votes during today's session. It is anticipated that we will be able to dispose of several energy amendments later today. Members will be notified, of course, when the first vote is scheduled.

For the remainder of the week, the Senate will continue the consideration of the Energy bill and wrap up action on the Department of Defense authorization bill. Rollcall votes are therefore expected each day during this week.

## RECOGNITION OF THE ACTING MINORITY LEADER

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

Mr. REID. If my distinguished colleague will yield, it is my understanding also that the two managers have agreed to set aside the pending amendments for other amendments to be offered. I believe that is the case.

Mr. MCCONNELL. I say to my friend from Nevada, I believe that is the case.

Mr. REID. I think those who have amendments should get to the Chamber as quickly as they can because one of the sponsors of one of the amendments now pending will not be here until this afternoon. So we can move that along with other amendments. It is my understanding that this bill, when it was up last year, took 8 weeks. It is my understanding that the majority leader wants to finish this bill within the next 2 weeks. So that is a really big order because some of these amendments are very difficult. Some of the issues are difficult.

I suggest we should get on this as quickly as possible because it is going to be very difficult to finish this bill in 2 weeks.

Mr. MCCONNELL. Mr. President, as the Senator from Nevada has indicated, it is our hope that we can finish the Energy bill in the next couple of weeks. We intend to pursue that as vigorously as possible. The cooperation of all Members toward that end would be greatly appreciated.

The assistant Democratic leader is correct; it would be wonderful to have amendments laid down and debated. We are open for business.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

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

ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Frist/Daschle amendment No. 539, to eliminate methyl tertiary butyl ether from the U.S. fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.

Domenici/Bingaman amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program, (LIHEAP), weatherization assistance, and State energy programs.

Domenici (for Gregg) amendment No. 841 (to amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The deputy leader.

Mr. MCCONNELL. Mr. President, it is my understanding that Senator DOMENICI, the chairman of the committee, will be in the Chamber shortly. Pending his arrival, 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.

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

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

Mrs. FEINSTEIN. What is the order of business?

The PRESIDING OFFICER. The Senator must ask unanimous consent to set aside the pending amendment.

Mrs. FEINSTEIN. I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 843 TO AMENDMENT NO. 539

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 843 to amendment No. 539.

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

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

The amendment is as follows:

(Purpose: To allow the ethanol mandate in the renewable fuel program to be suspended temporarily if the mandate would harm the economy or environment)

On page 12, strike lines 19 through 24 and insert the following:

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the renewable fuel requirement—

''(I) is not needed for the State or region to comply with this Act because the State or region can comply in ways other than adding renewable fuel; or

''(II) would harm the economy or environment of a State, a region, or the United States; or''.

Mr. DOMENICI. Will the Senator yield?

Mrs. FEINSTEIN. I yield.

Mr. DOMENICI. I thank the Senator for coming early this morning and offering an amendment to help us get this bill going. We will be arranging a sequencing of these amendments later in the day. I thank the Senator for bringing forth the amendment at this time.

Mrs. FEINSTEIN. This is an amendment to the pending first-degree ethanol mandate amendment to provide authority to the Administrator of the Environmental Protection Agency to waive the ethanol mandate if a State or region does not need to meet the requirements of the Clean Air Act.

We all must understand this ethanol amendment is a permanent mandate. Regardless of what advances are made in technology, whether a hybrid engine, whether a hydrogen-driven engine, regardless of any advance, this ethanol mandate is forever. Therefore, it offers very real concern.

In the pending first-degree ethanol amendment, there is a waiver now that allows the Administrator of the EPA to waive the ethanol amendment if it would harm the economy or the environment of a State, a region, or the United States. I believe the EPA Administrator should also be able to waive the ethanol mandate if a State or a region does not need ethanol to make the air cleaner and meet the requirements of the Clean Air Act. Why require something that is not needed? Why require it if there should be an advance in technology that makes the use of ethanol unnecessary?

California and other States that do not need ethanol to meet the requirements of the Clean Air Act should be allowed to make their case to the EPA and then the Administrator can decide if the ethanol mandate should be waived.

For California, the ethanol mandate will force more ethanol into our fuel supply than we need to achieve clean air. The mandate forces California to use over 8 years 2.5 billion gallons that the State does not need.

This chart makes very clear this is a superfluous mandate. The blue shows what California needs in terms of ethanol over the next 8 years, to 2012. The top amount is 143 million gallons. It averages about 140 million gallons a year. California could use that amount and meet all of the clean air standards. This bill requires California to use over this period of time up to 600 million gallons, so it almost triples in the outyears the amount of ethanol that is forced on California beyond its need. This is a real problem in terms of legislation. Why would anyone force something on a State that it does not need and then provide, if the State does not use it, that it has to pay anyway?

If anything is poor public policy, this ethanol mandate is poor public policy. It also actually achieves a transfer of wealth from all States to the midwest corn States.

California does not need ethanol to produce cleaner air because the State has developed its own unique gasoline formula. Refiners use an approach called the predictive model which can produce clean burning reformulated gasoline with oxygenates, with less than 2 percent oxygenate or with no oxygenate at all.

As Red Cavaney, president of the American Petroleum Institute, said in March before the Energy and Natural Resources Committee:

> Refiners have been saying for years that they can produce gasoline meeting clean-burning fuels and federal reformulated gasoline requirements without the use of oxygenates. . . . In addition, reformulated blendstocks—the base in which oxygenates are added—typically meet RFG performance requirements before oxygenates are added. These facts demonstrate that oxygenates are not needed.

As a matter of fact, virtually every refiner I talked to says if you want to clean the air, give us flexibility, allow us to blend gasoline to do that. In other words, set the standards as the Clean Air Act does and allow us to have the flexibility needed to meet those standards.

This mandate prevents that. It is driven by the self-interest of the corn States and driven by the self-interest of the ethanol producers, of which the largest beneficiary is Archer Daniels Midland. Archer Daniels Midland will control 46 percent of the ethanol market, with every other company controlling not more than 6 percent of the market. In essence, what we are doing is giving a huge transfer of wealth to one American company, an American company that has been convicted of corrupt practices in the 1990s.

I have real problems with this bill. As I said, California can achieve clean air without the use of oxygenates. The State has long sought a waiver of the 2-percent oxygenate requirement. I have written and called former EPA Administrator Browner, the current Administrator, Christine Todd Whitman, and President Clinton and President Bush, urging approval of a waiver for our State. Yet both the Clinton administration and the Bush administration have denied California's request. Despite the scientific evidence, it is unlikely that the EPA Administrator will ever grant a waiver for California, but I believe the necessity of the ethanol mandate for a State or region should be something the EPA Administrator considers. I don't believe it is too much to ask for the EPA to consider if ethanol is needed in a specific State or region when determining if a waiver from the mandate should be granted.

As I say, this amendment simply amends the waiver part of the Frist-Daschle bill to permit a waiver in the event that a State can demonstrate to the EPA Administrator that it can meet the clean air standards without the use of ethanol.

I hope this amendment will have an opportunity of being agreed to. I believe it is the right thing to do. I believe it is the good public policy thing to do. I believe that creating a mandate preventing flexibility in the blending of gasoline forever—which this mandate does—is flawed and potentially dangerous public policy.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I wish to comment on some of the arguments raised by a very dear friend of mine, my colleague from California, Senator FEINSTEIN.

First, let me say that 65 percent of all the gasoline utilized today in California is blended with ethanol—65 percent. They expect that it will be 80 percent this summer. So four out of five gallons of gasoline in California will already be blended with ethanol. I am not sure I understand what motivation there will be to seek a waiver, when 65 to 80 percent of all the gasoline is already blended. That is No. 1.

No. 2, my colleague noted that she has applied to EPA—she and the State of California have sought a waiver under current law. That is the point. The renewable fuels standard will actually provide greater flexibility, greater opportunities for States to seek waivers than what they have right now.

The waiver she is applying for is the waiver that she seeks under the law that was passed in 1991. She is frustrated that there has been no positive response on the part of EPA. I can understand her frustration with that refusal. But we are talking about the current law. What we are suggesting, of course, is that under the new law there will be waiver authority if a case can be made that somehow this is disruptive.

Let me emphasize something. There is a very significant misperception here that somehow this renewable fuels standard is a mandate on States. There is not one word in this bill that requires California or New York or any State to mandate the utilization of ethanol. It is not in there. What it does is impose a requirement on refiners. The refiners are the ones that are going to have to blend ethanol. They can go to the part of the country where it makes the most sense. There is not any requirement that States have some percentage of their transportation fuel utilized for purposes of meeting the renewable fuels standard.

We have, as I know the distinguished Senator knows, a credit trading program in addition which ensures that ethanol is going to be used where it is most economical. The refiners can make that decision—where it is marketable, where it is not. But I would argue if 65 percent is any indication of the marketability of ethanol, it is already being used in the State of California and it will be used even more this summer.

In March, the California Energy Commission stated that:

> The transition to ethanol which began in January of 2003 is progressing without any major problem.

Those are their words, not mine. There has been no ethanol shortage, no transportation delay, no logistical problems associated with the increased use of ethanol. Thus, efforts to carve out California from the RFS, while unjustified, are also completely unnecessary.

We have to keep beating down these myths and these concerns generated by those who oppose the renewable fuels standard.

I might also say the Senator from California might want to explain why she is supportive of the renewable portfolio standard without waivers. She is, as I am, a consistent advocate of the renewable portfolio standard that we will address later on in the debate on energy, which is, in concept, identical to the renewable fuels standard. Yet she is in support of many waivers for the renewable portfolio standard. So on the one hand, while she supports portfolio nationalization, she would suggest a renewable fuels exemption for waivers in California.

No one cares more for her State. No one is more articulate on these issues. No one has studied these issues more than has she. We will carry on this debate for months, if not years, to come. At the end of the day, I will respect her and admire her tenacity and persistence as much as anybody in this Chamber. I just happen to strongly disagree with her in this case. I know that is her feeling with regard to my position. So we will agree to disagree and move on.

I yield the floor, having had the opportunity to respond to some of the issues raised.

Mrs. FEINSTEIN. Mr. President, I look forward to responding to the distinguished Democratic leader, with whom I profoundly disagree. The distinguished Democratic leader made the point—well, California is already using ethanol in its gasoline. My goodness, it is already using it up to 65 percent. California is forced to use it. It is forced to use it. Yet it doesn't need to use it. That is my point. The egregious 2-percent Federal oxygenate requirement forces California to move in this direction if it is going to phase out MTBE, which is another oxygenate which has been shown to have very detrimental environmental and health effects. The Governor has said he is going to phase it out by the end of this year. Consequently, to meet the 2-percent oxygenate requirement—which I think is flawed public policy—again, California is forced to begin to use this ethanol.

The Democratic leader also says that I have supported a renewable portfolio standard. In fact I have. California has a renewable portfolio standard. It is for wind, it is for solar, it is for alternative energies, and California has set it at 10 percent. Yes, I support that. That is totally different than an ethanol requirement, which is not a renewable energy source like solar or wind.

To add insult to injury, the Democratic leader says this doesn't require States to use it. Then I ask the question: Why does his legislation exempt Alaska and Hawaii? If it doesn't force States to use it, why is there an exemption that exempts Alaska and Hawaii? Let me read it to you, on page 4 of the bill:

> Not later than 1 year after the date of enactment of this paragraph the administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States, except in Alaska and Hawaii, on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (b).

Mr. DASCHLE. Will the gentle—the Senator yield for an answer to that question?

Mrs. FEINSTEIN. Yes, except I am not feeling too gentle at the moment, but I am happy to.

Mr. DASCHLE. I know she does, because she does want to know the answer to that question. It goes back to the first comment she made. The first comment is that California is forced. California is forced to have a certain standard, meeting the clean air requirements passed in the law of 1991. That is a requirement that the whole country is forced to live with.

You have to meet that clean air requirement. What California has chosen to do—wisely, in my opinion—is to use ethanol to accommodate the goals and requirements set up for the entire Nation with regard to cleaning up the air that many of us voted overwhelmingly to do in the early 1990s.

Here is the key issue. This isn't some ethanol advocacy group that said this. This isn't a group of us here in the Senate that have said this but the California Energy Commission, having studied very carefully the utilization and the acquisition of ethanol to meet these clean air requirements, said in January of this year that ''the integration of ethanol is progressing without one major problem . . . no shortages, no transportation delays, no logistical problems associated with the increased use of ethanol in the State.''

That is the response to the first part of the question.

Why Alaska and Hawaii? Frankly, I didn't favor carving out Alaska and Hawaii because I think we could say categorically, regardless of circumstances. But Senators from Alaska and Hawaii were concerned about the fact that they are not part of the contiguous United States; that if you are ever going to come into an issue involving transportation, Alaska and Hawaii may ultimately create transportation issues which do not exist in the continental United States among the contiguous States. As a result, giving them the benefit of the doubt in the first phase of this integration is something I am willing to accept even though I am not prepared to support.

But there is no question, based on current utilization and based on the Department of Energy in California

that said themselves there is no integration problem.

That is the reason.

I thank very much the Senator from California yielding on that question.

Mrs. FEINSTEIN. I thank the distinguished Democratic leader.

I would like to refute his comment on how well things are going in California and ethanol being accommodated by reading an article in the Los Angeles Times of May 10.

California gasoline prices rose higher and faster than pump prices elsewhere in the nation this year because of supply problems caused by refinery repairs and the transition to a new clean-fuel additive, the U.S. Energy Department said Friday.

Refiners in the state are switching to ethanol as part of the recipe for cleaner-burning fuel, eliminating water-polluting methyl tertiary butyl ether, or MTBE, in advance of a Jan. 1 State ban.

This change in fuel additives, designed to meet the Federal oxygen requirement for gas, helped push California gas prices higher and might leave the state short of supplies during peak summer driving months, the report by the Energy Information Administration said.

That in turn could trigger more frequent price spikes, said the EIA, the Energy Department's research and statistical arm. The agency said the report was a preliminary assessment and that it plans to release more detailed findings this fall.

''There is a chance that California could see a recurring problem with volatility,'' said Joanne Shore, an EIA senior analyst who led the team that produced the report. ''Certainly, that is an issue for this summer that everyone is going to continue to watch.''

The report, requested by Rep. Doug Ose (R–Sacramento), provides more ammunition for California officials who have demanded without success that the state be freed from the Federal requirement to add oxygenates to its gasoline.

I don't understand why the Democratic leader is so determined to force on those who do not want a special mandate, which not only he doesn't want, but who do not need the special mandate. We can have as clean a gas as they can refine in South Dakota, provided they refine gas in South Dakota. We can do it as well, or better. We can do it in a reformulated formula which will mean clean air standards. The 2 percent oxygenate requirement was flawed and the leader is replacing it with something equally flawed. Supposing in 5 years we have new technology that enables the cleaner burning engine. We still have to put ethanol in it, and we still have to put ethanol in a hydrogen engine.

I guess what I object to—and I can go into trade preferences and I can go into subsidies. Subsidies for a mandate is incredible. It is just such a bad bill.

Mr. DASCHLE. Will the Senator yield again?

Mrs. FEINSTEIN. No. I would like to ask the Democratic leader a question, if I might. What objection does he have against my amendment, which is a simple amendment which simply says if the State can provide adequate evidence to the EPA that it can burn or refine gasoline to meet clean air standards that it should not be required to use ethanol? What objection does he have to that?

Mr. DASCHLE. Mr. President, I would be happy to respond. The answer is that is exactly what we do in the bill—exactly. We provide a waiver. Under the new application, the State of California, if they can make the case that they shouldn't be held responsible or shouldn't be held to the requirement of the legislation, is entitled to the waiver. That is No. 1.

No. 2, the Senator from California still has yet to say why on the one hand she is prepared to support a renewable portfolio standard applicable to all States but not a renewable fuels standard. She isn't willing to do that. So there is an inconsistency there that I find interesting.

Let me go back.

Mrs. FEINSTEIN. Will the Senator yield on that point?

Mr. DASCHLE. Let me finish, and then I would be happy to yield.

She quoted an article. She has had as much experience as I have had with journalism in the country, and in our lives. I don't know what journalistic publication that may have come from. But we know this. We know that oftentimes these columns are written with a built-in bias, with a built-in point of view, and I doubt that she would argue that all articles are written with an objective analysis as their motivation. But you have to think that the Department of Energy in California would be objective. They certainly aren't there touting ethanol as their goal for anything other than what they think is best for California.

I am going to quote. She quoted an article. I will quote the report from California, page III–3, the report of March 28 of 2003, just a couple of months ago.

Since the price of ethanol to refiners is currently at modest levels relative to gasoline, the recent increase in California's gasoline prices cannot—

Let me emphasize ''cannot''—

—be attributable to availability or cost of ethanol.

That is from the California Energy Department report.

That isn't the only one. That was corroborated by the Energy Information Administration here in Washington. The report was provided last month, in May of this year. Let me read from that report on page VII:

''Other factors associated with the MTBE/ethanol changeover, such as ethanol supply and price, and infrastructure to deliver, store and blend ethanol, did not seem to be significant issues'' in the calculation of costs.

That is Department of Energy information.

Here you have the Department of Energy from California and the Department of Energy from the United States Federal Government both calculating that there is no impact, pricewise, with the integration of ethanol into gasoline—none.

I have seen all these articles, and they all have agendas and they all are written in subjective ways to make a point. I thought there was one again in the Post this morning.

But, nonetheless, I think it would be hard for the Senator from California to argue against her own Department of Energy when it comes to the calculation of the integration of the ethanol. I know that is not her intention. I think that is what we really have to make sure is in the Record—a recognition after careful study that there really wasn't any impact on the price of gasoline with the integration of ethanol.

I believe she has the floor and she yielded to me. I would be happy to relinquish the floor so she can regain it.

Mrs. FEINSTEIN. I thank the distinguished Democratic leader.

As I understood what he said, he said there is a waiver in the amendment. Well, indeed there is a waiver in the amendment. It is on page 12 of the amendment. It begins on line 12. I would like to read it:

The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

[secondly,] based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

There is no waiver if you can meet the clean air standards without a renewable fuel such as ethanol. There is no waiver in this amendment for that. And if you are so sure of the ground you stand on, why, for Heaven's sake, wouldn't you allow a waiver if we can demonstrate—this is a rhetorical question—if we can demonstrate to the EPA Administrator that, yes, California, through its formula, can reformulate gasoline to meet the Clean Air Act without either a 2 percent oxygenate requirement or a renewable fuel to the extent that we have here?

Also, since you are on the floor, I just want you to see what you are pressing upon California. As shown on this chart, this is the amount of ethanol we would have to use, and this is the amount of ethanol your amendment forces us to use.

Mr. DASCHLE. Will the Senator yield on that point?

Mrs. FEINSTEIN. I would appreciate finishing, if I might.

Mr. DASCHLE. Yes.

Mrs. FEINSTEIN. Yes. The Senator mentioned my support of a renewable portfolio standard. Indeed, I do support a renewable portfolio standard. But the renewable portfolio standard is essentially a percentage requirement that a State would use of renewable fuels,

such as wind, solar, biomass, et cetera. And California has elected to provide that 10 percent of its portfolio should be in wind, solar, biomass, et cetera. I have supported that requirement in this amendment as well, and California is able to do it, and has been doing it. I think that is an extraordinarily positive thing.

I have great concerns about ethanol because I do not think all of the science has been completed on ethanol. We know ethanol produces a benzene plume which can break away in the ground if the fuel leaks from an underground—the minority leader is smiling, but I wonder if this same discussion took place when MTBE was introduced and people thought it was going to be just fine. It has polluted about 20,000 wells in California and has shown to have a significant hazard.

Now, I think to dismiss this as being wonderful for the environment is not quite correct because we know it reduces some components, but we also know it increases other components in the air that produce smog and ozone. And California has two of the most difficult nonattainment regions in the United States, one of them being the Los Angeles area, the other being the Fresno area. I don't know whether this requirement will, in fact, result in California's two difficult areas increasing in smog, but I do think that providing flexibility to a manufacturer to be able to produce reformulated fuels that meet the requirements is important.

The other thing that is of concern to me, since we are on this, is the safe harbor provision. I know my colleague from California, Senator BARBARA BOXER, is going to offer an amendment that would remove the safe harbor. The American Petroleum Association, as they have indicated to me, agreed to support this largely because they were protected from any liability.

My understanding is, there is a provision in the amendment offered by the two leaders that would shield ethanol producers and refiners from any liability if the fuel additive harms the environment or public health. Candidly, I find this safe harbor provision astonishing. Ethanol is subsidized by the Government, protected from foreign competition by high trade barriers, and now, on top of mandating its use, we are going to exempt the fuel additive from liability in this amendment. This is unconscionable, and I think it is egregious public policy to mandate ethanol into our fuel supply in the first place and, even worse, to provide it with a complete liability protection before scientific and health experts can fully investigate the impact of tripling ethanol in the air we breathe and the water we drink.

As I said, this is exactly the mistake we made with MTBE. Over the past several years, we have learned that MTBE has contaminated our water and may, in fact, be a human carcinogen.

Last fall, a California jury found that there was clear and convincing evidence that three major oil companies acted with malice by polluting ground water at Lake Tahoe with MTBE because the gasoline they sold was defective in design and there was failure to warn of its pollution hazard.

After a 5-month trial, Shell Oil and Lyondell Chemical Company were found guilty of withholding information on the dangers of MTBE. The firms settled with the South Lake Tahoe Water District for $69 million. This case demonstrates why we cannot surrender the rights of citizens to hold polluters accountable for the harm they inflict. Yet this amendment has a safe harbor provision, and if I should be right, and if there should be—and I hope there are not—undue environmental or health consequences from this mandate, consumers cannot use their right to go to court to find justice.

So I do not know how those who favor this legislation can exempt the ethanol industry from this kind of wrongdoing. It is not as if the industry has not had some wrongdoing in the past. So I urge everyone—I know my colleague is going to move this amendment that would remove the safe harbor provision, and I certainly intend to support her in doing so.

I still—although many other things have been proposed or said by the distinguished Democratic leader—I do not understand why he would have opposition to my amendment, why he would say that if the State can prove we can produce gasoline without a 2-percent requirement or without this ethanol mandate that meets clean air standards, we cannot get a waiver. That is all we are asking for, that opportunity to make a showing that that is the case. Yet the Democratic leader has produced a lot of other things but has not answered why there should not—if you are going to have an economic waiver and an environmental waiver—why you cannot have a waiver if a State can show that it does not need ethanol to maintain clean air standards.

So I think it is an eminently fair amendment, and I just have a hard time understanding why we would be so anxious to pass this kind of public policy that mandates on States a use when most people, I think, have derided and derogated mandates from the Federal Government.

I would like to make one more point. The last time I looked—and this may have changed—but California is almost up to 100 percent of its refining capacity. My understanding is, if you put ethanol in—probably not in the early years, but in the outyears—to the extent required, we will not have the refining capacity available to maintain this mandate with adequate gasoline.

California is predicted to have 50 million people by 2020. They drive. They use gasoline. And I very much worry that refining capacity, which is about 98 percent at the present time because MTBE minimizes gasoline and ethanol requires added gasoline per gallon, that we really won't have the refining capacity. And that will create another problem for California.

I am hopeful the Democratic leader would see his way clear to allowing California and other States that wish to try to submit a case to the EPA, to say we can refine gasoline to meet clean air standards with flexibility and without this mandate, the opportunity to do so.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I will have to depart the floor in a moment. Let me attempt to respond again to some of the concerns raised by the distinguished Senator from California.

I remind my colleagues that California is currently using ethanol in 65 percent of the gasoline that it markets. That would go up to 80 percent this summer. It has gone up to 80 percent. Four out of five gallons in California will be using ethanol, and the Department of Energy in California has said there has been no disruption, no problems. There has been absolutely nothing they can point to that would be disadvantageous just to the consumer.

Why the Senator from California would believe so strongly about a waiver when one certainly is not needed, given current experience, is not an answer I can provide.

Methyl tertiary butyl ether, MTBE, is not something many of us were supportive of when we integrated it in the first place. This was something that coal companies and many of the petroleum refiners wanted as an alternative to ethanol. So it was a compromise. Many of us raised questions even then, back in 1991, whether it was going to be advantageous for us. We predicted that there could be some issues involving the use of MTBE, and those predictions were borne out.

As the case now has demonstrated, we are phasing out MTBE, as we should. But ethanol has shown itself now for 20 years to be what we said it was. It has proved to be, as advertised, the kind of clean-burning fuel that we have sought to increase not only clean air and the oxygen in gasoline but many other advantages.

Here is one fact I hope my colleagues will remember: In the year 2002, because this country incorporated ethanol into gasoline, the Department of Energy estimated that we will have reduced—it could have been EPA; don't hold me to the source but a governmental analysis done on the effects of ethanol—greenhouse gases by 4.3 million tons. That is the equivalent of 636,000 cars taken off the road. That is what we have been able to do just in 1 year, 636,000 cars taken off the road, the equivalent of which we have now acquired or achieved as a result of the utilization of ethanol.

Again, as to the chart, I don't know where it came from, but I will tell the Senate what the American Petroleum

Institute and the California Energy Commission, the Senator's own commission, have said. California will need to use 843 million gallons of ethanol to meet the clean air requirements next year, according to API, but under this amendment they will only have to use 252 million gallons. They are already using 600 million this year. California is using 600 million. The requirement would be that they use 252. There are the California Energy Commission comments.

Governor Gray Davis, quoted on March 15, 2002:

Let's let the Daschle bill pass. Have a nice schedule that will affect the entire country, phase ethanol in, protect the environment.

That is a quote from the California Governor.

California EPA Secretary Winston Hickox:

We need the Federal law changed for the flexibility that we are not in opposition to the stairstep in terms of the increase of the use of renewable fuels on a national basis. Potentially, ethanol is a creator of business and jobs in California.

These are from California officials.

One other issue, safe harbor. I was interested in comments made by the distinguished Senator from California on safe harbor. She actually supported safe harbor legislation on Y2K in 1999. There was no concern then about safe harbor problems when she voted for it. My other colleagues have voted for it as well.

Let me make sure people understand what we are talking about with regard to safe harbor. What we did was say if there is a defect in design or manufacture of renewable fuel by virtue of the legislation we are mandating these companies to use, then we will exempt them from liability as a result of the mandate. Do you know how many cases that is? That is estimated to be two one-thousandths of 1 percent—not two one-hundredths, not two-tenths but two one-thousandths of 1 percent of all cases involved situations where we are providing safe harbor.

I will tell you what we are not covering. We are not covering negligence. We are not covering the duty to warn. We are not covering personal injury. We are not covering property damage. We are not covering wrongful death. We are not covering compensatory damages or punitive damages. We are not covering all of those things about which the Senator from California has expressed concern. They are covered. They are in there; two one-thousandths of 1 percent providing the same safe harbor she voted for with the Y2K legislation in 1999.

I will have to move on to other matters in my schedule. I appreciate the opportunity to discuss many of the questions with the distinguished Senator from California. I have no greater respect for anybody in the Chamber than I do her. I consider her a wonderful and close personal friend. This issue has forced us to agree to disagree for years. This year will be no different. I appreciate her efficacy and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Might I say to the two Senators debating the issue, because of management problems, it appears this amendment will be set aside and will be voted on later in the evening but today, along with as many votes as we can stack with it, sometime after 4 o'clock this afternoon. I assume that is satisfactory to the Senator from California and the minority leader.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. It is. While the Democratic leader is still on the floor, I would like to address his comment about California's support, theoretically, which I don't think is correct. I address it with a letter from the California Environmental Protection Agency. California is very eager to get out from under the 2-percent oxygenate requirement. Just to sum up this last paragraph of an April 7 letter from Mr. Winston Hickox, the agency Secretary, it says:

Some have suggested that California should go along with the safe harbor as a small price to pay for elimination of the 2 percent mandate.

I disagree. Such a tradeoff makes no logical sense. Elimination of the costly and unnecessary oxygenate requirement has nothing to do with assuring that the State of California has a full array of enforcement and restitution options available to address MTBE-caused pollution problems. In short, I do not support a tradeoff that puts at risk the health of the citizens of the State.

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

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

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

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY,
*Sacramento, CA, April 7, 2003.*

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

DEAR SENATOR FEINSTEIN: Governor Gray Davis has asked that I respond to your March 24, 2003, letter regarding the fuels provision in the new energy bill being considered by the 108th Congress.

You asked if Governor Davis agrees with my statement that ''. . . California would rather have the status quo instead of limiting MTBE liability and getting an oxygenate waiver.'' The Governor does agree with this statement; we both feel that limiting liability for MTBE is the wrong approach. I appreciate the opportunity to discuss which ''fuels provisions'' are appropriate for inclusion in any comprehensive federal energy legislation. Specifically, I would like to focus on the MTBE safe harbor language and the two percent oxygenate requirement.

As a matter of policy and to preserve our legal options, I am strongly opposed to an MTBE safe harbor. Industry made a calculated business decision to use MTBE with full knowledge that it was a serious threat to groundwater. The State of California and others should not be limited in the ability to take strong action to address pollution problems caused by MTBE.

I remain steadfast in my support for elimination of the two percent oxygenate requirement. Studies have consistently demonstrated that this requirement is not necessary to achieve air quality goals and that it unreasonably raises the price of gasoline in California.

Some have suggested that California should go along with the safe harbor as a small price to pay for elimination of the two percent mandate. I disagree. Such a tradeoff makes no logical sense. Elimination of the costly and unnecessary oxygenate requirement has nothing to do with assuring that the State of California has a full array of enforcement and restitution options available to address MTBE caused pollution problems. In short, I do not support a tradeoff that puts at risk the health of the citizens of this State.

I also look forward to continuing to work with you on these important issues.

Sincerely,

WINSTON H. HICKOX,
*Agency Secretary.*

AMENDMENT NO. 844 TO AMENDMENT NO. 539

Mrs. FEINSTEIN. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. NICKLES, Mr. MCCAIN, Mr. KYL, Mr. GREGG, Mr. WYDEN, Mr. LEAHY, Mr. SCHUMER, Mr. SUNUNU, and Mr. REED, proposes an amendment numbered 844.

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

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

The amendment is as follows:

(Purpose: To authorize the Governors of the States to elect to participate in the renewable fuel program)

On page 6, between lines 17 and 18, insert the following:

(C) ELECTION BY STATES.—The renewable fuel program shall apply to a State only if the Governor of the State notifies the Administrator that the State elects to participate in the renewable fuel program.

Mr. DOMENICI. Mr. President, what is the amendment?

Mrs. FEINSTEIN. The amendment would give the right to the Governors of States to opt into the program.

Mr. DOMENICI. I assume it would be a second-degree amendment.

Mrs. FEINSTEIN. A second degree to the Frist-Daschle amendment, yes.

Mr. DOMENICI. Is it in order without a consent agreement?

The PRESIDING OFFICER. The Senator got permission to set aside the pending amendment by unanimous consent.

Mr. DOMENICI. She already did that?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I thank the Chair.

Mrs. FEINSTEIN. I thank the Senator from New Mexico.

Mr. President, this second-degree amendment to the first-degree ethanol

amendment would require the Governor of each State to opt into the ethanol mandate. Senators NICKLES, MCCAIN, KYL, GREGG, WYDEN, LEAHY, SCHUMER, REED, and SUNUNU are cosponsors of this amendment. I thank them for their support.

The pending first-degree ethanol amendment mandates 5 billion gallons of ethanol into our fuel supply by 2012, yet it exempts Alaska and Hawaii from this nationwide mandate. I strongly believe that each State should have this choice.

In the Environment and Public Works Committee, Senator MURKOWSKI offered an amendment to the ethanol mandate to exempt Alaska and Hawaii from the requirement because, first, Alaska and Hawaii are a great distance from the Midwest, where 99 percent of the ethanol is produced in the United States; secondly, families and businesses in Alaska and Hawaii would have to pay exorbitant costs for ethanol to be shipped to these States and blended into their gasoline.

I have the same concerns about increased fuel costs to families and businesses in California if the ethanol mandate becomes law. I am sure other Senators up and down the east and west coasts have the same concerns I do.

Because moisture causes ethanol to separate from gasoline, the fuel additive cannot be shipped through traditional gasoline pipelines. Ethanol needs to be transported separately by truck, boat, or rail, and blended into gasoline after arrival. Unfortunately, this makes the 1- to 2- to 3-week delivery time from the Midwest to either coast dependent upon good weather conditions as well as available ships, trucks, and trains equipped to handle large amounts of ethanol.

According to Steve Larson, former executive director of the California Energy Commission:

> The adequacy of logistics to deliver large volumes of ethanol to [California] on a consistent basis is uncertain.

In sum, it will be extremely costly to ship large amounts of ethanol to California and other States.

I believe every State outside the Midwest will have to grapple with how to bring ethanol to their States since the Midwest controls 99 percent of the production. Last year, the General Accounting Office indicated how unequal the effects of the mandate will be across the Nation. As the GAO reported:

> Ethanol imports from other regions are vital. However, any potential price spike could be exacerbated if it takes too long for supplies from out-of-State (primarily the Midwest, where virtually all of the production capacity is located).

Mr. President, on the issue of increased costs, let me quote from a Wall Street Journal editorial that ran last year:

> If consumers think the Federal gas tax is ugly, this new ethanol tax will give them shudders. Moving ethanol to places outside the Midwest involves big shipping fees or building new capacity. Refiners also face costs in adding ethanol to their products. According to independent consultant Hart Downstream Energy Services, the mandate would cost consumers an extra annual $8.4 billion at the pump the first 5 years. New York and California would see gas prices rise by 7 to 10 cents a gallon.

So Hart Downstream Energy Services is estimating an annual $8.4 billion increase cost at the pump over the first 5 years. They are saying that New York and California would see gas prices rise by 7 to 10 cents a gallon. Therefore, any shortfall in supply, either because of manipulation or raw market forces, will be exacerbated on the west and the east coasts, which will be reliant on ethanol coming from another region of the United States. Are we not just asking for trouble by mandating ethanol nationwide if it is produced almost entirely in one region?

The fraud and manipulation that went into the California energy market 2 years ago wasn't expected, nor did anyone ever believe it would happen. But it did. I think there is a problem when you concentrate too much control in either one region or in one producer. As you know, this bill does both. The largest production center is the Midwest, and the largest producer is Archer Daniels Midland, and they produce 46 percent of the supply. This sets up a scenario that leads to the concern, I believe, of both coasts about this mandate.

Since Alaska and Hawaii have an exemption in the ethanol mandate, why not give other States the opportunity to choose whether they want to enter the program? Why not give this choice to California, Oregon, Washington, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida? These are States that are far from the Midwest but where families and businesses will have to pay more for gasoline under the ethanol mandate.

This ethanol mandate forces ethanol into our fuel supply nationwide, and under the credit trading provisions of the mandate, if States do not use the ethanol, they have to pay for it anyway. This really adds insult to injury. If you do not use it, you have to pay for it anyway. What kind of public policy is that?

Additionally, forcing States to use ethanol they do not need and forcing States to pay for ethanol they do not use amounts to a transfer of wealth from all States to the midwest corn States.

Remember, ethanol is not necessary to achieve cleaner air. For California, the ethanol mandate will force more ethanol into our fuel supply than we actually need to achieve clean air. Once again, I will show you that chart because the cumulative answer to this chart is that it forces California to use 2.5 billion gallons of ethanol it does not need over 8 years, and that is fact.

If the ethanol amendment proves itself, if it cleans the air and does not pollute the air with increased ozone or smog and if it is cost effective, Governors will want to include their States. In fact, I believe most States in the Midwest will opt into the ethanol mandate because that is where 99 percent of the ethanol is produced.

The belief is there are 69 votes to support this ethanol mandate in this House. If that is true, what are they worried about? We would have 34 or 35 States automatically opting in. Why not give those few States that have real concerns and want out of the 2-percent oxygenate mandate and also out of the ethanol mandate the opportunity to show that they can reformulate gasoline to meet clean air standards without the amount that is prescribed upon them by this mandate?

This year we saw retail gasoline prices across the U.S. In the United States, retail gas prices rose from $1.44 to $1.73 per gallon over the first 10 weeks of this year. California's gasoline prices rose even more precipitously than across the United States, climbing from $1.58 a gallon on January 1 to a record setting $2.15 a gallon on March 17.

I recall on a recent weekend during that period when I was in the State, I actually paid, for the first time in my life, $50 for a tankful of nonpremium gasoline.

Since the middle of March, gasoline prices have decreased largely due to the decrease in the price of crude oil since the war in Iraq has ended. But gasoline in my State still sells for around $1.80. That is still up 30 cents from the beginning of the year.

One reason prices are so high is that the 1990 Clean Air Act required States to use fuel additives, called oxygenates, that we no longer need to achieve cleaner air. This ethanol mandate offered by the majority and minority leaders will only trade one bad requirement, the 2-percent oxygenate requirement, for another, the ethanol mandate, because now we will be mandating 5 billion gallons of ethanol into our fuel supply.

Since there are high costs for States, such as California, to comply with any mandated Federal requirement, and these costs are passed on, as we all know, to drivers at the pump, the ethanol mandate amounts effectively to a hidden gas tax, and I think consumers should know that. In fact, when we pass this mandate, not only are we passing subsidies for the industry, not only are we mandating its use, but we are also providing a gas tax raise.

Instead of mandating 5 billion gallons of ethanol into our fuel supply, we should be lifting all mandates, or at least allow the Governor of a State to opt in to this mandate if that State wishes to. We need to provide flexibility to refiners for them to optimize how and what they blend instead of forcing them to blend gasoline with either MTBE or ethanol.

Without eliminating these mandates, we can expect disruptions and price spikes during the peak driving months of this summer, on top of the high price motorists are already paying.

Bob Slaughter, the president of the National Petrochemical and Refiners Association, wrote in a letter to all Senators last week:

Forcing ethanol's use throughout the Nation will reduce flexibility in this Nation's gasoline manufacturing and distribution system, raise environmental concerns in ozone control areas—

For me, that is the Los Angeles area and the Fresno Central Valley area—

and will result in increased costs. And this is in addition to the fact that the product is uneconomic without the very significant Federal subsidies—a total of roughly $10 billion—it has received for 25 years.

This is not me saying this. This is the president of the National Petrochemical and Refiners Association pointing out that ethanol to date has received roughly a $10 billion subsidy which this bill, of course, continues, and increases.

Proponents of the ethanol mandate argue that gas price increases will be minimal, but their projections do not take into consideration the real-world infrastructure constraints and concentration in the market that I have just pointed out on this chart—concentration in the marketplace that could lead to price spikes. If I have ever seen a scenario that lends itself to control of the marketplace and to potential antitrust violations, it is this one.

Just look at the disparity. It is not spread out evenly: 46 percent for one company; Williams, 6 percent; Cargill, 5 percent; High Plains Corporation, 4 percent; New Energy Corporation, 4 percent; Midwest Grain, 3 percent; and Chief Ethanol, 3 percent. If I have ever seen a scenario for market concentration, it is this one.

The second-degree amendment I have offered will require the Governor of a State to opt into the ethanol mandate. If the amendment offered by the two leaders is so fine, so good, so beneficial for all of America, then Governors should want to include their States.

The Senators from Alaska and Hawaii have worked to allow their States to be exempted from this mandate. That is the first break in the dike. They said they did not even want to try it. I believe, and the cosponsors of this amendment believe, each and every State should have this choice.

If this program, as put forward by the leaders, is so fine, the Governors will opt in. If they believe it enables their State to have cleaner air, the Governors will opt in. If they believe they can produce the adequate infrastructure, the Governors will opt in. If they believe they want to see the tariff protection, the subsidies, the potential taxes at the pump, their Governor will opt in. But to force it on a State, when that State does not require it, when it can meet the clean air standards in another way, I believe is wrong-headed and short-sighted public policy.

I urge my colleagues to support this second-degree amendment.

Before I yield the floor, I remind the Chair I have offered two separate amendments, the EPA waiver first and the State opt-in as a second free-standing amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise today in support of Senate amendment No. 539, the renewable fuels package to the Energy bill, and to oppose the opt-in and waiver amendments of the Senator from California.

First, I will talk a little bit about the renewable fuels package and its benefit to the people of this country. The amendment contains language which was voted out of the EPW Committee, of which I am a member, earlier this year. The language establishes a nationwide renewable fuels standard of 5 billion gallons by 2012, repeals the oxygenate requirement for reformulated gasoline under the Clean Air Act, and also phases down the use of MTBE over 4 years. The language in this amendment has strong bipartisan support and is the result of long negotiation between the Renewable Fuels Association, the National Corn Growers Association, the Farm Bureau, the American Petroleum Institute, the Northeast States for Coordinated Air Use Management, and the American Lung Association.

I am very familiar with the amount of work that went into drafting the compromise legislation. It was lengthy, it was open, and I was very pleased all of these various groups could get together and work out that big compromise, particularly the Senator from Ohio, who has Ashland-Marathon Oil and also represents the sixth largest State in corn production.

I emphasize that the passage of the ethanol bill will protect our national security, help our economy, and protect our environment. The amendment the majority and minority leaders have introduced is a compromise that will triple the amount of domestically produced ethanol used in America. It is an essential tool to reducing our dependence on imported oil. I think we all know over 58 percent of the oil we use in this country is imported. Last year, we imported an average of 4,558,000 barrels per day from OPEC countries and 442,000 barrels a day from Iraq. Let me say that again. Last year, we imported nearly a half million barrels of oil from Iraq, and this dependence is not getting any better.

The Energy Information Administration estimates our dependency on imported oil could grow to nearly 70 percent by the year 2020, and our President has stated repeatedly that energy security is a cornerstone for national security. I agree. It is crucial we become less dependent on foreign sources of oil and look to domestic sources to meet our energy needs.

Ethanol is an excellent domestic source. It is clean burning. It is a homegrown renewable fuel that we can rely on for generations to come. The renewable fuels standard in this language will displace 1.6 billion barrels of oil. Ethanol is also good for our Nation's economy. Tripling the use of renewable fuels over the next decade will reduce our national trade deficit by more than $34 billion. By 2012, it will increase the U.S. gross domestic product by $156 billion. It will create 214,000 new jobs, expand household income by an additional $51.7 billion, and save taxpayers $3 billion annually in reduced Government subsidies due to the creation of new markets for corn. All of us who were concerned about the farm bill that passed last year are concerned about these subsidies. The passage of this ethanol amendment will help reduce the subsidy by $3 billion.

The benefits for the farm economy are even more pronounced. As I mentioned, Ohio is the sixth in the Nation in terms of corn production and is among the highest in the Nation in terms of putting ethanol into our gas tanks. Forty percent of the gasoline in Ohio is ethanol blend.

An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Currently, the ethanol production provides 192,000 jobs and $4.5 billion in net farm income nationwide. The passage of this amendment will increase the net farm income by nearly $6 billion annually, which is significant. Passage of this amendment will create $5.3 billion of new investment in renewable fuels production capacity.

Phasing out MTBE on a national basis will be good for our fuel supply because refiners are under tremendous strain from having to make several different gasoline blends to meet various State clean air requirements. And no new refineries—I want to underscore—no new refineries in this country have been built in the last 25 years. The effects of the various State responses to the threat of MTBE contamination, including bans and phaseouts on different schedules, will add a significant burden to existing refineries.

The MTBE phaseout provisions in this package will ensure that refiners will have less stress on their system and that gasoline will be more fungible nationwide. Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health.

Use of ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent. Ethanol also reduces emissions of particulates, which are a real problem in this country today, by 40 percent. Use of ethanol RFG helped move Chicago into attainment of the Federal ozone standard, the only RFG area to see such an improvement. It was done in the Chicago area by using ethanol.

In 2002, ethanol use in the United States reduced greenhouse gas emissions, something we have talked about a great deal on the Senate floor, by 4.3 million tons. Listen to this: The equivalent of removing more than 630,000 vehicles from the road. Think of that.

Over the course of the debate on this amendment, several arguments against the renewable fuels package have been raised by our colleagues from California and New York, ranging from concerns that a renewable fuels standard cannot be met and will raise gasoline prices to claims that ethanol is bad for the environment and allegations that this package will benefit a select number of producers without helping our farmers. These arguments remind me of the adage that you cannot let the facts get in the way of a good argument.

The concerns raised by opponents of the renewable fuels standard concerning the impact of RFS, the fuel supply, and gasoline prices, while understandable, I believe are completely unfounded. The fact is, our farmers will be able to meet the ethanol standard, and the combination of the MTBE phaseout and oxygenate waiver in this package will significantly improve our fuel supply system and lower costs for consumers.

Our farmers can meet the ethanol standard. For 2003, the ethanol industry is on pace to produce more than 2.7 billion gallons. The amount of ethanol required under the RFS begins at 2.6 billion in 2005. Adequate ethanol supply is simply not an issue.

Currently, 73 ethanol plants nationwide have the capacity to produce over 2.9 billion gallons annually. Further, there are 10 ethanol plants now under construction which when completed will bring the total capacity to more than 3.3 billion gallons. That is today. We are talking about 5 billion by the year 2012. There is no problem with achieving that goal.

California has been cited as a major problem area. However, all but two small refineries have already transitioned from MTBE into ethanol. California will use close to 700 million gallons of ethanol in 2003 after consuming roughly 100 million gallons last year. Think of that: From 100 million last year to 700 million this year.

The California Energy Commission has concluded the transition to ethanol ''is progressing without any major problems.'' The U.S. Energy Information Administration found the transition went ''remarkably well.'' The Energy Information Administration studied the RFS without accounting for the impact of banking and trading credits. This means they analyzed the effective cost of ethanol being blended at every single refinery and concluded the impact on refiner costs would be one-half of 1 percent per gallon. However, it was noted with credit trading ethanol will not need to be blended at every refinery. Forget about the fact we built into this the credit trading provision. This would reduce the impact because refiners will have the flexibility to use ethanol where it makes the most sense economically. Look around the country and they can trade, use it where it makes most sense economically.

In the absence of Federal legislation, consumers will likely be subject to the costs of uncoordinated State action, individual States adding the MTBE but cannot change the Federal RFG oxygen content requirement. This bill does that; it gets rid of that requirement.

The coalition of these two elements will likely lead to higher costs unless this bill is passed. For instance, California will ban MTBE in 2004 and the Federal RFG oxygenate requirement will be left in place if this does not pass. Therefore, California's required ethanol use in 2005 would be 895 million gallons. However, if the fuels provision of this amendment is enacted, fuel providers in California would be required to use far less ethanol in 2005, 291 million gallons, which could be even less with the bill's credit banking and trading provisions.

There is a lot of flexibility for States to do what is in their best interest. With a State MTBE ban set for January 2004, New York faces a similar situation. Under the status quo, fuel providers would be required to use 197 million gallons of ethanol in New York in 2005. However, if the amendment is passed, refiners, blenders, and importers would be required to use or purchase credits for even less—100 million gallons of ethanol in 2005.

A study concluded by Mathpro, a prominent economic analysis firm, found that compared with the situation where States are banning MTBE and the Federal RFG oxygen content requirement is left in place, the fuels provisions would decrease the average gasoline production cost by 2 cents per gallon. In addition, the fuels provisions provide safeguards in the event that RFS would severely harm the economy or the environment or would leave a potential supply and distribution problem, the RFS requirement could be reduced or eliminated.

The status quo situation creates transportation and infrastructure problems. It is individual State bans, as in California and New York, which will require the transport of large amounts of ethanol to States far from where it is produced. In contrast, a critical element of this fuels package is a national RFS with, as I mentioned, a credit banking and trading program to ensure that renewable fuels will not have to be in every gallon of gasoline. This will allow refineries to use ethanol where it makes the most sense.

Furthermore, ethanol is already blended from Alaska to Florida and from California to New York. Ethanol is already transported via barge, railcar, and ocean-going vessels from markets throughout the country. The U.S. Department of Energy studied the feasibility of a 5 billion gallon per year national market for ethanol and found no major infrastructure barriers exist and needed investments on an amortized per-gallon basis are modest and prevent no major obstacle.

Let's talk about our farmers and how it helps them. Some of my colleagues have used the supplier ADM, Archer Daniels Midland, as an argument that the market is dangerously concentrated. Contrary to the charts presented by the Senator from California, with the current industry expansion, ADM, according to the information I have, is at 32 percent of total capacity. By comparison, farmer-owned ethanol plants have increased their percentage of total production capacity from 20 percent in 1999 to 38 percent today. I know in my own State when I met recently with our farm community, there is talk of our farmer community investing in two new plants that will be owned by the farmers in the State of Ohio.

Furthermore, when ADM purchased another ethanol producer last year, the Department of Justice investigated the impact this would have on competition. They found that ''the acquisition did not warrant challenge in terms of its potential effect in the ethanol market.''

Contrary to claims of entry into the marketplace problems, the industry has grown by leaps and bounds over the past 3 years with 30 new facilities built since 2001. According to the Federal Trade Commission merger guidelines, entry time of less than 2 years is not considered a barrier to entry. The average entry time of the new ethanol facility is from 15 to 20 months. If the industry continues to add 8 to 10 facilities a year through 2012, we will have an additional 70 new facilities across this Nation to take care of any market control that anyone might want.

Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment of the ethanol program on the overall health of the Nation's economy. Recently, the USDA stated that the ethanol program would decrease farm program payments by $3 billion. In its analysis of this amendment, CBO stated the provision would reduce direct spending by $2 billion during 2005 to 2013.

Let's talk about the impact on the economy. Tripling the use of renewable fuels over the next decade will also reduce our national trade deficit by more than $34 billion. A lot of our trade deficit has to do with importing oil. It will increase the U.S. gross domestic product by $156 billion by 2012. It will create more than 214,000 jobs. It will expand household income by an additional $51.7 billion. As I said, it will save taxpayers a lot of money because of reduced Government subsidies to the agricultural community.

The benefits for the farming community are even more pronounced. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across the

States through this country. Currently, ethanol production provides 192,000 jobs and 4.5 billion in net farm income nationwide. Passage of this amendment will increase net farm income by $6 billion annually. As I said before, it will create 5.3 billion in new investment and renewable fuels production capacity.

Now, the environment. It has been brought up that ethanol is bad for the environment, that there have been problems and red flags thrown about the use of ethanol.

The Clean Air Act's reformulated gasoline program requires the same smog-reducing characteristics for gasoline whether blended with MTBE or ethanol. In other words, if you use ethanol you still must comply with the Act.

The RFS agreement includes strong anti-backsliding provisions that prohibit refiners from producing gasoline that increases emissions once the oxygenate requirement is removed. A Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in any area of the State. So if there is a period during one year where there may be a problem, a Governor can ask for a waiver from one provision.

The fuels agreement would benefit the environment in a number of ways:

It reduces tailpipe emissions of carbon monoxide, VOCs, and fine particulates.

It phases down MTBE over 4 years to address groundwater contamination, and since ethanol biodegrades quickly, it will not have the same problem.

It provides for one grade of summertime Federal RFG, which is more stringent.

It increases the benefits from the Federal RFG program on air toxic reductions.

It provides States in the ozone transport region an enhanced opportunity to participate in the RFG program because of unique air quality problems.

It includes provisions that require EPA to conduct a study on the effects on public health, air quality, and water resources of increased use of potential MTBE substitutes, including ethanol.

The use of ethanol-blended fuels also reduces so-called greenhouse gas emissions by 12 to 19 percent compared with conventional gasoline, according to Argonne National Laboratory. In fact, Argonne states ethanol use last year in the U.S. reduced the so-called greenhouse gas emissions by approximately 4.3 million tons, equivalent to removing the annual emissions of more than 636,000 cars. Additionally, a new report from the Pew Center on Global Climate Change concluded that:

> During the next 15 years, replacement fuels offer the greatest promise for reducing transportation sector [greenhouse gas] emissions.

Regarding benzene, there have been no conclusive studies showing ethanol-blended gasoline, leaked into an existing benzene plume would result in further benzene spread—blending ethanol usually equates to less benzene in gasoline.

According to the Northeast States for Coordinated Air Use Management:

> We are satisfied to have reached an agreement that substantially broadens the ability of the U.S. EPA and our Nation's Governors to protect, and in some cases improve, air quality, and public health as we undertake major changes in the Nation's fuel supply.

Also, after an environmental impact analysis, the California Environmental Policy Council gave ethanol a clean bill of health and approved its use as a replacement for MTBE in California gasoline.

The fuels agreement is supported by the American Petroleum Institute; the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management—NESCAUM; the American Lung Association; U.S. Chamber of Commerce; US Action; the Union of Concerned Scientists; the Environmental and Energy Studies Institute; the Governor's Ethanol Coalition.

We have heard so much talk about letting Governors opt into this program. I want to make it clear the Governors' Ethanol Coalition is supporting this ethanol agreement and this amendment. General Motors and, as Senator DASCHLE mentioned earlier today in his response to the Senator from California, the Governors of California and New York also support this amendment, plus all of the major, of course, agricultural organizations in the United States.

Again, I want to state for my colleagues particularly, there were many public and well-attended stakeholder meetings leading to this historic RFS fuels agreement.

So many times there are issues that come before the Senate where we have groups that have differences of opinion. So often, these groups never get together and talk to each other; they talk past each other. As one who has been so involved in this whole issue of ethanol, beginning frankly when I was Governor of the State of Ohio, I was always concerned that somehow we just could not get the folks from the oil industry and the corn growers and other groups together to talk about how we could come up with something that would make sense, that would satisfy their respective needs, to underscore the importance of the fact that they had a symbiotic relationship with each other; if they got together, they could come up with something that would achieve their respective goals.

That happened. It doesn't happen very often around here, but it did happen. I will never forget the press conference that was held in the LBJ Room. On that stage were representatives from a dozen or so organizations in this country, organizations that, if someone had said they would be on the stage together supporting this ethanol compromise, people would have said: No way. No way.

It happened. So I am saying to my colleagues, this has been vetted. It has been discussed. We have a good compromise. Let's not diminish it with the amendments that are going to be submitted to this very important amendment, this amendment that is so important for our country.

By the way, this bill has to get done this year. If we do not get this amendment done and deal with the oxygenate program and the MTBE, we are going to have chaos—chaos. If the people in California and New York think the gasoline price is high now, if this is not passed, it will go sky high.

I am saying to everyone, please, let's support this amendment and vote against any of the amendments to this amendment that are being submitted by some of my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the amendment offered by the Senator from California, the second-degree amendment, that I think injects a level of fairness in the underlying amendment. I respect the work of my colleague from Ohio and his appreciation for the effort that went into crafting the underlying amendment that doubles the ethanol mandate. Yet, I think that amendments can be offered to make this Energy bill as a whole, and this ethanol provision, a lot more sensible, make it a lot more fair to taxpayers, make it fair to States, and even improve the environment.

I want to touch on a few of those points. Certainly we will hear from a lot of Senators from States that benefit from the ethanol program and will benefit from an expansion in the ethanol program. They see its economic impact, perhaps, at the local level with their farmers or at the corporate level with some of the very big agribusiness concerns that benefit from this program. But I think we need to take a balanced approach. I think we need to weigh the impact on consumers. I think the Senator from California, Mrs. FEINSTEIN, has done an exceptional job of laying out the importance of reacting to the needs of those consumers, and the importance of taking a balanced approach. She has been a great leader on this issue, and I am pleased to be a cosponsor of her amendment.

As she indicated, doubling the ethanol mandate will have very significant costs. It will impose a burden on the States. There may well be an ethanol coalition of Governors, many of whom have economies in their home States that will benefit from the ethanol mandate. But we cannot escape the fact that this mandate does represent a burden on States, a burden on industry, and a burden on consumers. I think there are very questionable benefits outside a few of those farm-driven economies that I mentioned.

On the environment, the Senator from California has offered an amendment that in no way exempts States

from their obligations under the Clean Air Act, and in no way exempts them from having to meet the standards that any other State would meet in cleaning up the air we breathe. What it would do, simply, is to allow States to decide how to go about meeting those tough standards and would give States the chance to opt out of this ethanol mandate if they could otherwise meet those clean air standards.

This does nothing to diminish our commitment to the Clean Air Act. This does nothing to diminish our commitment to the environment.

So one has to ask the question: Why then mandate the use of this product, ethanol, on all 50 States? Although it has been pointed out that it is not actually 50 States, it is 48 States, as two States are already exempt from this requirement. I certainly believe you wouldn't exempt States from this mandate unless you recognized that it did have costs associated with it, and very significant costs at that.

This amendment offered by the Senator from California protects every bit our commitment to the Clean Air Act and to the environment. But it does reflect new costs to consumers—new costs from the logistics and shipping that is going to be required to move ethanol around the country. As has been pointed out, ethanol cannot move through the gas lines which already exist in this country. It has to be trucked and shipped and blended on the spot.

As the Senator from Ohio pointed out, we can do this. We have infrastructure that can accomplish this task. I would offer no disagreement there. Yes, we have trucks, ships, logistics, planners, and computer software to get it to where it needs to be, whether it takes a week or 2 or 3 weeks. That kind of a system is more susceptible to interruption and, therefore, price spikes. But we have the technology and capability to ship this mandated product around the country in order to blend it.

But we are just fooling ourselves if we pretend it wouldn't cost the consumer extra—and it will. We can have a debate as to whether or not a mandate will increase consumer prices 2 cents, or 4 cents, or 5 cents, over what amount of time, and why. But those newly imposed logistic requirements will cost money. I think we are going to address this cost issue.

I know the Senator from New Mexico is working on an amendment that will highlight the concern we should all have—that a mandate such as this increases the price to all consumers in the country. But we have to be wary of the costs. We also have to be aware of the fundamental fairness: Why give exemptions to two States and not allow other States to opt out of this program? I trust the States. I trust the Governors. I trust State legislators to take good steps that are in their self-interest to protect the environment in their States, to serve their consumers, and to ensure that they have an energy system that serves their States.

The Senator from Ohio said specifically that there is a lot of room in this legislation for States to do what is in their best interests. But then he suggested that to allow States to opt out would somehow encourage them to take steps that would make the system too complicated and actually raise prices back home in their States.

I don't think you can have it both ways. You can't say States will take steps in their best interests, but then suggest that if we gave them the opportunity to opt out of this program, they would take steps that weren't in their best interests. I think they will do the right thing. Certainly, when it comes to meeting the tough requirements of the Clean Air Act, I think States will do the right thing. And where ethanol makes sense environmentally and economically, States will move quickly to use it to the greatest extent possible.

From the standpoint of the environment, the Feinstein amendment does not weaken any legislation. From the standpoint of costs, the underlying amendment certainly increases the cost to the consumer. It is equally important from the standpoint of basic fairness that we treat all the States equally. If we allow some to opt out, we should allow them all to opt out if they so choose.

Given these facts, why would we force this mandate on the States? I don't know for sure what the answer is. But I think in part we are forcing this subsidy on the States to benefit some big, profitable companies. We can argue whether the five or six largest ethanol firms control 60 percent of the market or 70 percent of the market. But these are good, strong, profitable companies. They have great employees, and good leadership, I hope. But they ought not to be given a subsidy on the backs of consumers all over the country. We should not be providing a subsidy to these six or seven large firms and increasing the cost to consumers, while at same time we could be depleting $2 billion a year from the Highway Trust Fund when this mandate is phased in.

The Senator from Ohio pointed out that the Congressional Budget Office has said this will reduce direct spending by $2 billion. That is because it is going to suck $2 billion out of the Highway Trust Fund. Unfortunately, the result is more likely than not to be moving general fund money over into the Highway Trust Fund. That is not something I think we should be doing.

I think we need to be honest to the voters and honest to the consumers that when they pay taxes at the pump, it goes into the Highway Trust Fund and gets spent on infrastructure in this country. Ethanol is given an enormous, significant tax subsidy. I guess it depends on what you consider enormous. Is $1 billion or $2 billion enormous? It is certainly in my State. Some people would argue it is only a few cents, or 2 pennies. But $2 billion is real money where I come from. To take $2 billion a year out of the Highway Trust Fund, I think, is a mistake.

The reason we have heard a subsidy was justified in the past was that we needed the subsidy to get consumers to use the product. This legislation mandates that consumers use the product. You can't have it both ways. You can't mandate that they use it and then continue to give it a subsidy.

I suggest one or the other has to go. Either we have to allow States to opt out of this program and let the taxpayers in those States who think it is a good idea subsidize it, or we ought to get rid of the tax subsidy altogether.

The Senator from California has put together a good, thoughtful amendment that respects rights and lets States opt out of this program. I think this is the right approach. I support her amendment and I look forward to working with her further on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am pleased to join my colleagues on both sides of the aisle in support of the renewable fuels standard amendment to S. 14, the Energy bill on the floor.

I paid close attention to the comments made by the distinguished Senator from New Hampshire. I don't know whether I should make the remarks I have prepared or try to refute the things he said point by point. Maybe I will do a little bit of both and blend them up a little.

There was one statement made by the Senator from New Hampshire that I did want to point to at the beginning that I think is somewhat erroneous. The Senator from New Hampshire said there is going to be this money sucked out of the highway trust fund because of the use of ethanol. As everyone knows, there is a Finance Committee amendment that is going to be added to this measure or the Highway bill by both Senator GRASSLEY and Senator BAUCUS. It has broad bipartisan support. That amendment will address this issue. It was reported out of the Finance Committee. As I said, it has broad-based support I believe on both sides of the aisle. This proposal would reshape the ethanol excise tax exemption. Ethanol blended fuels will make a similar contribution to the highway trust fund as regular gasoline.

Mr. SUNUNU. Mr. President, will the Senator yield for a question?

Mr. HARKIN. The proposal by the Finance Committee will actually add $2 billion to the highway trust fund annually.

Yes, I would be delighted to yield for a question.

Mr. SUNUNU. Is the Senator suggesting that ethanol under this legislation be subject to the exact same excise tax to which gasoline would be subject?

Mr. HARKIN. I am not certain I understand the import of the question.

Mr. SUNUNU. Gasoline is subject to a Federal excise tax of 18.3 cents per gallon. The Senator's description suggests that ethanol will now be taxed at 18.3 cents a gallon as well and that revenue will go into the highway trust fund.

Mr. HARKIN. No. What I am suggesting is that in the past, as we know, a portion of the money was not added to the highway trust fund, it was added to the general fund. And there was a partial exclusion from tax on each gallon of gasohol sold. In effect we are making the highway trust fund whole in the expected Finance Committee amendment.

Mr. SUNUNU. If the Senator will yield slightly further, that is precisely the point I was making—that ethanol will not be subject to excise taxes. It will require taking money from the general fund to pay for this tax and putting it into the trust fund, so that the trust fund won't be depleted as a result of the fact that ethanol is not subject to the full 18.3 cent tax. If we treat the two equally, we should subject them both to an 18.3-cent tax. If you give ethanol the subsidy, what you are forced to do—exactly what you described—is move general fund money into the trust fund to cover that loss of revenue.

Mr. HARKIN. I say to my friend from New Hampshire, what we are doing is not taking money from the general fund. What we are doing is taking the money from the ethanol part of that which went to the general fund and putting it where it should have been in the first place; and that is, the highway trust fund. That is all we are doing. We are not taking money out of the general fund that comes from general income taxes and every other kind of excise taxes that are paid in this country. We are only talking about ethanol. It will add about $2 billion to the highway trust fund annually.

The other point the Senator from New Hampshire made, which I wish to respond to, is on the issue of whether or not this is a great burden on the States.

In California, nearly all of the refiners have voluntarily switched from MTBE to ethanol in advance of the State's MTBE phaseout deadline of January 1 of next year. Today, approximately 65 percent of all California gasoline is blended with ethanol. It is estimated that 80 percent of fuel in California will contain ethanol by this summer.

I am told that last month the California Energy Commission stated that the transition to ethanol, which began in January of 2003, is ''progressing without any major problems.'' There have been no ethanol shortages, transportation delays, or logistical problems associated with the increased use of ethanol in California. Thus, any efforts to carve out California, per the Feinstein amendment or amendments, from the renewable fuels standard, are unjustified and unnecessary.

Most ethanol sold in California is under a fixed price contract at about 63 cents per gallon, after the tax incentives are applied. Wholesale gasoline in California—that is what ethanol is blended with—is selling for $1.04 a gallon on average. So ethanol is cheaper per gallon in California than is regular gasoline. So how can this be a burden at all on California?

This renewable fuels standard, as has been said by so many before me, will increase the use of ethanol and other renewable fuels—including biodiesel; not just ethanol, but biodiesel—in the Nation's fuel supply from 2.6 billion gallons in 2005 to 5 billion gallons in 2012. This amendment is very similar to the language we overwhelmingly passed out of this body in the last Congress as part of a comprehensive Energy bill package. It represents the culmination of a historic fuels agreement negotiated by the agriculture, renewable fuels, petroleum, and environmental communities over the past several years.

Unfortunately, the agreement—the amendment we passed overwhelmingly last year—did not become law in 2002 due to the demise of the Energy bill in conference negotiations. This year, we must pass the renewable fuels standard and have it signed into law by the President, who has indicated his support for this.

The renewable fuels standard is truly an energy security measure. The former Director of the Central Intelligence Agency, James Woolsey, believes the renewable fuels standard is an essential component in the advancement of America's energy security. His sentiments have been echoed as well by ADM Thomas Moorer, former Chairman of the Joint Chiefs of Staff, and Robert McFarlane, former National Security Adviser under President Reagan.

The renewable fuels standard will displace about 1.6 billion barrels of imported oil over the next decade. As a result of this, we will save $4 billion in imported oil each year. This is a critically important first step toward energy independence for America.

As far as our economy goes, this renewable fuels standard amendment will add about $156 billion to our gross domestic product by 2012, spurring about $5.3 billion in new investment and creating 214,000 new jobs. It will boost farm income by $1.3 billion annually.

I am very proud of the example set by my own State of Iowa where we have 12 plants producing more than one-fifth of U.S. ethanol. We have two biodiesel plants, which place Iowa first in the Nation in producing this soy-based fuel. Thirty percent of our corn crop goes into value-added ethanol production, supporting over 1,500 jobs, and pumping nearly $50 million annually into our State's economy, which is of critical help to our rural communities.

These biofuels plants serve as local economic engines—providing high-paying jobs, capital investment opportunities, increased local tax revenue, and value-added markets for our farmers. A very large share of this production in Iowa is in plants built with the investments of farmer-owners.

I want to add a statement. I was looking at one of the charts my friend from California, Senator FEINSTEIN, had, which showed that Archer Daniels Midland had 46 percent of the production capacity—I think is what the chart showed—and all the rest of the plants around filled in the other 54 percent.

Well, it is true that Archer Daniels Midland has been a leader in ethanol production in this country. I commend them for it. They have really paved the way. They broke through the barrier. They invested the money in finding new ways and new technologies and a cost-effective means of producing and distributing ethanol. So I believe it would be normal for a company such as Archer Daniels Midland to have a significant share of production capacity because they were there first. They recognized the environmental impact it would have in cleaning up the environment, the impact it would have on saving us from imported oil, the impact it would have on local jobs and the economies in many States, and what it would mean to replace a potentially carcinogenic octane enhancer called MTBE.

So, yes, I commend Archer Daniels Midland for being a leader many years ago in starting to produce ethanol before many others even really thought about it. It is a very forward-looking company. They were there from the beginning.

I would point out, however, that most of the new productive capacity coming on line in America is from farmer-owned cooperatives, farmer-owned plants. They are the ones building the new plants in cities and communities that dot our countryside. I think you have to look at this in that context.

So, yes, I commend Archer Daniels Midland for being a leader in this many years ago, and for bringing us to the point where now we can spin off and spur more ethanol plant construction throughout the United States that basically is owned by smaller entities or by farmers themselves.

As I said, these plants serve as local economic engines in so many of our communities. The value-added benefits of ethanol mean a $2 bushel of corn is converted into $5 of fuel and feed co-products. That is another thing that people forget, that once we take the alcohol out of the corn, we have a very valuable byproduct left that can be fed to livestock, basically to cattle. So you get kind of two bangs for the buck out of it.

The renewable fuels standard is more than just about increasing this use of fuels; it is more than just about cutting down on the imported oil; it is more than just the economic engines that it provides in many communities; it is also about providing a healthy and

sustainable environment for future generations.

Ethanol and biodiesel greatly benefit public health and the environment by protecting air and water quality and reducing greenhouse gas emissions. They are nontoxic, biodegradable, energy efficient, and cleaner burning sources of energy than petroleum-based fuels. A new report by the Pew Center on Global Climate Change finds that ethanol-blended fuels offer us the greatest promise for reducing transportation-related greenhouse gas emissions over the next 15 years.

The U.S. Department of Energy has concluded that petroleum-based fuels account for 82 percent of carbon monoxide, which, according to the National Research Council, accounts for 20 percent of smog formation in cities. In contrast, the Environmental Protection Agency has determined that ethanol-blended fuels significantly reduce these emissions, and biodiesel nearly eliminates sulfur emissions that contribute to acid rain and reduces potential cancer-causing compounds.

Clearly, the renewable fuels standard represents a momentous opportunity to enhance our Nation's energy security, strengthen our economy, create jobs, boost farm and rural income, and help clean up our environment. The 5 billion gallons of renewable fuels that would ultimately be required by the renewable fuels standard would replace gasoline we currently get from foreign oil, and at the same time reduce the price at the pump. Simply put, renewable fuels make good, common sense for our Nation and all of its citizens.

More to the point of the amendment now before us by the Senator from California on State exemptions—there is really no need to grant States exemptions right now because in the underlying bill it already provides for States to be able to apply for and be granted an EPA waiver if they can show the RFS severely harms the economy or environment of the State or if there is an inadequate domestic supply or distribution capacity to meet the requirement. So, really, the amendment offered by the Senator from California is unneeded because there is already a waiver provision in there.

Well, our renewable fuels standard is something we passed last year overwhelmingly with bipartisan support. I know there will be several attempts here to weaken it. I hope we again have, as we did last year, overwhelming bipartisan support to keep this strong renewable fuels standard in this bill and, get this Energy bill through and to the President so he can sign it this year.

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

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I want to discuss with the Senate where we are. As manager of the bill, I am interested in trying to see if we can entice and excite Senators about bringing their amendments that have to do with the ethanol part of this bill to the floor today, if possible. We have two pending and, very shortly, we will have a consent agreement regarding voting on those two. That would give us the afternoon for further discussion on and the reception of other amendments with reference to ethanol—if Senators desire to do that. We are aware of two or three others, perhaps four Senators who would like to offer amendments regarding ethanol.

I remind Senators there are many more issues in this Energy bill, although this is a very important one. Obviously, we want it thoroughly debated and, ultimately, hopefully, from the managers' standpoint, we would like it to be adopted as part of the bill. Sooner or later, we have to head on to some of the other provisions. There are seven or eight contentious ones at least that need to be discussed. We are now awaiting final word from the other side as to whether we can proceed. I understand we can.

## MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to morning business.

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

## MEASURE PLACED ON CALENDAR—S. 1162

Mr. DOMENICI. Mr. President, I understand that S. 1162 is at the desk and is due for a second reading.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I ask that it be in order to read the title of the measure.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 1162) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. DOMENICI. Mr. President, I ask that the Senate proceed to the measure and object to further proceeding.

The PRESIDING OFFICER. Objection is heard.

Under rule XIV, the measure will be placed on the calendar.

## UNANIMOUS CONSENT AGREEMENT—S. 14

Mr. DOMENICI. Mr. President, I understand the ethanol sequencing of votes is acceptable, so I will propound the unanimous consent request.

I ask unanimous consent that a vote occur in relation to the Feinstein amendment No. 843 at 4:30 today and that there be 10 minutes equally divided for debate prior to the vote. I further ask that following that vote, the Senate immediately proceed to a vote in relation to the Feinstein amendment No. 844, with 4 minutes equally divided for debate prior to that vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, that means that at 4:30 we will start the first vote on S. 14, the Energy Policy Act. There will be two votes. There is another matter already pending, but we will await the arrival of the chairman of the HELP Committee, Senator GREGG, to see what his pleasure is regarding further time to debate the LIHEAP amendment and an amendment I made on his behalf thereto.

Hopefully that, too, can be disposed of today, although the Senator from New Mexico is in no way pushing that because Senator GREGG will use whatever time he needs in that regard.

Once again, Mr. President, I say to my fellow Senators, I know some of them have other amendments regarding the ethanol amendment. We also know that the ethanol amendment is very popular. We think it is a fair assessment to say it is probably going to pass rather handsomely in the Senate. Nonetheless, Senators desire to make their case and make their points, and the Senate is disposed, obviously, to let them do that. It would be nice if we could get that much of the bill done today; that is, debate on those issues pertaining to ethanol.

I note Senator BINGAMAN is standing. Perhaps he desires to speak at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I certainly have no objection to anything the chairman said, but I would like to clarify, the votes are to start at 4:30 p.m. today; is that what the unanimous-consent agreement provides?

The PRESIDING OFFICER. That is correct.

Mr. BINGAMAN. I appreciate that. I yield the floor.

Mr. DOMENICI. I assume I said 4 o'clock. I was incorrect. It is 4:30 p.m.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will

stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Ohio, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## ENERGY POLICY ACT OF 2003—Continued

Mr. TALENT. Mr. President, I want to speak briefly on the renewable fuels standard that is the subject of the Frist-Daschle amendment, and specifically with regard to a report released today by the National Corn Growers which contains yet another round of good news regarding ethanol.

For decades, those of us who care about energy in the United States and care about energy independence, who care about jobs and the creation of jobs, who care about the future and how we are going to have enough energy for this economy to expand throughout the 21st century have looked for alternative sources of energy. The Energy bill we are debating is a great progrowth, projobs Energy bill across the board. It encourages the production of traditional forms of energy, and it should. It encourages the production of oil and natural gas and nuclear energy. I support all of that. I think most of us in this Senate do. But all of us are concerned about the fact that the traditional forms of energy tend to be nonrenewable. There is a point at which we are in danger of running out. We import a lot of oil from foreign countries. About 59 percent of what we use in the United States we import.

We have all wanted and have talked about for decades the possibility of renewable sources of energy, particularly that we can make here. I go around Missouri and I talk with our corn growers and other agricultural producers about what a great day it will be when we can grow our own fuel effectively and when we don't have to worry about running out and being dependent on other countries.

As the Frist-Daschle amendment indicates, that day, if it is not here, is fast approaching. We are close to being able to grow our own fuel. That fuel is ethanol. It is a great day when that means more jobs for America. It will mean a greater measure of energy independence for our country and a greater measure of energy security for our country. It will mean support for and new markets for our family farmers and our agricultural producers. It is a good thing.

I am glad Senator FRIST and Senator DASCHLE have offered this amendment. I am a strong supporter of it. In fact, I am a cosponsor of it. I am proud of the fact that ethanol will be the subject of one of the first genuine bipartisan efforts in this country, and I hope that amendment passes.

The Corn Growers issued a report today designed to rebut some of the concerns that people have expressed. It is kind of ironic that we are now approaching this day when we actually have access to renewable sources of energy and alternative fuels. And some are getting nervous about it. Their report issued today indicates what common sense already tells us.

First of all, blending ethanol with gasoline at a 10-percent level, which is what the renewable fuels standard calls for, will reduce the retail price of conventional gas by 5 percent or 6.6 cents per gallon based on national average 2002 prices. This translates into an annual savings to consumers of $3.3 billion. The report says that. They have studied it for a long time. It really is a matter of common sense because when you increase the supply, the price goes down. The more ethanol we produce, the more we can rely on renewable sources we can grow and the greater the supply of energy.

The report also indicated that using corn and other grains to produce the 5 billion gallons of ethanol required by the renewable fuels standard will have an insignificant impact on consumer food prices.

In other words, the price of corn and other items is not going to go up because we have tremendous productive capacity in this country. As a matter of fact, we are not using the capacity we have. As a matter of fact, the price to consumers is going to go down because as our producers are able to grow corn and turn it into a value-added commodity, a valuable commodity, ethanol, the price of future farm bills is going to go down.

I was impressed very much when I was in Macon, MO, visiting our ethanol plant there. One of the producers who owns that plant pulled me aside and said: Senator TALENT, the real good thing about this is when the price of corn goes down, I make more money on the ethanol.

I thought to myself: Yes, that is one of the keys to ethanol. It will help smooth out some of the cycles of commodity prices, the ups and downs of commodity prices worldwide, which will mean that farm bills will become less challenging every 5 years. It will also mean more money for the transportation trust fund once we have adopted the tax changes that the Finance Committee has worked out and which will accompany or follow shortly after this Energy bill.

It is a good thing for America. It is a good thing for our producers. It is a good thing for the creation of jobs.

I am glad this amendment is being offered. I want to address briefly the amendment of the Senator from California. I know it is an amendment offered in good faith. It is an amendment to exempt California from the renewable fuels standard. It is a little hard for me to understand because the standard is not a mandate for the States. It is a mandate for the refineries. They have to have 5 billion gallons of ethanol refined and into circulation by the year 2012. That should not be difficult.

The use of ethanol is growing all over the country, precisely because of the advantages it offers, which I have outlined. Exempting States doesn't make any sense. California is already using ethanol. By this summer, 60 to 70 percent of the gasoline sold in California will be an ethanol blend.

I suspect that maybe States such as California think: we don't produce ethanol here; we don't want to have to import energy from other States. If you do not import energy from other States, and if you do not import ethanol from other States, you are going to have to import something from someplace in order to run the automobiles. I would a whole heck of a lot rather have States in this country importing ethanol, which is good for the environment and jobs in the United States, from other States in the U.S. than the alternative, which is to import gasoline, which is not as good for the environment and which does not mean jobs for our country, from Venezuela or from the Arab States or from some other place in the world. They are taking one of the tremendous virtues of the renewable fuels standard and trying to turn it into a vice.

It will reduce our dependence on foreign countries.

There is really no danger to the United States being dependent on fuel that we produce in the United States. It is a good thing to be dependent on fuel we produce in Missouri or Minnesota or North Dakota or South Dakota or Illinois or any of the number of States that produce ethanol.

I understand the uneasiness. The use of ethanol is growing very fast. Its future is coming on us very fast. Sometimes change is difficult to deal with. I was in a Breaktime convenience store in Columbia, MO, where they are selling ethanol at the pump for the same price they have traditionally sold gasoline. I went to this place, stood out next to the pump, talked to the proprietors, and said: This is the future. It is a good future. It is a national future for the United States. This is a national energy policy. We have one Union, not just 50 different States. We have one national economy, and we ought to have one renewable fuels standard for everybody, and we ought to have confidence in it.

I think this 5-billion-gallon standard will be very easily attained. I think we will be above that. States all over the country and consumers all over the country are using ethanol to their benefit and to the benefit of the Nation as

a whole. This is a pro-jobs, pro-growth Energy bill, and the Frist-Daschle amendment is a very important pro-jobs, pro-growth, pro-energy security and independence part of it.

Let's adopt that amendment. We do not need these weakening amendments. Let's face the future with confidence. One of the reasons we can do that is because the Nation will increasingly rely on fuel that we produce in this country in the 50 States.

I thank the Senate for its attention, Mr. President, and I yield the floor.

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

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

Mr. KYL. Mr. President, at this point I want to talk to the general subject of the two second-degree amendments offered by the Senator from California which will be pending for us to vote on later this afternoon. They both have to do with the requirement under the underlying amendment to impose an ethanol requirement for gasoline throughout the country and to not allow States to opt in or opt out of that mandated ethanol requirement.

One of the amendments by the Senator from California is to allow an opt-in, so that States that believe this will help them deal with their problems of ozone and the environment or other environmental pollution can opt into this program and take advantage of it; but for those States that believe it would be harmful to their environment, they would not have to opt in. The other amendment would require findings with respect to whether or not it would help the environment.

I want to comment about that because the State of Arizona is one of the States that would be adversely affected by a requirement to use ethanol. Partly, this is as a result of the fact that the climate in Arizona is very warm, shall we say, particularly in the summertime. Our summer runs essentially from April through October. During that period of time, ethanol does not work well in communities such as Yuma, AZ, and Tucson, AZ, because of the way it interacts with the surrounding hot air, and the product that is produced, the moisture from the tailpipe of the automobile, interacts with the air to in fact produce ozone, which is the very thing we are trying to prevent by the use of oxygenated fuel. As a result, Arizona has used an MTBE substitute oxygenate that doesn't create the same problem ethanol creates in the hot environs of the climates in Yuma or Tucson, AZ.

As you know, MTBE is associated with some environmental damage to aquifers, where MTBE has spilled into them inadvertently and, as a result, MTBE is being phased out.

Arizona receives all of its gasoline from refineries in California. Therefore, decisions California makes pretty well impact on what Arizona has available to it for its vehicle use. This is why, naturally, the points of the Senator from California are exactly the points I make, because they apply to the refineries in her State and the same kinds of climatological requirement that my State of Arizona has with respect to environmental protection.

So let me refer to several points with respect to the ethanol mandate and begin with that point of environmental impact. Ethanol is an extremely volatile fuel. It breaks down very quickly. In fact, it is virtually impossible to transport by pipeline because of this. It has to be transported by truck. Obviously, it is not produced in the West, in States like Arizona. It would have to be trucked in from other places such as the Midwest. This adds to the cost of the fuel, but that is another matter. Ethanol has been used as an additive in gasoline sold in the Phoenix and Tucson areas. But according to the Arizona Department of Environmental Quality, the State agency of the State of Arizona that is responsible for environmental protection in the State of Arizona, this mandate would be very bad for communities, as I said, like Yuma and Tucson, probably causing those areas to violate the 8-hour ozone standard under the Clean Air Act. This would have dramatic effects in Arizona. Those communities would be out of compliance.

There are a whole host of economic negative effects from finding a violation of the ozone standard. How can it be that the use of an oxygenate such as this would create more ozone? Because of the unique climate in Arizona in the summertime where, instead of reducing the amount of ozone particulate, it increases it.

Given the fact that there is no evidence that the use of oxygenates like ethanol would help improve the quality of air in Arizona, it seems to me a finding from the Arizona Department of Environmental Quality that says Arizona communities would likely violate the 8-hour ozone standard by being forced to use ethanol is a very powerful argument for the Governor of the State of Arizona having the option of opting into this program.

Why would the other States force on Arizona a program which our own Department of Environmental Quality says is going to make the air worse, not better—in fact, so much worse it will be in violation of the Clean Air Act? It is not as if the committee and the proponents of the underlying amendment have not understood that the mandate should not apply to all States. In fact, two States are specifically exempted—Hawaii and Alaska—from this mandate.

Why, if it is appropriate to exempt two States, is it not appropriate to at least afford other States the option of submitting themselves to this mandate or not, depending upon whether this mandate would make their air quality worse or better? It seems to me if we are really talking about environmental quality here, rather than a subsidy for the corn industry in the Midwest, then we would be looking at the environmental impact of a mandate of this sort. Since we have already decided that two States should not be required to comply with this mandate, we have already crossed the bridge of saying it is appropriate to exempt some States. Why not allow those States, with their departments of environmental quality having said they would be harmed, the ability to opt out, or the requirement that they opt in, in order for the program to be effective in the State? Why not allow that option for those States? What is so important about this mandate that every single State, except two—and I don't know why these two were exempted—is not at least given the opportunity to exempt itself from the provision?

It seems to me there has to be something else involved here. I suspect it has to do with the desire of the corn producers and the people who transform the corn into an ethanol kind of product to make a buck. But we already provide them a lot of bucks through the subsidy for ethanol that has already been voted on by the Congress, has already been in existence for many years, and which will increase in this bill. I could understand—I would not agree with it—a subsidy to try to produce more of something we think we want to produce. Even though I don't think that is a good idea, I could at least understand the theory that if we want more of something, we are going to have the Government provide a subsidy to produce more of it. I could also understand the alternative, which would be that this is such a good idea that we are going to force people to do it; we are going to mandate it because we in Washington know best, of course, and therefore irrespective of what the environmental quality people in your own State believe, by golly, we know better, so we are going to make them do it.

What is a little hard for me to understand is why we still need the subsidies if we are going to have this mandate. The purpose of the subsidies was to try to encourage this production, but we do not need the subsidies if people are going to be required to use ethanol. It is a mandate. We do not need the incentive or the encouragement anymore.

Clearly, this is about special interest money influence, and I will be that specific because the environmental benefits, especially to an area such as mine, have not been demonstrated. At least the point is made by an agency of my State that it would actually degrade the air quality of some parts of the State—in fact, pull them out of compliance with the Clean Air Act, and yet

the mandate would be imposed at the same time we continue to provide this subsidy. Something is drastically amiss here.

There is an old phrase, ''Follow the money,'' so maybe that is what we should do here. Let's take a look at the money part of this issue.

Currently, refiners use approximately 1.7 billion gallons of ethanol annually, and the underlying provision would increase that to 5 billion gallons annually by the year 2012.

There is no question that gasoline prices would increase, based on data from the Energy Information Administration. It has been estimated that the increase in gas prices caused by this mandate could be between $6.7 billion and $8 billion a year. So that is the price we as a country, as consumers of this product, will be paying simply to enrich the people who produce the product.

Arizonans will, according to this estimate, be paying on average 7.6 cents more per gallon of gas. Is that fair, Mr. President?

I speak very plainly about the subsidies to the ethanol industry. According to the Congressional Research Service—this is an unbiased source—the ethanol and corn industries have received more than $29 billion in subsidies since 1996 and could receive another $26 billion more over the next 5 years.

CBO, another unbiased source, has a different estimate for a different time period. They have estimated, based on a review of S. 791, the basis of the underlying amendment we are debating, $2.3 billion just between the years 2004 and 2008.

We also know there is an impact on the highway trust fund because every gallon of gas containing ethanol—10-percent blend—gets a 5.3-cent subsidy in the form of reduced gas taxes. This amounts to a 53-cent-per-gallon ethanol subsidy to the industry at the expense of the highway trust fund, and the Energy Information Administration has estimated that this will reduce the annual gasoline excise tax collections by an average of $892 million between the years 2006 and 2020.

Again, my State is a donor State already. Arizonans send $1 in taxes to the Federal Government and for highway transportation-related needs receives in return only 90.5 cents. So to the extent total revenues to the fund are reduced, the Arizona highway program will obviously be significantly impacted.

There are a lot of general points that I could discuss. There are disputes between authorities on the subject of whether or not it takes more to produce a gallon of ethanol than the gallon actually contains in terms of Btu content; in other words, do you actually have a net loss in net energy value. There are disputes about that. Some experts say about 29 percent more energy is used to produce a gallon of ethanol than the energy in a gallon of ethanol. The National Corn Growers Association, not exactly an unbiased source, disagrees with that. I do not know where the truth lies. Clearly, it seems to me the science is at best in dispute.

In any event, we would all have to agree that taking into account all costs, not just the energy cost, that clearly it costs a great deal to produce a gallon of ethanol or they would not need the subsidy which Congress has generously provided for its production.

I have already talked about the environmental benefits being questionable. It is not just my own State environmental agency but also a National Research Council report found that oxygenates have little or no impact on ozone formation, and there are a lot of refineries that claim they can actually produce similar environmental gains without the use of oxygenates. In fact, that is what we are going to have to do in Arizona because we cannot use MTBE, and we would hope not to have to use the ethanol, as a result of which we would have to find a different blend and would be committed to doing that.

It seems to me the ethanol industry, which enjoys this 5.2-cent-per-gallon exemption on the ethanol blend, or gasohol, from the 18.4-cents-per-gallon Federal excise tax on motor fuels, with the resulting mandate that the Congress is going to impose for the increase in the number of gallons used, would no longer need to be supported by this subsidy, which, as I said, works out to be 52 to 53 cents per gallon for pure ethanol.

The General Accounting Office estimates the tax exemption has deprived the highway trust fund—a slightly different number than I gave before—of between $7.5 billion and $11 billion over the 22 years it has been in place. This is a very costly subsidy and would be a very costly mandate.

Because the underlying amendment is costly, is not necessary, is contradictory with the subsidies that are already provided, and because the amendment of the Senator from California would simply provide the opportunity for States that would be adversely affected by this mandate to deal with their pollution problems in some other way—remember, they still have to comply with the Clean Air Act; nobody is exempting anybody from the Clean Air Act; they simply have to find a different way to comply—it seems to me it would be appropriate for us to support the amendment of the Senator from California and allow States to tailor their blends to the unique situation in their particular States.

Everybody would still have to meet the Clean Air Act but we could each do so in a way that best suits our individual purposes. For that reason, I hope my colleagues will support the amendment of the Senator from California.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

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

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to speak on behalf of the ethanol amendment and to comment upon several of the remarks that were made by my colleagues.

One of the items that was mentioned by the junior Senator from Arizona was the issue of subsidy. I think it is important we clarify the fact that, yes, ethanol has been subsidized over the years, but the Federal ethanol program was established following the OPEC oil embargoes of the 1970s.

I am old enough to remember the long lines in 1973. At that stage of the game, we were only about 34 percent reliant on foreign oil. Of course, we all know today we are 58 percent reliant on foreign oil.

So when the ethanol subsidy came in place and the program was established, we had a dangerous dependence on imported oil. That was one of the reasons they did it. As an alternative to petroleum, ethanol directly displaces imported oil and reduces tailpipe emissions while helping to bolster the domestic economy. Yet today, as I just said, we import more petroleum than ever before with rising crude oil prices and increasing international instability.

Incentives for production and use of domestic ethanol are critical; that is, we can rely upon ethanol. We cannot rely upon imported oil.

I think it is really important for all of us to recognize the fact that we have subsidized the oil industry substantially since the early 1900s. Some may not believe this, but the oil industry started out in the State of Ohio. It was called Standard Oil. Today we continue to subsidize the oil industry. In fact, according to the General Accounting Office, in an October 2000 report, the oil industry has received over $130 billion in tax incentives just in the past 30 years, dwarfing the roughly $11 billion provided for renewable fuels.

Here is an interesting fact: During this time, the U.S. oil production has plummeted while annual U.S. ethanol production has grown by over 2 billion gallons. The point is, when we got into the issue of subsidizing ethanol, we were in very bad shape in terms of our reliance on foreign oil. Since that time, we have made substantial progress.

During the same period of time, if you want to pit one industry over the other, we have seen our dependence on foreign oil grow despite the subsidy we have provided to the oil industry.

There is also the suggestion that the ethanol mandate will largely benefit producers, not farmers. According to

the U.S. Department of Agriculture, ethanol production raises the price of corn by 30 to 50 percent nationwide. This is an average of 5 to 10 cents additional premium in the areas that supply ethanol plants. Both of these numbers apply to all corn, not just corn sold to ethanol plants. Given a billion bushel corn crop, it adds between $3 and $5 billion to farm income every year. There is no question, ethanol is good for our farmers. Additionally, farmers own nearly 40 percent of the ethanol industry, and that is growing. These farmer owners realize value-added benefits from their investments.

A chart was referenced by the Senator from California about the fact we are relying on Archer Daniels Midland for 46 percent of our ethanol. The fact is it is now down to 32 percent. The real growth in producing ethanol is from ethanol plants financed by the agricultural community in the United States.

Finally, every major farm organization supports the fuels agreement, including, but not limited to, the following: American Farm Bureau Federation, the National Farmers Union, National Corn Growers Association, American Corn Growers, National Grain Sorghum Producers and American Soybean Association.

Now, we have some concern about what impact does this industry have on the National Treasury, our general fund. Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment in the ethanol program on the overall health of the Nation's economy. Recently, the USDA stated the ethanol program would decrease farm program payments by $3 billion per year. In its analysis of this amendment, CBO stated the provision would reduce direct spending by $2 billion during 2005 to 2013, certainly a partial offset to any subsidy given to the ethanol industry.

Tripling the use of renewable fuels over the next decade will reduce our national trade deficit by $34 billion. Our trade deficit is at an all-time high. A lot of that trade deficit has to do with importing oil. It will increase the U.S. gross domestic product by $156 billion by 2012 and create more than 214,000 new jobs. It will expand household income by an additional $51.7 billion, and it will save taxpayers $2 billion annually in reduced government subsidies due to the creation of new markets for corn.

We see a tremendous economic benefit to this ethanol industry in our country. That is why we are working so hard to have this amendment included in the Energy bill.

In addition to its importance in becoming more self-reliant in terms of imported oil, also in terms of our economy, ethanol helps our environment. This bill provides strong antibacksliding provisions that prohibit refiners from producing gasoline that increases emissions. Once the oxygenate requirements are removed, a Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in an area of the State. This is something that was not mentioned by the junior Senator from Arizona in his presentation. The fact is, if ethanol is such a big environmental problem in the State of Arizona, the Governor of Arizona can petition that they be exempt from the mandate provision. That is included in our amendment.

Last year, the ethanol industry also worked with EPA on the discovery and containment of the emissions from ethanol facilities. Consent decrees have been filed by the Justice Department in record time, and compliance by the ethanol industry has been cited as a model.

The fuels agreement we are asking Members to support will benefit the environment in a number of ways. It reduces tailpipe emission of carbon monoxide, VOCs, and fine particulates, and phases down MTBE over 4 years to address our ground water contamination problem. It provides for one grade of summertime Federal RFG, which is more stringent. It increases the benefits from the Federal RFG program on air toxin reduction. It provides States in the ozone transport region enhanced opportunity to participate in the RFG program. And it includes provisions that require EPA to conduct a study of the effects on public health, air quality, and water resources of increased use of MTBEs. We have tried to cover everything in this amendment.

The amendments to opt out of this program are unnecessary and unwarranted.

The fuels agreement contained in this amendment that passed the Senate last year includes the establishment of a renewable fuel standard and will provide for greater refinery flexibility in the fuels marketplace than the existing Clean Air Act oxygenate requirement. It does not require that a single gallon of renewable fuels be used in any particular State or region; rather, the requirement is on the refiners. The RFS will allow much greater flexibility in the work of oxygenates, which should reduce the chances that localized supply disruption of gasoline or oxygenates will result in retail supply shortages.

The additional flexibility provided by the RFS credit trading provisions will be a lower cost to refiners and, thus, consumers. The credit trading system will ensure that renewable fuels are used when and where most cost effective, which is why we have the credit and trading provisions. In California, we need to emphasize this.

By the way, California is the area where the junior Senator from Arizona says they are going to have to rely upon getting their ethanol blend gasoline. Nearly all the refiners, the people who provide the gasoline to the State of Arizona, have switched from MTBE to ethanol in advance of the State's MTBE phaseout deadline of January 1. The results can only be described as seamless. There have been no ethanol shortages, transportation delays, or logistical problems associated with the increased use of ethanol in the State of California. In fact, according to an April 2003 California Energy Commission report, the transition to ethanol which began in January 2003 ''is progressing without any major problems.''

We need to emphasize that. This is not going to discombobulate delivery of the gasoline in California or New York or other places that people say it will cause a problem. The Energy Commission of California says it is progressing without any major problems. Today, approximately 65 percent of all California gasoline is blended with ethanol. It is estimated that 80 percent of the fuel will contain ethanol by this summer. They are moving ahead. Only 100 million gallons of ethanol were used in the State last year. California refiners will use between 600 and 700 million gallons of ethanol in 2003. There is not any reason to opt out because of the fact that blended gasoline will not be available to these States.

This legislation is the result of a great deal of work and compromise on the part of many Members of the Senate working with a variety of organizations.

I would like to remind my colleagues of the organizations that support this. It is unusual, in terms of the diverse groups represented. It is supported by the American Petroleum Institute. There has been some talk that the oil industry does not support it. The fact is, the American Petroleum Institute is supportive; of course, the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management. Again, there is an area of the country that could be affected by it, and they like the compromise that has been put together.

We are talking about environmental concerns. The American Lung Association is supportive of this ethanol amendment. The U.S. Chamber of Commerce is certainly concerned about the impact this would have on the economy of the United States. The Union of Concerned Scientists, again, a very forthright, outspoken environmental organization that, on many occasions, is very critical of legislation being promoted in the Senate, says: We like this agreement that has been entered into.

The Environmental and Energy Studies Institute; the Governors' Ethanol Coalition; General Motors. Here is one that I think is really important for some of my colleagues who cannot make up their mind with regard to some of the amendments we are going to get to this ethanol amendment, and that is that the Governors of both California and New York support this compromise, and, of course, all the major agricultural organizations in the United States.

I urge my colleagues to support this ethanol amendment and defeat some of

the amendments that they are going to have an opportunity to vote on later on this afternoon.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, first, I compliment my colleagues, the chairman and ranking member of the Energy Committee, for doing such an incredible job on an Energy bill that is so needed in this great country. For the last 25 years, I think we have really begun to see the growth in our Nation and recognized the need for a modernization of our energy policy in this country. I think these Senators have done an excellent job in bringing together a diversity of issues, certainly in recognizing the need for renewable fuels, in looking at how we can work with cleaner burning fuels, the diversity of energy sources and resources that we can use in this great Nation. I applaud them for their hard work and diligence in that.

It is so important in our State. In Arkansas, both as a consumer as well as producer of energy, and certainly in terms of the rural nature of our State, so much of what is in this bill is going to be very productive for what we want to see happening, not only in the State of Arkansas but across this great Nation in new and innovative energy policy.

UNANIMOUS CONSENT REQUEST—H.R. 1308

Mrs. LINCOLN. Mr. President, I also would like to talk about something that has been on the minds of many of my colleagues as well as others across this great land. After we finished the growth package the week before we took our break, I had many concerns about what we were doing in that growth package and what we were trying to do, what supposedly was our objective in terms of stimulating the economy. I think it is so important to recognize the reasons why we wanted to stimulate our economy in this country. I think that really is to move forward the growth of this great Nation.

I think we need look no further than the American family if we want to understand why we want to stimulate growth in this great Nation to stimulate the economy. That is why I introduced the Working Taxpayer Fairness Restoration Act. I offered this bill on behalf of nearly 12 million children who were left behind when President Bush signed the 2003 tax bill. There were many of us who were very anxious to make sure we had a fairness in that stimulus package and in that tax bill; that there was a balance between fiscal responsibility and tax relief that would be available to all families.

I have introduced the bill with many of my good friends, including Senators SNOWE, WARNER, JEFFORDS, ROCKEFELLER, COLLINS, REED, BINGAMAN, LANDRIEU, JOHNSON, HARKIN, KENNEDY, PRYOR, BREAUX, EDWARDS, CLINTON, CORZINE, DURBIN, SARBANES, KERRY, LIEBERMAN, SCHUMER, LAUTENBERG, MIKULSKI, REID, GRAHAM of Florida, BAUCUS, LEAHY, NELSON of Florida, NELSON of Nebraska, LEVIN, CARPER, HOLLINGS, BIDEN, SPECTER, CANTWELL, DASCHLE, STABENOW, DODD, CONRAD, VOINOVICH, AKAKA, DORGAN, KOHL, CHAFEE, FEINSTEIN, and BOXER.

This bill would restore a provision left on the cutting room floor when the House and Senate leaders finalized the conference report on the tax cut.

Our bill will restore the advanced refundability of the child tax credit. My friend from Maine, Senator OLYMPIA SNOWE, and I have worked since 2001 to ensure all working families benefit from the child tax credit. We worked very hard to ensure in the 2001 tax cut that the child tax credit was refundable.

During the Finance Committee deliberations on this year's tax bill, I successfully offered an amendment that would have advanced the refundability of the child tax credit. Regrettably, that provision was dropped in conference.

Really, unless we pass this bill we have introduced soon, families with incomes between $10,500 and $26,625 will not get that $400 check that will be mailed in July as part of the 2003 tax bill. Since nearly half of the taxpayers in Arkansas have an adjusted gross income of less than $20,000, Arkansas families are among the hardest hit by this omission in the new tax law.

Consider this: The base pay for a private in the military, serving in Iraq, is just under $16,000 per year. The average Arkansas firefighter makes between $22,000 and $25,000 a year. Many of those enlisted men and women, who could be given a few days' notice before being shipped off to war, and those firefighters who could get no more than just a few minutes' notice before rushing into a terrorist attack—they all have families, or many of them do. They work hard to support their families and to protect us. Yet they got left out when negotiators shook hands over that final tax bill.

I was not in the room during those negotiations in the dark of night, and I understand very few of my colleagues were. But we are here today. We are all here in the Senate, working today, united, hopefully, in our effort to fight for these working families.

Advancing the refundable portion of the child credit to cover these families will cost only $3.5 billion—just 1 percent of the entire cost of that tax bill. This measure had strong bipartisan support in the Senate, I am proud to say. I was proud to play a leading role to expand the child tax credit in the Senate bill. I am glad to have bipartisan support in my efforts on the bill that we have introduced to restore this provision.

We will pay for this tax relief for working families by shutting down some of the Enron-related tax shelters. This pay-for was included in the Senate version of the 2003 tax bill that has already received the blessing of the majority of the Senate Members. Especially as our Nation contends with a sluggish economy, we should ensure that everyone benefits from the tax cut. After all, buying blue jeans for schoolchildren, washing powder for the laundry, or tires for the car costs just as much for a family making $20,000 a year as it does for a family making $100,000 a year. If we want to get our economy back on track, we need to make sure we are putting money into the pockets of consumers who will spend it.

This is not about partisanship. It is not about who is going to win here or lose here today or in the next coming days. That is certainly evidenced by the cosponsorship of this bill. What this is about is doing what is right for the families who may need a little extra help, families who are working hard, day in and day out, playing by the rules, bringing home a paycheck and trying to raise their children the best way they know how: with good values and good examples.

We should fix this problem—not in the future, not next year, not sometime down the road. We need to fix this and correct this inconsistency immediately. We have an opportunity to do what is right on behalf of the working men and women in this country who are working hard, creating a face for this Nation in the next 20 years.

What is our Nation going to look like in the next 20 years? What are the values of the leaders of tomorrow? These faces and these values are in the children we are raising today. It is not too much for this body, or the coequal body of the House, to say the time is right, to put our money where our mouth is, to give these hard-working families the opportunity to get a little extra—a little extra of the incredible amount they pay into the system, a little bit extra to raise those children the best way they know how.

I started by saying the initiative to stimulate the economy in this country was an initiative, I think, based on what we all wanted to achieve: Not just to stimulate the economy but to strengthen our Nation. And, once again, we have the opportunity, and we need to look no further than the faces of our children and the workers of the American family in order to be able to do that.

Let us make these American families our priority today.

I ask unanimous consent that the Senate proceed to calendar No. 52, H.R. 1308, a bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices; that the Lincoln substitute amendment, which is at the desk and is a modified version of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, be considered and agreed to; that the bill H.R. 1308, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate, on behalf of working American families.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, reserving the right to object, I ask unanimous consent that the request be modified so that all after the enacting clause of H.R. 1308 be stricken, and the text of the Grassley amendment regarding the child tax credit be inserted in lieu thereof; provided further that the bill then be read a third time and passed and the motion to reconsider laid upon the table.

Mrs. LINCOLN. Mr. President, with all due respect to my colleague, I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mrs. LINCOLN. Yes. I object.

I would like to comment. I think I know what the chairman is doing. I would like to comment that we did provide pay-for in our bill. My concern for what he has offered is that it is going to add another $90 billion or $80 billion to unpaid debt in this country, for which I don't believe there is a pay-for.

I respectfully object.

The PRESIDING OFFICER. Objection is heard to the modification.

Is there objection to the request?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, I would like to state what the Grassley proposal is.

It would make permanent the increase in the child tax credit. The bill signed by the President last week increases the credit from $600 to $1,000 for the next 2 years. The Grassley amendment would make the increase permanent.

Second, it would eliminate the marriage penalty built into the current child tax credit. The Grassley amendment increases the income phaseout for married couples filing jointly to twist the limit for single individuals filing alone. The Lincoln amendment fails to address this inequity in the current formulation of the child tax credit.

Third, the amendment would create a uniform definition of a ''child.'' This language is identical to the legislation introduced by Senators GRASSLEY and BAUCUS. This change reduces from five to one the number of definitions of a ''child'' in the Tax Code, which will simplify part of the code that will directly affect working families.

I might say to my good friend that I think she understands. I have the greatest respect for her. And, obviously, she makes a case today not only for herself but for many Senators and for many who voted with her in the days preceding as this legislation worked its way through here and through the conference in the House.

It is the responsibility of the Senator from New Mexico to respond in behalf of the majority, and I have done so. In doing so, I have offered a counterproposal. Obviously, it is significantly different than the one the distinguished Senator from Arkansas offered; nonetheless, a very significant proposal. I thank her for her generosity.

I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the chairman and my good friend, who is a diligent worker on behalf of children. I know his concern for the children of this country. I would like to express to him that in the counterproposal that has been offered, it was not my intent to look for an attempt or an excuse to reopen the tax package or to spend an additional hundred billion dollars. I simply felt very compelled—that with a small portion of this bill that could be rectified to make sure these working families in America could get the same benefit from this tax bill that everybody else will on July 1—to think this was an easy opportunity for us to do that. We had a pay-for that was reasonable and something that the rest of the Senate had already agreed to and that Senators probably felt very comfortable with. It was simply an opportunity to express to those families that we certainly believed they were a priority and that we could support them in this effort.

I appreciate the remarks of the Senator very much. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak very briefly and indicate my strong support for the Senator from Arkansas and her effort.

I think clearly we need to address this major failing of the previously passed tax bill, and we need to do so in a way that is fiscally responsible. That is exactly what the Senator from Arkansas has proposed—to find a way to pay for the refundability of the child tax credit. That is what she proposed earlier in the bill. That is what the Senate agreed to earlier in the bill. That is clearly what we ought to do at this point. I regret that we were not able to do that this afternoon. But I hope the opportunity to do so will recur at some point in the near future and we can, once again, do what we believe should be done to try to bring more equity to that tax package which was passed and signed by the President.

Mr. DOMENICI. Mr. President, it is my understanding that a vote will occur at 4:30; that there are 10 minutes prior thereto for debate on the first amendment equally divided into 5 minutes each for those proponents and opponents of that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Parliamentary inquiry: What is the title of the first amendment?

The PRESIDING OFFICER. The first amendment is amendment No. 843 offered by the Senator from California, the purpose of which is to offer an ethanol mandate renewable fuel program to be suspended temporarily if the mandate is harmful to the environment.

Mr. DOMENICI. Mr. President, I trust the Senator from California will be here if she desires to debate it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 843 AND 844

Mr. DASCHLE. Mr. President, I know we will be voting at 4:30 on the Feinstein amendments. Both amendments attempt to provide waivers to the States from the renewable fuels standard. There are several points to be made. I made some of them this morning. But in case my colleagues have not had the opportunity to evaluate the amendments or consider the concerns raised by many of us with regard to the amendments, I thought it would be appropriate for me to say a couple of words again now.

First of all, with regard to ethanol utilization, the State of California is currently using ethanol in 65 percent of all the fuel it is marketing within the State. That is expected to go up to 80 percent this summer. The Department of Energy in California has said there has been absolutely no difficulty in the integration of ethanol from a transportation point of view, a storage point of view, an environmental point of view, or a cost point of view.

So that would be first. Why have a waiver when there is no problem? The problem does not exist. In fact, studies have shown—that I pointed out this morning, one by the Department of Energy Information, one by the Department of Energy in California—that have said there is absolutely no connection between increases in the price paid for gasoline and the use of ethanol. So from a cost point of view in particular, there certainly isn't any need for a waiver.

Secondly, and perhaps far more importantly, this legislation provides that there is no mandate on the States. There isn't one requirement within the bill that says a State must use ethanol as part of its requirement under the law. That does not exist. The requirement is on refiners, not on the States. And the refiners are given wide latitude to make their decisions based on where it is appropriately marketable and not on any predesign with regard to the market itself.

We are not dictating to any oil company that that 65 percent now being used in California be used as a result of a legal requirement. That does not exist. We are simply saying: Look, we will let the oil companies and the refiners make up their own minds. And

with the credit trading system, the job is made all the easier.

I would also say that if worse comes to worst, we have said: Look, if all else fails, there is absolutely no reason why a State cannot apply for a waiver under the new law. Senator FEINSTEIN and others have suggested, well, they have applied for waivers in the past and have been turned down. I hasten again to add for those who may be confused by this, she is talking about the current law. In part, what we are doing now is amending the law, removing the oxygenate requirement, phasing out methyl tertiary butyl ether, MTBE, and providing an opportunity for States to get out from under requirements of the old law while at the same time coming up with a way with which our country can reduce its dependence on foreign sources, can find ways with which to clean up the air, and can do as much as possible to find markets for agricultural products within our own States and country. That is, in essence, what this bill provides.

So I simply say, Mr. President, as well intended as the Senator from California is, there is absolutely no reason why this waiver is necessary. They have one in the bill. They have the credit trading system in the bill. There isn't any requirement for a State to mandate the use of ethanol in this bill.

And, finally, it is working as we have predicted it would, certainly in those States where the markets have been allowed to work. California, as I said, now expects 80 percent of their fuel to incorporate ethanol through the summer. So it is yet another one of these constant myths that has to be destroyed and dealt with as we consider the many allegations about what it is we are trying to do.

Very simply, we are saying to the country, to the refiners, to petroleum marketers in particular: We are going to give you as much flexibility as you could possibly hope to have. And that is exactly what this legislation does.

Having said that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask my colleagues to support the second-degree amendment I offered this morning to the pending first-degree ethanol mandate that would provide authority to the Administrator of the EPA to waive the ethanol mandate if a State or a region does not need it to meet the requirements of the Clean Air Act.

In the pending first-degree ethanol mandate, there is waiver language, and that waiver language allows the Administrator of the EPA to waive the ethanol mandate if it would severely harm the economy or environment of a State, a region, or the United States.

I believe the EPA Administrator should also have the ability to waive the mandate if a State can show that it can meet the Clean Air Act standards without having to use ethanol. I think that is very important because all the refiners in my State tell me that if we allow them flexibility, they can, through the reformulated model of our gasoline, for the most part, meet Clean Air Act standards without this mandate. They may have to use some ethanol—and they are using ethanol now because there is a 2-percent oxygenate requirement—they may have to use some ethanol at certain times of the year in certain areas of the State, but they do not need to use the amount of ethanol that this legislation forces them—forces them, Mr. President—to use to meet the Clean Air Act standards.

This mandate forces California to use over 2.5 billion gallons of ethanol over 8 years that the State does not need.

On this chart, the red shows the forced use of ethanol. The blue shows the ethanol we would use in certain markets during certain seasons to meet Clean Air Act standards. As one can see, there is a huge differential between the red and the blue areas.

We use this amount shown in blue and do not use the rest of the ethanol which is shown in red which we have to pay for anyway. That is a wealth transfer, if you will. In the outer years, it most certainly is going to mean an increased price of gasoline at the pump for consumers.

All this amendment does is add to the waiver provision one other possibility for waiver, and that is, if a State can show that it does not need to use all of this extra ethanol to the EPA, the EPA can then waive the mandate. What could make better sense? Why would anyone oppose this as a matter of public policy? Why would any public policy force use and force costs on a consumer and transfer wealth to another area of the country when it is not necessary to do so? That is the crux of my argument. We do not need to use it. This chart clearly shows it.

If we look at another chart, we will see that we are forced to transport a lot of ethanol to get it out to California; that the big production of ethanol is in the Midwest in what is called PADD II. Mr. President, 2.27 billion gallons of ethanol are made in this area. The entire West makes maybe 10 million gallons of ethanol. Therefore, all of this has to be moved not by fuel line but by barge, by truck, by boat, by some other way, and increases costs. That is the reason for the waiver. If we can show that we can meet Clean Air Act standards, EPA can give those States a waiver.

I thank the Chair. I gather my time is up. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am prepared to vote. Do I have to yield back time?

Mrs. FEINSTEIN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Time is yielded back.

Mr. DOMENICI. I yield back any time I have in opposition.

The PRESIDING OFFICER. Without objection, the vote may occur at this time. The question is on agreeing to amendment No. 843. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay''.

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

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—35

| | | |
|---|---|---|
| Akaka | Feinstein | Nickles |
| Allard | Gregg | Reed |
| Allen | Hatch | Santorum |
| Bennett | Hollings | Schumer |
| Bingaman | Hutchison | Sessions |
| Boxer | Inouye | Shelby |
| Cantwell | Kennedy | Specter |
| Clinton | Kyl | Sununu |
| Collins | Lautenberg | Thomas |
| Corzine | Leahy | Warner |
| Ensign | McCain | Wyden |
| Enzi | Murray | |

NAYS—60

| | | |
|---|---|---|
| Alexander | Dayton | Lincoln |
| Baucus | DeWine | Lott |
| Bayh | Dodd | Lugar |
| Biden | Dole | McConnell |
| Breaux | Domenici | Mikulski |
| Brownback | Dorgan | Miller |
| Bunning | Durbin | Murkowski |
| Burns | Feingold | Nelson (FL) |
| Byrd | Fitzgerald | Nelson (NE) |
| Campbell | Frist | Pryor |
| Carper | Graham (SC) | Reid |
| Chafee | Grassley | Roberts |
| Chambliss | Hagel | Rockefeller |
| Cochran | Harkin | Sarbanes |
| Coleman | Inhofe | Smith |
| Conrad | Jeffords | Snowe |
| Cornyn | Johnson | Stabenow |
| Craig | Kohl | Stevens |
| Crapo | Landrieu | Talent |
| Daschle | Levin | Voinovich |

NOT VOTING—5

| | | |
|---|---|---|
| Bond | Graham (FL) | Lieberman |
| Edwards | Kerry | |

The amendment (No. 843) was rejected.

The PRESIDING OFFICER. The Senator from Virginia.

CHANGE OF VOTE

Mr. WARNER. I ask unanimous consent that on vote No. 203 my vote be changed from nay to aye. There is no consequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 844

The PRESIDING OFFICER. There are now 4 minutes evenly divided. Who yields time?

Mr. DOMENICI. Can we have order, Mr. President? I understand the Senator from California has 2 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. FEINSTEIN. Mr. President, I will just use a minute and then cede some of the remaining minute to the Senator from Arizona, if I might.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this amendment would allow a Governor of a State to opt into the ethanol program. Both Alaska and Hawaii have been able to become exempted from the ethanol mandate. The question this presents for many of us is this: If a Governor of a State believes the program is cost effective, believes it is going to clean up their environment, believes it is all of the things the ethanol proponents say it is, then surely that Governor will opt in.

But if a Governor of a State, depending upon geographical location, infrastructure for delivery, or science about the product, might decide not to opt into the program, that Governor would have that opportunity. This amendment is cosponsored by Senators NICKLES, MCCAIN, KYL, GREGG, WYDEN, LEAHY, SCHUMER, REED, SUNUNU, KENNEDY, and CLINTON.

I thank them for their support and yield the remainder of my time to the Senator from Arizona.

Mr. KYL. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let's make it clear that every State still has to comply with the Clean Air Act. The question is how they each choose to do so. In Arizona, the Department of Environmental Quality, the department of the State that is required to cause the State to be in compliance, says this mandate will actually cause two of our larger communities, Yuma and Tucson, to be in noncompliance with the ozone standard during the summer months. Each State can meet the requirements in the ways they deem best under the amendment of the Senator from California. Let's not mandate a one-size-fits-all—oh, excuse me, except for Alaska and Hawaii—for every State. Give the Governors who are responsible people the ability to decide whether this is the best way for their State to meet the Clean Air Act standards.

The PRESIDING OFFICER. Who yields time? The Democratic leader.

Mr. DOMENICI. Mr. President, can we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DASCHLE. Mr. President, this amendment is based on a misconception. The misconception is that somehow there is a mandate to begin with. There is no mandate for the States under this bill.

There is a requirement that refiners find a way to reach the goals that we set out in the legislation overall, both in energy as well as the ethanol itself, but there is no requirement that States meet some standard with regard to utilization of ethanol. And there is also an option for the States to opt out if they find the circumstances described by the distinguished Senator from Arizona would ever come about. States have the right to opt out, even though there is no particular mandate to opt into the program to begin with. This is a refiners obligation, not a State obligation.

Mr. DOMENICI. Mr. President, might I say, if you are for an ethanol program for the Nation, then you can't vote for this amendment.

If this amendment passes, there is no American ethanol program as we have been speaking of it in terms of reducing the American dependence on foreign oil. It becomes something different and not an American program to accomplish that purpose.

I yield the remainder of my time.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficent second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay.''

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

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—34

| | | |
|---|---|---|
| Akaka | Enzi | Leahy |
| Allard | Feinstein | Lott |
| Allen | Graham (SC) | McCain |
| Boxer | Gregg | Nickles |
| Campbell | Hollings | Reed |
| Chambliss | Hutchison | Santorum |
| Clinton | Inouye | Schumer |
| Collins | Kennedy | Sessions |
| Corzine | Kyl | |
| Ensign | Lautenberg | |
| Shelby | Sununu | Warner |
| Specter | Thomas | Wyden |

NAYS—62

| | | |
|---|---|---|
| Alexander | Daschle | Lincoln |
| Baucus | Dayton | Lugar |
| Bayh | DeWine | McConnell |
| Bennett | Dodd | Mikulski |
| Biden | Dole | Miller |
| Bingaman | Domenici | Murkowski |
| Bond | Dorgan | Murray |
| Breaux | Durbin | Nelson (FL) |
| Brownback | Feingold | Nelson (NE) |
| Bunning | Fitzgerald | Pryor |
| Burns | Frist | Reid |
| Byrd | Grassley | Roberts |
| Cantwell | Hagel | Rockefeller |
| Carper | Harkin | Sarbanes |
| Chafee | Hatch | Smith |
| Cochran | Inhofe | Snowe |
| Coleman | Jeffords | Stabenow |
| Conrad | Johnson | Stevens |
| Cornyn | Kohl | Talent |
| Craig | Landrieu | Voinovich |
| Crapo | Levin | |

NOT VOTING—4

| | |
|---|---|
| Edwards | Kerry |
| Graham (FL) | Lieberman |

The amendment (No. 844) was rejected.

Mr. REID. I move to reconsider the vote.

Mr. MCCONNELL. 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.

NEXT GENERATION LIGHTING INITIATIVE

Mr. BINGAMAN. Mr. President, will the manager of the legislation yield for a question?

Mr. DOMENICI. I am happy to yield.

Mr. BINGAMAN. Section 914 of this legislation directs the Secretary of Energy to establish a research and development program on solid-state lighting. I worked on this provision with the Senator from New Mexico, the chairman of the Energy and Natural Resources Committee, and I thought it would be useful to have his agreement that this program should not be a traditional grant, contract or cooperative agreement effort. The Department of Energy, DOE, should administer this program in partnership with an alliance of solid-state lighting industry partners who will act to guide and evaluate the research.

Mr. DOMENICI. I certainly concur. The alliance should be an inclusive but well-defined group of companies active in the research, development and implementation of solid-state lighting technologies in the United States. The DOE should select the alliance as quickly as possible, so as not to delay the program's implementation.

Mr. BINGAMAN. If the Senator would yield for a further question, I would like to know whether he also agrees that our intention is that academia, national laboratories and other research organizations should perform most of the fundamental research, while commercial entities, especially alliance companies, should perform most of the development and demonstration work. The selection of DOE laboratories should be based on demonstrated technical accomplishments

in the field of solid-state lighting, particularly inorganic and organic light-emitting diodes.

Mr. DOMENICI. Mr. President, again I completely agree with the Senator. I would also add that the intellectual property in section 914 is patterned after the Department of Energy's Solid State Energy Conversion Alliance, or SECA. Under the SECA model, research and development qualifies for the ''exceptional circumstances'' provision of the Bayh-Dole Act. Inventors still retain rights to their intellectual property. Those alliance participants who are active in solid-state lighting research and development will receive the first option to negotiate non-exclusive licenses and royalty payments to use the invention.

Mr. BINGAMAN. I thank the Senator and would ask one final question. I think he would agree that solid-state lighting is in its research infancy. While it holds a promise to make white light illumination 10 times more efficient than today's light bulb, it is imperative that the DOE implement this program quickly, and transfer the precompetitive research to industry, so that our country can retain its leadership position in lighting—a field that Thomas Edison started.

Mr. DOMENICI. I fully agree. The Senator serves as our ranking member and was instrumental in the adoption of this provision by our committee. I think we both expect that quick action by the Department of Energy will stimulate the private sector.

Mr. BINGAMAN. I thank the Senator for yielding.

AMENDMENT NO. 845 TO AMENDMENT NO. 539

(Purpose: To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes)

Mr. BINGAMAN. Madam President, on behalf of Senator SCHUMER and Senator LINCOLN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mrs. LINCOLN, proposes an amendment numbered 845 to amendment No. 539.

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

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

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

Mr. REID. I ask unanimous consent that the majority whip be recognized to speak for up to 5 minutes.

Mr. MCCONNELL. As in morning business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia? Without objection, it is so ordered.

Mr. MCCONNELL. I thank the distinguished assistant Democratic leader.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 539 WITHDRAWN

Mr. FRIST. I now withdraw amendment No. 539.

## MORNING BUSINESS

Mr. FRIST. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

The Senator from South Dakota.

Mr. DASCHLE. Madam President, I am disappointed that the underlying amendment was withdrawn. That was an amendment offered by the distinguished majority leader and myself. We are certainly going to be coming back at the earliest possible time to continue the debate.

We have had a good debate today. A couple of amendments were offered to the amendment. This is a revenue bill, and certainly it is within the right of the Senator from Arkansas to offer this amendment. This is a key amendment that I hope we can address. We have begun discussions about how we might address it over the course of the next couple of days. It would be my hope that we could get a vote on this amendment, whether it is freestanding or it is a part of the bill, and whatever our Republican colleagues may wish to offer as well, but we have to keep moving along. The sooner we can dispose of this amendment, the sooner we can get to some of these other issues.

I hope we can reintroduce the ethanol amendment at the earliest possible date, continue the debate on that, finish it, and then move to the other issues as we debate this bill.

So it is disappointing, but I hope we can regroup and begin again tomorrow.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I know the distinguished minority leader is disappointed, but not as much as the Senator from New Mexico. Obviously, we have worked very hard on what we think is a very good Energy bill. I think the United States deserves an Energy bill. I know there are other issues. I have no quibble with other Senators who have issues that they think are of great importance, including tax issues, but it is quite a surprise to see an issue of tax significance being applied to an Energy bill for the United States, although technically one might call it a tax bill.

Nonetheless, where there is a will there is a way. If I understand it, there seems to be a will tonight that we will proceed to try to iron out the difficulties between the parties as to the tax matters and then tomorrow proceed with dispatch to get the ethanol amendment back on board, and hopefully not have to go through the same amendments on ethanol that we have already had, and proceed with the lining up of some amendments on the Energy bill with which I understand the minority has indicated a willingness to help. We will work on our side to do the same.

Whatever time I had remaining under my 10 minutes, I yield back.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

Child tax credits are a separate issue from ethanol and energy, a very important issue, one we have been made aware of over the last several days that must be addressed. We will, of course, tonight, figure out the best way to address that, and it will be done in the very near future.

We will in all likelihood reintroduce the ethanol amendment, my amendment, with the Democratic leader, early in the morning, and over the course of tonight and this evening and early in the morning we will, hopefully, have a series of amendments

lined up, and we will be able to move directly to ethanol, on energy, so that we can progress with this very important legislation, the Energy bill, and this ethanol amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I do not quite understand why the ethanol provision had to be pulled at this point. I know an amendment was offered by my colleague and it deals with the child tax credit. It seems to me that could have been dispensed with rather quickly.

Let me talk for a minute about the child tax credit. First, I think the ethanol provisions are very important. I am a member of the Energy and Natural Resources Committee and I want this Energy bill done. We have a responsibility to get this moving and through here.

My colleague earlier today offered a unanimous consent request dealing with the child tax credit. It is not surprising to me that was offered. It probably would have been offered no matter what was before the Senate. The reason for that is the announcement in recent days regarding the final conference report of the tax package. That told us what most know; that is, when those who wrote this package gathered in a room someplace, there were not a lot of high-priced folks around trying to encourage them to make sure all American children were treated right with respect to the child tax credit.

Now we discover around 12 million children in this country are left out of this calculation of child tax credit. Why? Because some people allege—in fact, I heard it on a talk show today—some allege they do not pay taxes. These people do not pay taxes, we are told. I don't know what they are thinking when they say that because these are taxpayers. They work hard. Often these are the kinds of people who have to shower after work, not before work. They work hard all day long and they pay more in payroll taxes than they pay in income tax. And they are told by this Senate, they are told by the Congress, they are told by talk show hosts, that they do not pay tax and therefore their kids do not count.

This Congress ought to be embarrassed when it hears news reports about what the conference report said: By the way, we will provide a child tax credit, but we will decide that 12 million children are left out. Why? Because their families earn between $10,000 and $26,000. Somehow the Congress has decided they do not work, or they do not count, or they do not pay taxes. What a bunch of rubbish. What a bunch of nonsense. They deserve to be angry about this. We ought to be angry about it. What kind of priority is this? I don't understand it at all.

The fact is, when they look back at our work 10 years from now, or 100 years from now, the only thing historians will understand about us is what our value system was. What did we value? What did we think was important? What did we stand up for? Whose side were we on?

I watched this tax bill come together, and I waded through crowds of people in the Capitol—basement, first floor, second floor. I guarantee I have never had to wade through a crowd of people who came to Washington, DC, to make sure we were playing fair for these 12 million children, to make sure we were standing up for the families who were earning $10,500 a year to $26,000 a year. I guarantee the hallways are not filled with lobbyists being paid to represent their interests. I guarantee that.

But there are a lot of high-priced people around here protecting the interests of the people at the upper end of the income scale. We did not hear reports that they were being shortchanged, that children at the upper end of the economic ladder were left out. No, they were taken right good care of. It is just the folks at the bottom. The folks at the bottom, working people, people who work for $10,500 to $26,000 a year, who have kids, trying to raise a family, they are the ones who know about ''second''—second house, second mortgage, second shift, second job. And now they get second-hand treatment in the tax bill because they are told they don't count because they don't pay taxes. The heck they do not pay taxes. Of course they pay taxes. They pay payroll taxes out of every single paycheck. I am offended that people say people at the bottom of the economic ladder who find a paycheck less than their gross pay—and do you know why? Because they had taxes taken out—I am offended when people say they are not taxpayers. I am offended when somehow it is told they do not deserve a tax cut like all other Americans because the fact that they pay payroll taxes is somehow less worthy than others who pay income taxes. One-half of the American people pay higher payroll taxes than income tax and somehow this tax bill and those who worked on it decided they were not worthy, they were not taxpayers. We will tell their 12 million children they do not count. We will tell them it does not matter they have kids; they do not need the tax credit.

There is something horribly wrong with that value system. It is not surprising to me that someone comes to the floor—and if it had not been my colleague from Arkansas, it would have been one of a dozen others today—to say this needs to be fixed—not tomorrow, not next week, not next month. This ought to be fixed now. It ought not take an hour or a day. It ought to take 10 minutes for this Senate to understand its responsibility.

It's our responsibility to say to these people, the working people making $10,000 to $26,000 a year, trying to raise kids, working at a job, trying to do right, it is this Congress' responsibility to say to them: You get the same tax cut as other Americans do. We provide the same child tax credit for you as we provide for other Americans. You pay taxes; we intend to recognize it. That is the responsibility of this Senate.

I do not, for the life of me, understand why the offering of this amendment persuades somebody to take down the amendment in the Energy bill. That is nonsense. We can pass this in 5 minutes.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. I wonder, does the Senator think any parents of these kids earning $10,000 to $26,000 a year, do they benefit from the cut in dividend payments from corporations? Do you think they benefit much from that, which was in the final version of the bill?

Mr. DORGAN. I say to my colleague from Nevada, there is no question, these are not families who have dividends. These are not families who collect a lot of interest. These are families who live paycheck to paycheck, trying to make a living, trying to do right by their kids, trying to send their kids to good schools, trying to buy new clothes for the kid to go to school in September. These are families trying to make ends meet. They are always left out.

Frankly, I was surprised when I heard the President and others advertising the tax bill, saying we support a child tax credit for America's children—except he left out the colleagues of mine in the Senate who convened in a conference, without our participation. Nobody here was invited to that conference. They wrote a bill that said it is just some American children; it is not children from those families who make $10,000 to $26,000 a year because somehow they are not taxpayers.

Mr. REID. Will the Senator yield?

Mr. DORGAN. I am happy to yield.

Mr. REID. The Senator and I have been back in Washington for some time. Right out these doors and various other places in the Capitol, there are lobbyists, lobbyists who represent interests. Did the Senator run into any lobbyists during consideration of the tax bill, the people wearing the Gucci shoes, delivered to the Capitol in limousines, lobbyists representing these people who were left out of the benefits of this tax bill passed 2 weeks ago?

Mr. DORGAN. To my colleague from Nevada, this hallway in the Capitol outside this Chamber is never ever populated by those who are paid to represent the interests of people who work at the bottom of the economic ladder. They do not have full-time lobbyists crawling the Halls of Congress saying: By the way, give us a break on dividends; give us a break on this issue or that issue.

No, unfortunately, it is these families, the families who work hard, at the bottom of the economic ladder, struggling every paycheck, trying to make ends meet, who get the short end of the stick every time you open it up and look at the details.

I was surprised. I am a Lutheran Norwegian from North Dakota, kind of

stoic. I don't rise to the passion of some of my colleagues from New York, but this makes me angry. That is just because it is fundamentally wrong. It talks about our character, that we decide we are going to give some tax cuts, we are going to help some people out, but you know what. We will take a look at the top people and just give them a thick layer of butter on their bread, but to the bottom people we will say you don't count.

I will tell why. Mark my words. It is because those who wrote this bill believe that these are not taxpayers. Do you know why? Because somebody who is making $15,000 a year, trying to raise four kids, trying to patch up their car, seeing if they have enough money for new brake linings, seeing if they can afford to put gas in next week—it is because those people are working at jobs where in most cases they are not paying an income tax. But they are paying a payroll tax. The fact is, as a percent of their income, they pay a higher payroll tax than the people at the upper end of the income scale. But when it comes time for tax cuts, we have people sitting around a table here who say the only people who pay taxes in America are those who pay income taxes. That is pure nonsense and they ought to know better. There are taxpayers in this country—in fact, more than half of the American people pay higher payroll taxes than income taxes.

I frankly resent it when people say somebody at the bottom of the economic ladder who pays payroll taxes is not an American taxpayer. If we talk about trying to provide some stimulus to this economy of ours, trying to provide some lift to this economy by giving people purchasing power—and that is what people talk about, providing some purchasing power—the American economic engine is the working families out there. Provide them with purchasing power with tax cuts and they will make the economic engine purr—except they say those most likely to spend the child tax credit, those who need it most, those at the bottom of the economic ladder, working every single day, they should be left out and they and their 12 million kids should not count.

I know why it happened. It is because we have colleagues in this Chamber who say they are not taxpayers because they do not pay income taxes. But they pay payroll taxes. We have colleagues who say payroll taxes do not count; you are not a taxpayer.

I say that is sheer rubbish.

Mrs. LINCOLN. Will the Senator yield? Not only do they pay payroll taxes, but they also pay sales tax when they buy new tires for that vehicle. They pay excise taxes. For people who live in States like ours which are predominantly rural, who have to drive great distances to their jobs, perhaps, when they pump gasoline, they are paying an excise tax. They pay property taxes and also they have to pay State income taxes in some instances that are different from Federal income taxes.

The Senator from North Dakota makes some very good points. These are taxpayers, hard-working people trying to raise a family, playing by the rules, and they are paying taxes.

I would like to ask the Senator, when was the last time you saw anybody offer up a tax cut on their sales tax or on their excise tax or on the other taxes they do suffer from or that they are burdened with?

In other words, they are going to see all the tax increases but never see any of the tax decreases or the tax benefits, if we do not look to making these child tax credits refundable to those 12 million children who are out there, in these families who are continuing to pay not only payroll taxes but the sales taxes and the excise taxes and everything else out there. The Senator makes an excellent point.

Mr. DORGAN. Mr. President, Bob Wills of the Texas Playboys back in the 1930s had a song with a verse that fits almost perfectly the philosophy of those who wrote this bill and left out 12 million children.

> The little bee sucks the blossom,
> and the big bee gets the honey.
> The little guy picks the cotton,
> and the big guy gets the money.

It is a simple verse with an important lesson.

I followed a car the other day, an old car that had several children in it. They had the back bumper taped up but they had a bumper sticker that said:

> We fought the gas war and gas won.

I pulled up behind that car at a four-way stop sign and smiled to myself because, you know, in circumstances like that, that family trying to raise children, trying to keep an old car together, keep the bumper taped on, they figure everybody wins except them. They are trying hard but they do not win; somehow they do not count. That impression is always reinforced.

Yes, it is reinforced by Bob Wills in the Texas Playboys' verse, but it is reinforced every day in almost every way, especially in the policies of this Chamber.

It is about values. This decision we make about tax cuts is about our value system. What do we think is important? What do we hold dear? What is our character about?

Let me yield the floor in a moment by simply saying Mr. Wallis, the Convenor of the Call To Renewal, a National Federation of Churches and faith-based organizations, said:

> The decision to drop child tax credits for America's poorest families and children in favor of further tax cuts for the rich is morally offensive.

My whole hope is we just do the right thing and do it quickly. We know what the right thing is. It is not the right thing to say these 12 million children coming from the lower-income households, working households that are trying to make ends meet, that they should not count with the child tax credit. We know that is wrong. If we know that is wrong, and in our heart all of us know that is wrong, then we know what is right. What is right is to say we will fix it and we will fix it now—not tomorrow, not next week, not next month, not after we have another closed meeting and some secret conference—right now.

We can do that. That is our obligation, in my judgment, to a lot of people in this country who deserve a break from us—taxpayers. Yes, they are taxpayers who deserve some tax relief in the form of child tax credits, taxpayers who were left out of the original bill but who will, with the help of my colleagues, be put in, in this Senate.

Mrs. BOXER. Will the Senator yield? I know my friend from Arkansas has a very important meeting tonight, on behalf of her children, as it turns out. That is why she is the perfect person—I ask my friend, before he leaves the floor—to have brought this to us, because she knows children's needs very well, after raising the most beautiful twin kids who I happen to know personally and consider them friends.

I guess my question to my friend—and I will be brief on this question—is this: Does my friend have any idea—and I don't expect him to know—how many of these kids come from California? He talks about 12 million. Does he have any notion? I would say to my friend the answer is about 10 percent, about 10 percent of those kids.

I want to say to my friend that in this tax cut, if we do not fix it the way my friend from Arkansas wants to fix it—and make no mistake, it could have been done already, all this rigmarole and parliamentary procedure aside. In California people who make between $10,000 and $20,000, their average tax cut—does my friend have any idea what it might be?

Mr. DORGAN. I don't think it is fair for the Senator from California to ask me questions she assumes I can't answer. The correct answer is no.

I have to leave the floor.

Let me ask consent that my colleague from California be recognized for 3 minutes.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered. The Senator from California.

Mrs. BOXER. I will just take a minute. I would say it is important to note that the people in California—and I assume this is true of the people in the State of Tennessee, in the State of Arkansas, and perhaps New York as well—the people who earn between $10,000 and $20,000 a year, their average tax cut, which the President signed into law and most Democrats voted against and most Republicans voted for—their average tax cut is $7. These are working people. They are working. They are getting their hands dirty. They are keeping this country going. The top elite few get hundreds of thousands back and these people get $7 a year.

If they have children, they are suffering, and all my friend from Arkansas is saying is: Give these families a little fairness. They pay payroll taxes. They pay sales taxes. They have to live. And, by the way, giving them a check is going to stimulate this economy, not by giving it to people like Leona Helmsley. She has everything she needs, thank you very much. I don't mean to pick on her particularly—but Warren Buffett has said it well himself. He doesn't need it. He has his kids and their kids and their future kids and their future kids covered. He has every generation of Buffetts covered.

All we are doing is fighting for the people who need us the most.

I thank my friend from Arkansas for her courage and I want to say how much I support her and how much I am looking forward to voting in favor of her amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. REID. Mr. President, will the Senator yield for a statement?

Mrs. LINCOLN. Yes.

Mr. REID. Mr. President, I have been waiting to be recognized so I could lay on this RECORD a compliment from me, the people of the State of Nevada, and the country for the brilliant statement the Senator made this past Saturday on national radio. Rarely are the statements of the Democrats who follow the President's weekly address picked up on the weekly and hourly news shows on the weekends. But the statement of the Senator from Arkansas was on the news all Saturday afternoon and all day Sunday, the reason being that it was such a timely statement the Senator made. It is obvious that it had a tremendous impact because we have now heard from the majority. Paraphrasing the statements we have heard over here today: Yes, I guess we could have done a little better, and we will work something out so there will be some adjustments made on how children in America are treated for tax purposes.

The Senator from Arkansas, I believe, can take much of the credit for our being here today. I told her personally, and I want to say publicly, she did a tremendous job representing the people of Nevada and the rest of the country.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleagues from Nevada and California, and all of those who have come to the floor today to talk about a very important issue.

I also compliment my colleague, Chairman DOMENICI, as well as the ranking member, Senator BINGAMAN, for an incredible effort on our Energy bill. There is no doubt that we need to address the energy needs of this country. We have for the last 25 years tried to modernize what we do in energy. I think this bill is an incredibly important bill. I hope my amendment does not in any way diminish my support for what the chairman is doing in moving forward on the Energy bill. It is equally important to the working families of this great Nation that we address those issues and look at ways of finding alternative fuels. Lord knows, for those who pay the bill at home—the last time I paid my gas bill, it was enormously high, and for American families as well. When we look at an opportunity for an energy package, such as the chairman is bringing to us, we can certainly provide for our families some of their capabilities to raise their family and be productive and strengthen this great country in which we live.

I hope the chairman can understand. I noticed his disappointment as we shifted off that amendment. I, too, was disappointed. I was disappointed when this child credit bill was taken out of the bill in the dark of the night—something that was important to so many families across this Nation.

I also want to plead with those who are disappointed. We have shifted off only for a moment. We will return tomorrow and go vigorously at this Energy bill. We only have a limited amount of time.

This tax package was signed into law. Many individuals will reap its benefits come the first of July. But these 12 million children and their families will not get those benefits on July 1 unless we act quickly.

Certainly, we all know that when we have made mistakes, or when we have done something which we think we could have done better, what do we do? We immediately try to correct it. We don't sit around as it becomes worse; we deal with that issue.

That is all I have been asking. This is an appropriate bill. It is a revenue measure, and it is appropriate for me to bring up an amendment such as this.

Again, I don't want those who are working so hard and who have invested so much time, as I have, too, on the Energy bill to think we are trying to divert any of that attention. We are simply trying to correct something that was done incorrectly.

We only have a limited amount of time. We want to make sure that these families are given the same benefits and the same opportunities this tax bill will give other Americans to infuse the economy, to help grow the economy of this great country and, thus, strengthen our Nation.

We talk about it time and time again. I hope as we reflect on these families that we are actually trying to help those working families who are making between $10,500 and $26,625. These are the families who have been left out. I promise you, these people do pay taxes. Although they may not fall into the category of paying enormous income taxes, think of the sales taxes they pay, think of the excise taxes they pay, think of the property taxes they may pay, and think of some of the State taxes they may pay. They are paying taxes that are consuming a lot of their take-home pay. The problem we have is that they are trying desperately and passionately to raise their children with the same values you and I have.

Why does it come to my attention? It is because of the time I have spent at home over the past 2 years shadowing welfare moms as we were debating the welfare reform package, recognizing that it is as painful for that welfare mother leaving a crying child at daycare as it is for me, a Senator.

This past spring break, I spent my time traveling around the State of Arkansas visiting with workers. But then I, too, had to put on my hat and became a mom. I had to go and purchase blue jeans for my children. I had to buy tires for my car because my husband told me I had to—not because I wanted to spend my money there but because he told me it was for the safety of our family. We needed new tires. I had to put a new battery in my car—all of these things, none of which I did that was any different than any other working mom, no matter how much that working mom makes.

All we are doing is asking for fairness in a package that is there to stimulate the economy. And for what reason? So we can strengthen our country. Not only do we want to give these families the capability to provide for their children in a way that is going to make their children stronger Americans, smarter Americans, healthier Americans, more safe Americans, but we want to give them the opportunity to participate in strengthening this country. This is not a handout. This is reaching a hand to our neighbors—those who are doing the same things we are doing: Raising our children and strengthening our families.

I plead with my colleagues. If we notice something that we haven't done as best we could do it, let us fix it. Legislation is not a work of art; it is a work in progress.

A lot of my colleagues agree with me. I have 49 cosponsors since we introduced the bill yesterday. Six of them are Republicans. It is bipartisan. I don't want this to be a partisan issue. I want this to be a strengthening issue; that we in the Senate believe our working families mean enough to us that we are going to share with them less than 1 percent of this tax bill to help them raise their families, to buy those tires, that washing powder.

I paid the bill for my children's lunch tab at the school. None of these things is any different for these working families. We have to know that. We as a Senate have to know that. We can't sit on the pedestal and forget there are people out there trying to raise their families. We talk about values. We talk about how we want these children to be healthy, we want them to be tomorrow's leaders, we want them to have the compassion and the values that we talk about on the floor of this Senate.

My friends, the best way we can teach them that is to walk our talk, to

live these issues, to reach out to these working men and women of America, and say that our families are not just important to us, but your family is just as important; giving you this assistance to be the best families you can possibly be is a priority for us, a priority enough that we are going to take a few minutes out of our busy day on the floor of the Senate and correct something that we could have done better. We are going to take those few moments and make that happen. Then, we are going to resume our business with this Energy bill, and we are going to go back to our business of making the energy policy of this country even better for you, too.

So I hope my colleagues will not take this incorrectly. This is not about slowing down a train or missing the train stop. This is about reaching out to the working men and women of this country and saying: My children are not only important to me, but your children are equally as important to me. And I want to do all that I can to give you the ability to be the best parent and for you to have the best family that you possibly can.

To affect the lives of 12 million children—12 million children of working American families—is our opportunity this evening and tomorrow. These are people who are working. They are bringing home a paycheck, sometimes working two jobs, with both parents working perhaps. They have children.

I hope that as a body we will not miss that opportunity to move forward, show our great Nation—and other nations, too—that when we talk about our children and their future, when we talk about the future of this country and the role we have to play globally in the future workforce of America and the future leaders of America, that we do believe it is a priority, priority enough to stop for a few moments and correct something we could have done better.

Mr. President, I hope we will have multitudes of opportunities, as we move forward, to make a lot of things better, but in this opportunity here today and tomorrow as we begin to look at this issue and the bill that I have introduced, and that many of my colleagues have joined me in, I hope they will continue to join me in moving forward and doing what we can for the 12 million children who live in the working families of this great Nation, who have been left out of this tax package, to give them the relief and the opportunity to help grow and strengthen our country.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, before the Senator from Arkansas leaves—I know she has a meeting for her children—I want to add my accolades to that of my friends from Nevada and California. She has done a good deed. The Bible says: The best thing to do is do a good deed for those who are in need. She has done that, not only tonight but by her efforts in the Finance Committee and on the floor of the Senate because the children her amendment is aimed at are the ones who most need our help. So I know she has to attend to her own children. I thank her. All of America owes the Senator from Arkansas a debt of gratitude.

Mr. President, I am in full accord with what was said before about bringing this amendment to the floor. I do not like class warfare arguments. And I certainly believe there are certain tax cuts for people regardless of their income that stimulate the economy. I thought a tax cut was appropriate. But what really burns me is this idea that is circulating now that the people left out of the tax bill do not pay income taxes and, therefore, they are not entitled to a tax cut.

When you look at the working class, the people earning $10,000 to $26,000, they pay a much higher percentage of taxes than we do. They pay tax on gasoline. They pay a payroll tax. They pay property taxes, if they own a home. They pay the property tax in a passthrough when the home is rented. And their percentage is much higher than anybody else's.

If you want to talk about class warfare, look at this Wall Street Journal editorial today, ''Even Luckier Duckies,'' talking about these people who don't pay income taxes.

America, who would you rather be, a family with $22,000, paying no income tax—but paying a payroll tax, paying a sales tax, paying tax on gasoline—or somebody worth $1 million, God bless them, who pays $150,000 or $70,000 or $100,000, or whatever they pay in income tax? Give us a break. Who is doing class warfare? Who? I would say this editorial is class warfare. It is misleading as well.

''Luckier Duckies''? Well, if you want to define the world just by income taxes, you can. But ask any American—not just those making $10,000 to $26,000—ask any American making $60,000 or $70,000—at least from New York State—what is the tax they hate the most. It is not the income tax. It is not even the sales tax. It is the property tax. Do we define those people as well off because they pay little in income tax? Absolutely not. When a green dollar goes out of your hands for a tax, it is a green dollar, and it can buy food and it can pay rent and it does not matter if it is an income tax or a sales tax or a payroll tax. And, of course, the payroll tax is a Federal tax.

So this is not fair. This argument that these folks pay no taxes is bogus. The argument that they pay no Federal taxes, if they are working, is bogus. The idea that they escape the system scot-free while all the other wealthier people are struggling hard and paying money into the Treasury is bogus. They generally pay, as has been said before, a greater percentage of their income as taxes than more well-to-do people.

I read an article the other day in the New York Times. It wasn't about Federal taxes, but it took one census tract in Southern Queens in Ozone Park. It was an average census tract. I read about a family. They were talking about how tax increases in New York City—property tax increases, the increase in subway fare, which is not a tax increase but has the same effect—and the family was making, I believe it was $34,000. The mother worked in a beauty parlor and the father was a janitor at the library, and they had been saving $5 a week, I think it was, to have a party for their child's communion.

They kept an envelope, and every week Mom put the $5 in. And she started several years before because she knew the date of her child's communion and she wanted to have enough money to have a party for the whole family.

And now, because of these tax increases, because of the increase in the subway fare, and because of a rent increase on the block—and another family who was struggling was told by their landlord he would have to increase the rent because the property tax increased—there would be no party for the young child. It touched me. I wish every one of my colleagues could read that story.

This idea that people making $15,000 or $20,000 or $25,000 are ''Lucky Ducks,'' that is so unfair. It is not right. I would argue that is class warfare. And there are many people in America who are struggling and working hard. A lot of the people in the New York Times article I am talking about are immigrants. There is a very mixed group on those few blocks and around 101st Avenue in Ozone Park, NY. And every one of our families probably came here poor as church mice. Mine did. And every generation that starts here in America struggles. Mine did. And probably yours did too, Mr. President, at some point in the past.

No one is saying they are oppressed or beleaguered. They are fine people. They are the people who have made this country strong, along with so many others. But to say they are in great shape in terms of the Federal tax law, given the payroll tax they pay, to say they are in great shape, despite all the other taxes they pay—sales tax and property taxes, whether they own their property, or if not, the passthroughs—is just not fair. It is not right. It is not the best of America.

And I am not surprised this Chamber is empty. I am not surprised, during the course of this whole debate, not a single Senator from the other side, with the exception of you, Mr. President, who might have been here not quite by choice——

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

Mr. SCHUMER. I am happy to yield to my colleague.

Mr. REID. How long did my friend serve in the House of Representatives?

Mr. SCHUMER. Eighteen years.

Mr. REID. During that period of time, you served, as did I, with the now majority leader in the House of Representatives, Mr. DELAY; is that true?

Mr. SCHUMER. It is true.

Mr. REID. Is the Senator aware of a statement made by the Republican majority leader in the United States House of Representatives today that said:

They had their chance. There is a lot of other things that are more important than that. To me it is a little difficult to give tax relief to people who don't pay income taxes.

Is the Senator aware that the majority leader of the House of Representatives has made this statement today?

Mr. SCHUMER. I was not aware of it. I am glad my friend from Nevada has brought it to my attention. It is what I was talking about. It is so unfair to say there were other things more important in the bill than helping struggling families. Before my friend from Nevada came in, I was talking about an article in the New York Times about working families, about the income level we are talking about, and how one family had been saving $5 in an envelope every week so that their son might have a party at his holy communion for all his friends and family. And now they can't save that $5 anymore because taxes are going up and the costs are going up. To say that family is not struggling is amazing.

I also am interested to hear my colleague say that there were other things in the bill more important. If I heard him correctly, it seemed to me that the majority leader is not going to want to change this. Did he say that as well?

Mr. REID. The majority leader said:

They had their chance. There is a lot of other things that are more important than that. To me it is a little difficult to give tax relief to people who don't pay income taxes.

It is clear, in answer to the Senator's question, that the majority leader in the House of Representatives, the person who controls what comes and goes on that floor, has said that these people are out in the cold, for lack of a better description. They had their chance. As I discussed with the Senator from North Dakota, they had their chance. These people who make from $10,000 to $26,000 a year, their chance is weighed with the problems of people who make much more money. They have no one representing them. As I discussed with the Senator from North Dakota, there is no more populated area than the Halls of this Capitol Building when there is a tax bill up, with lobbyists who are looking for a little niche to help the elite of the country.

These people are not the elite. These people we are trying to help are not elite. They are people who, as Senator DORGAN said, take showers after work, not before. I am terribly disappointed that already the person who sets the agenda for the Republican House of Representatives has said these people are finished. They had their chance.

Mr. SCHUMER. I agree with my colleague. What is the purpose of saying they are doing OK because they don't pay income taxes, when they are paying 7.5 percent of their check into the payroll tax? That is something most Americans support, but they are sure paying a lot. Right then and there, when you have a $15,000-a-year job, and 7.5 percent comes out for the payroll tax, that is food off the table. That is not going without the second vacation or buying some special gift for your wife, that is food off the table.

When you pay that dollar to the Federal Government, to the State government, to the local government, do you think most Americans say it doesn't count because it is not an income tax? It doesn't count to pay property taxes? It doesn't count to pay sales taxes? It doesn't count to pay excise taxes?

That is the kind of logic that is what I call outcome determinative. You look at what you want to do: Help the wealthier classes for whatever reason. And then you come up with the argument that income tax is the only tax that counts.

I wonder if my friend saw this editorial in the Wall Street Journal, ''Even Luckier Duckies.'' Basically, it says this tax bill has made a lot of people very lucky because they won't have to pay income tax. And I asked my colleagues who were not here, how lucky do they think someone making $20,000 a year is compared to somebody making $200,000 or $2 million? Who would trade places? Who of those who make $200,000 or $2 million would trade places with the person who is making $20,000 so they could be a lucky duck and not pay income tax? Give me a break.

This is not America. This is not the generosity of spirit that this country has always shown. This is not the fairness that this country has shown. As I mentioned earlier, I don't like the class warfare arguments. I have supported tax cuts on individuals with some money to stimulate growth in the past and will continue to in the future. But to make it seem as the majority leader did, as did the Wall Street Journal editorial page, which often reflects the majority leader's view, that someone making $20,000 is lucky because they don't pay income tax, and someone making $1 million is unlucky because they pay significant income tax, that is turning logic, fairness, goodness of spirit, and having a good soul on its head.

I am happy to yield to my colleague.

Mr. REID. The Senator is aware that the tax bill, according to this White House, was passed to create jobs. The Senator has heard that?

Mr. SCHUMER. I have indeed.

Mr. REID. The Senator is also aware of people like Warren Buffett who said: I am going to get hundreds of millions of dollars as a result of this tax bill. I don't want the money. I don't need the money. I won't invest the money. You have heard him say this?

Mr. SCHUMER. I have indeed.

Mr. REID. Does the Senator acknowledge that any amount of money that people who are making $10,000 to $26,000 a year receive, whether it is $100 or $500, will be immediately spent to buy things that create jobs for people?

Mr. SCHUMER. The likelihood is much greater than somebody who is given the money who has a large income.

Mr. REID. The Senator is aware that here in Washington Members of the Senate every 6 years have to raise money talking to people to see if they will help us; is he not?

Mr. SCHUMER. People have said I am aware of that.

Mr. REID. Does the Senator think many Senators will go to this group of people who make from $10,000 to $26,000 a year for campaign contributions?

Mr. SCHUMER. I doubt it. Forget the raising of the money. I worry that they don't sit down and talk to somebody who is making that amount of money, ever. Yes, you may shake hands at a county fair. But how about sitting in a living room and talking to the family who is making $27,000 and has dreams for their children and is struggling to do the best for their kids and can't make ends meet? Again, that story about the communion touched me. But there was another one in that New York Times, an article about a family, a husband, wife, and two kids who were going to have to move out of the house they always lived in because their landlord got an 18-percent increase in property tax and he didn't want to pass it on. They were friends. It is a two-family house in a neighborhood in Queens. He didn't want to pass the property tax on as a raise in the rent for the people in the apartment. He had no choice because he couldn't make ends meet. He was not well off either.

Here is a family—they probably don't pay much, if any, income tax; I don't remember exactly what their income was, probably in the $30,000 range—who is going to have to move. They don't know where to find a place to live. The kids will have to be uprooted and go to a different school. Who in this Chamber would not choose to help that family out a little bit? I mean, create jobs? I have to tell you, a lot of these families have jobs. They had jobs. The hard-working sort of bottom-of-the-ladder jobs that they are starting out at. But not to give them a little break for their children because there is no room in the Tax Code and it is loaded with things for other people? Where are our values? Where are our priorities?

I wish every single person on both sides of the aisle would just go to three homes of someone making between $10,000 and $26,000 a year.

Spend a half hour with them and talk about their struggle and then come back and say we could not reduce the top rate by a little bit less.

I thank my colleague from Nevada for his questions. I think he hit the nail on the head. I am just saddened by this. If it were truly just a mistake,

then we would not have heard the language statement issued by TOM DELAY, the majority leader in the other body; if it were just a mistake, we would not have pulled an amendment that a lot of people care about—I am glad it was pulled, myself, because I am not for it—but it would not have just run off the floor. If it was a mistake, they could say, great, the amendment of the Senator from Arkansas was pulled out at the last minute and we are going to put it back in and show that it was a mistake. But, no. There will be a lot of concerns, and maybe we will get it and maybe we will not. I hope we will.

I am troubled—very troubled—by the fact that we have a view here that those making $20,000, or $25,000, or $15,000 are lucky ducks because they don't pay income tax. That is a view some in this Chamber seem to have taken.

Mr. President, I ask unanimous consent that today's Wall Street Journal editorial be printed in the RECORD.

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

[From the Wall Street Journal, June 3, 2003]

EVEN LUCKIER DUCKIES

The new tax bill exempts another three million-plus low-income workers from any federal tax liability whatsoever, so you'd think the nation's class warriors would be pleased. But instead we are all now being treated to their outrage because the law doesn't go further and ''cut'' income taxes for those who don't pay them.

This is the essence of the uproar over the shape of the child-care tax credit. The tax bill the President signed last week increases the per child federal income tax credit to $1,000, up from the partially refundable $600 credit passed in the 2001 tax bill. But Republican conferees decided that the increase will not be paid out to those too poor to have any tax liability to begin with.

Most Americans probably don't realize that it is possible to cut taxes beyond zero. But then they don't live in Washington, where politicians regularly demand that tax credits be made ''refundable,'' which means that the government writes a check to people whose income after deductions is too low to owe any taxes. In more honest precincts, this might even be called ''welfare.''

But among tax cut opponents it is a political spinning opportunity. ''Simply unconscionable,'' says Presidential hopeful John Kerry. The Democratic National Committee declares that the ''Bush tax scheme leaves millions of children out in the cold . . . one out of every six children under the age of 17, families and children pushed aside to make room for the massive tax cuts to the wealthy.''

Senator OLYMPIA SNOWE, the media's favorite Republican now that John McCain isn't actively running for President, says she is ''dismayed.'' ''I don't know why they would cut that out of the bill,'' adds Senator BLANCHE LINCOLN (D., Ark.). Those last two remarks take chutzpah, because if either woman had been willing to vote for the tax bill, a refundability provision would have been in it.

Senator LINCOLN introduced the idea in the Senate Finance Committee, but then announced she wasn't going to vote for the bill anyway. Ms. Snowe was also one of those, along with Senator GEORGE VOINOVICH (R., Ohio), who insisted that the bill's total ''cost''—in tax cuts and new spending—not exceed $350 billion. Something had to give in House-Senate conference to meet that dollar limit, and out went refundability. The bill passed by a single Senate vote, with Vice President DICK CHENEY breaking the tie.

As it happens, the tax bill does a great deal for low-income families even without the refundable child credit addition. It expands the 10% income tax bracket, meaning that workers can earn more before leaping into the 15% and 25% brackets. This is a far better way to provide a tax cut than is a refundable credit, because it lowers the high marginal tax rate wall that these workers face as their credits phase out at higher income levels.

There's also $10 billion in the bill earmarked for Medicaid, the state-federal health insurance program for the poor. And any family that actually has any remaining tax liability benefits from the extra $400 in child tax credit.

More broadly, the critics want everyone to forget how steeply progressive the tax code already is. IRS data released late last year show that the top 1% of earners paid 37.4% of all federal income taxes in 2000. The top 5% paid 56.5% of federal taxes, and the top half of all earners paid 96.1%. In other words, even before President Bush started slashing taxes on the poor by increasing the child tax credit in 2001, the bottom 50% of filers had next to no federal income tax liability.

But don't low-income workers have to cough up the payroll tax? They certainly do, but don't forget that the federal Earned Income Tax Credit was designed to offset payroll taxes and is also ''refundable.'' In 2000, the EITC totaled $31.8 billion for 19.2 million Americans, for an average credit of $1,658. Some 86% of that went to workers who had little or no income tax liability.

Republicans who just voted for the tax cut could be less defensive and try to explain all of this. But instead too many of them are heading for the tall grass, with Senate Finance Chairman Chuck Grassley already promising to cave as early as this week on the child tax credit. This is the kind of political box Republicans walk into when they endorse tax credits that favor one group over another. Democrats are better at playing favorites.

We raised some hackles last year when we noted this growing trend that more and more Americans paid little or no tax. ''Lucky duckies,'' we called this non-taxpaying class at the time. Notwithstanding liberal spinners, after this tax bill they're even luckier.

## BURMA

Mr. MCCONNELL. Madam President, another day has passed in Burma and the welfare and whereabouts of Aung San Suu Kyi and man of her supporters remain a mystery. The State Peace and Development Council—the rogue government there—claims that she is in a ''guest house'' in Rangoon and is in good health. If this is the case, the government should immediately allow foreign diplomats to meet with her.

The world's condemnation of the most recent murders and detentions in Burma has been swift. But words alone will not prevent the junta from assassinating more democracy activists in the days to come or detaining those whose only crime is calling for freedom and justice.

The lesson of the past few days is that dialogue has failed in Burma. Japan and other countries that advocate engagement with the SPDC as a means of political change have nothing to show for their efforts but the spilt blood of democrats and the re-arrest of Burma's greatest hope for freedom.

Foreign governments must join in a full court press to determine the health and well-being of Suu Kyi and others arrested over the weekend. Elected representatives in this body and the world's democracies must come together and forge a response to the vicious assault on freedom that continues in Burma. Our collective failure to do so will abandon the people of Burma in time of their greatest need.

Burma's regional neighbors—Japan, China, Thailand, and the Philippines, in particular—must understand the threats that a repressive Burma will continue to pose the region. Among the junta's greatest exports are drugs and HIV/AIDS—scourges that know no borders or boundaries. With terrorist threats in South Asia and Southeast Asia, the junta will continue to pose chronic problems to countries trying to close their borders to the trafficking of weapons, people, and contraband.

In conclusion, it is past time to hold the SPDC accountable for the many injustices it has inflicted upon the people of Burma. It is time for regime change in Burma.

Mr. MCCAIN. Mr. President, every so often a clarifying moment in international affairs reminds us of the stakes involved in a particular conflict, and of our moral obligation to stand with those who risk their lives for the principles of freedom. The violent crackdown against Burmese democracy leader Aung San Suu Kyi and her supporters over the weekend underscores the brutal and unreconstructed charter of Burma's dictatorship. The assault should remind democrats everywhere that we must actively support her struggle to deliver the human rights and freedom of a people long denied them by an oppressive military regime.

The arrest of Aung San Suu Kyi following a coordinated, armed attack against her and her supporters is a reminder to the world that Burma's military junta has neither legitimacy nor limits on its power to crush peaceful dissent. The junta insists it stepped in to restore order following armed clashes between members of Suu Kyi's National League for Democracy and unnamed opponents. In fact, the regime's forces had been harassing Suu Kyi and the NLD for months. The Junta's Union Solidarity Development Association orchestrated and staged last weekend's attack, killing at least 70 of her supporters and injuring Suu Kyi herself, perhaps seriously. Credible reports suggest that the regime's thugs targeted Suu Kyi personally. She is now being held incommunicado by Burmese military intelligence; her party offices have been closed; many of its activists are missing; and universities have been shut down. After having spent most of the last 14 years under

house arrest, Ms. Suu Kyi is, once again, a political prisoner.

Aung San Suu Kyi is one of the world's most courageous champions of freedom. I join advocates of a free Burma everywhere in expressing outrage at her unwarranted detention and call for her immediate, unconditional release, and the freedom to travel and speak throughout her country.

Closing party offices, shuttering universities, and detaining Aung San Suu Kyi and senior members of her party in the name of ''protecting'' her demonstrate how estranged the junta is from its own people, and how potent are Suu Kyi's appeals for democratic change in a nation that resoundingly endorsed her in democratic elections 13 years ago.

The junta's decision to release her from house arrest a year ago, and to permit her to speak and travel within tightly circumscribed limits, appeared to reflect the generals' calculation that her popular appeal had diminished, and that perhaps her fighting spirit had flagged. They could not have been more wrong.

Aung San Suu Kyi remains the legitimately elected and overwhelmingly popular leader of her country. Even though she was under house arrest in 1990, her party captured 82 percent of the vote, shocking the generals. Neither the huge majority of the Burmese people who voted for the NLD nor the international community have forgotten how Burma's junta rejected the election results, nor how the regime's forces massacred its own people at a democratic rally 2 years earlier. We have not forgotten the many political prisoners who remain in Burma's jails, or the repression Burma's people have endured for decades. The assault on Burma's free political future at the hands of the regime last weekend has reminded us of what we already knew: the junta cannot oversee the reform and opening of Burma, for it remains the biggest obstacle to the freedom and prosperity of the Burmese people. Burma cannot change as long as the junta rules, without restraint or remorse.

Despite these obvious truths, of which we have been reminded again this week, some countries have chosen to pursue policies of political and commercial engagement with the government in Rangoon on the grounds that working with and through the junta would have a more significant liberalizing effect than isolating and sanctioning it. ASEAN admitted Burma in 1997, Beijing has enjoyed warm relations with Rangoon, and most countries trade with it: only the United States and Europe impose mild sanctions against the regime. Proponents of engagement pointed to the nascent dialogue between Aung San Suu Kyi and the regime, and her release from house arrest last May, as indicators that perhaps external influence was having some beneficial effect on the dictatorship. But advocates of engagement have little to show for it following last weekend's assault on the democrats.

Burma's junta must understand quite clearly that it will not enjoy business as usual following its brutal attack on Aung San Suu Kyi and the NLD. It is time for the international community to acknowledge that the status quo serves nobody's interests except those of the regime: Burma's people suffer, its neighbors are embrassed, companies cannot do the kind of business they would with a free and developing Burma, the drug lords flourish in a vacuum of governance, and the situation inside the country grows more unstable as the regime's misrule increasingly radicalizes and impoverishes its people.

No country or leader motivated by the Welfare of the Burmese people, a desire for regional stability and prosperity, or concern for Burma's place among nations can maintain that rule by the junta serves these interests. I find it hard to believe that any democratic government would stand by the junta as it takes Burma on a forced march back in time. Yet this morning, when asked about the weekend's assault, the Japanses Foreign Minister denied that the situation in Burma was getting worse, said progress is being made toward democratization, and announced that Japan has no intention of changing its policy on Burma. Shame on the Japanese. Music to the junta's ears, perhaps, but I believe friends of the Burmese people must take a radically different, and principled, approach to a problem that kind words will only exacerbate.

The world cannot stand by as the ruination of this country continues any farther. Free Burma's leaders, and her people, will remember which nations stood with them in their struggle against oppression, and which nations seemed to side with their oppressors.

American and international policy towards Burma should reflect our conviction that oppression and impunity must come to an end, and that the regime must move towards a negotiated settlement with Aung San Suu Kyi that grants her a leading and irreversible poticial role culminating in free and fair national elections. If it does not, the regime will not be able to manage the transition, when it does come, for it will come without its consent.

I believe the United States should immediately expand the visa ban against Burmese officials to include all members of the Union Solidarity Development Association, which organized the attack against Aung San Suu Kyi's delegation last weekend. The administration should also immediately issue an executive order freezing the U.S. assets of Burmese leaders. U.N. special envoy Razali Ismail should not travel to Burma as planned this week unless he has assurances from the regime that he will be able to meet with Aung San Suu Kyi.

Congress should promptly consider legislation banning Burmese imports into the United States, and the administration should encourage the European Union to back up its commitment to human rights in Burma with concrete steps in this direction. The U.S. and the E.U. together account for over 50 percent of Burma's exports and therefore enjoy considerable leverage against the regime. The United States alone absorbs between 20 and 25 percent of Burma's exports. Consideration of a U.S. import ban should help focus attention in Rangoon on the consequences of flagrantly violating the human rights of the Burmese people and their chosen leaders. In coordination with a new U.S. initiative, an E.U. move in the direction of punitive trade sanctions would make the regime's continuing repression difficult if not impossible to sustain.

The junta's latest actions are a desperate attempt by a decaying regime to stall freedom's inevitable progress, in Burma and across Asia. They will fail as surely as Aung San Suu Kyi's campaign for a free Burma will one day succeed.

I yield the floor.

## HONORING OUR ARMED FORCES

### IN MEMORIAM OF ARMY SPECIALIST RYAN P. LONG

Mr. CARPER. Mr. President, It is with a heavy heart that I request a few moments today to reflect on the life of Army SP Ryan P. Long. In life, Ryan epitomized the best of our country's brave men and women who fought to free the Iraqi people. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Ryan reminds each of us how good we can be.

Following in the footsteps of his father, grandfather and great-grandfather, Ryan joined the Army in September of 1999. He was stationed at Fort Benning, GA with the A Company 3rd Battalion-75th Ranger Regiment and was assigned to a special operations unit working in Iraq. He was on his third overseas deployment with the Ranger battalion.

A lifelong resident of Seaford, DE, Ryan's passing has deeply affected the Sussex County community. Ryan was a remarkable and well-respected young man. His friends and family remember him as an honorable man with a free spirit. Ryan attended Seaford Elementary School and was a 1999 graduate of Seaford High School. Fun-loving and outgoing, he played on the soccer and golf teams and served as vice-commander of the Navy Junior ROTC program at Seaford High School. He was also actively involved in his Catholic church. In addition, Ryan enjoyed riding his motorcycles, snowboarding, and listening to music.

I rise today to commemorate Ryan, to celebrate his life, and to offer his family our support. Ryan dedicated his life to serving our country and gave his life defending its values.

IN MEMORIAM OF MARINE SERGEANT BRIAN MCGINNIS

Mr. President, I would like to set aside a few moments today to reflect on the life of Marine Sgt Brian McGinnis. Brian epitomized the best of our country's brave men and women who fought to free Iraq and to secure a new democracy in the Middle East. He exhibited unwavering courage, dutiful service to his country, and above all else, honor. In the way he lived his life—and how we remember him—Brian reminds each of us how good we can be.

A Delawarean who dreamed of becoming a marine from a young age, he wrote on his application to Caravel Academy that he wanted to attend the U.S. Naval Academy and become a Navy pilot. Brian's dream came true in 1998 in many respects when he joined the Marines. He subsequently was assigned to Marine Light Attack Helicopter Squadron 169 based out of Marine Corps Air Station at Camp Pendleton, CA.

Raised in St. Georges, DE, and in neighboring New Jersey, Brian attended Caravel Academy and graduated from William Penn High School in 1997. There he was a star wrestler and football player. It was at William Penn that he met his wife of 4 years, Megan Mahoney McGinnis. Megan describes her husband as a great person with a good heart—''the best there was!''

I rise today to commemorate Brian, to celebrate his life, and to offer his family our support and our deepest sympathy on their tragic loss.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Phoenix, AZ, on May 19, 2003. Avtar Chiera, a Sikh American, was seriously wounded after being shot twice. The 52-year-old truck driver was shot after he parked his 18-wheeler. The suspects, who were riding in a red pickup truck, yelled hateful comments. The FBI and Phoenix police department are investigating the shooting as a hate crime.

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 is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through June 2, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $1.769 billion in budget authority and by $2.959 billion in outlays in 2003. Current level is at the revenue floor in 2003.

I ask unanimous consent to print my first report for 2003 in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 3, 2003.*

Hon. DON NICKLES,
*Chairman, Committee on the Budget, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2003 budget and are current through June 2, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

This is my first report for the fiscal year.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
*Director.*

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JUNE 2, 2003

[In billions of dollars]

| | Budget resolution | Current level [1] | Current level over/under (−) resolution |
|---|---|---|---|
| On-budget: | | | |
| Budget authority | 1,874.0 | 1,875.7 | 1.8 |
| Outlays | 1,826.1 | 1,829.1 | 3.0 |
| Revenues | 1,310.3 | 1,310.3 | 0 |
| Off-budget: | | | |
| Social Security Outlays | 366.3 | 366.3 | 0 |
| Social Security Revenues | 531.6 | 531.6 | 0 |

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2003, AS OF JUNE 2, 2003

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in previous sessions: | | | |
| Revenues | n.a. | n.a. | 1,359,834 |
| Permanents and other spending legislation | 1,013,810 | 977,842 | n.a. |
| Appropriation legislation | 1,133,856 | 1,160,341 | n.a. |
| Offsetting receipts | −369,104 | −369,106 | n.a. |
| Total, enacted in previous sessions | 1,778,562 | 1,769,077 | 1,359,834 |
| Enacted this session: | | | |
| Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11) | 79,190 | 42,024 | 2 |
| Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18) | 3,479 | 3,479 | 0 |
| Gila River Indian Community Judgment Fund Distribution Act of 2003 (P.L. 108–22) | 1 | 1 | 0 |
| Unemployment Compensation Amendments of 2003 (P.L. 108–26) | 3,165 | 3,165 | 0 |
| Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27) | 11,347 | 11,347 | −49,489 |
| | 97,182 | 60,016 | −49,487 |
| Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs | 0 | 0 | n.a. |
| Total current level [1] | 1,875,744 | 1,829,093 | 1,310,347 |
| Total budget resolution | 1,873,975 | 1,826,134 | 1,310,347 |
| Current level over budget resolution | 1,769 | 2,959 | 0 |
| Current level under budget resolution | n.a. | n.a. | 0 |

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Note.—n.a. = not applicable; P.L. = Public Law.

Source: Congressional Budget Office.

## JOBS AND GROWTH TAX RELIEF RECONCILIATION TAX ACT, 2003

### ADVANCE REFUNDING

Mr. SMITH. Mr. President, I realize it cannot be considered as part of the pending legislation, but I ask Senator GRASSLEY to consider including a bill I have introduced, the Municipal Debt Refinancing Act, in future tax legislation. The Municipal Debt Refinancing Act would permit an additional advance refunding for bonds used to finance governmental facilities as part of the tax legislation to be considered by the Finance Committee. The Municipal Debt Refinancing Act would permit fiscally strapped State and local governments to take advantage of the current low market interest rates by refinancing their outstanding bonds an additional time. This proposal could translate into millions of dollars in savings for states and localities across the country. By requiring bond issuers to use the additional advance refunding authority within the next 2 years, the legislation also guarantees the maximum near-term benefit.

Individuals and corporations who borrow money are free to refinance these debts whenever the opportunity to borrow at a lower rate arises. State and local governments who issue tax-exempt bonds generally do not share this freedom. States and localities are permitted to ''advance refund'' outstanding bond issues only one time, or else they must wait until a pre-set date when interest rates have risen and the opportunity to garner savings has passed. But cost-saving refinancing opportunities typically occur only when market interest rates fall below the rate on the original bond issue. Issuers cannot effectively predict when this will happen. By providing an additional advance funding, your legislation would give issuers more flexibility to react to interest rate changes and manage their debt. This legislation would mean significant savings for State and local governments—many of which are in the midst of their worst fiscal crisis in memory—without raising taxes or increasing spending.

Mr. GRASSLEY. I appreciate the Senator's work in this important area. It is true that permitting States and localities to advance refund governmental bonds one additional time would provide important financial flexibility at a critical time. State and local governments across the country are facing unprecedented fiscal crisis. Being able to refinance debt at a lower rate will clearly translate into important savings for our Nation's cities, counties and states.

I assure the Senator this proposal will receive serious and thorough consideration by the Finance Committee, which I chair, as we address tax legislation in the future.

## ANDREW HARIG

Mr. BAUCUS. Mr. President, I rise today to thank Mr. Andrew Harig for his hard work on the Senate Finance Committee.

Andy was on the staff of the Finance Committee throughout most of the 107th Congress. He was an integral part of the international trade policy team which, among other things, worked hard to win passage of the implementing legislation for the U.S.-Jordan Free Trade Agreement and the Trade Act of 2002.

In my estimation, last Congress was the most productive in at least a decade on important international trade legislation. Last year, we finally built a new bipartisan consensus that ended a deadlock that had frozen progress on most new trade agreements for nearly a decade, finally made some real progress on integrating labor and environmental issues into trade negotiations, and revamped the U.S. programs for workers who lose their jobs because of trade.

In the press, the credit for these achievements was given to Senator GRASSLEY, Representative THOMAS, myself, and other Members of Congress. But as is always the case, the achievements on trade could not have been made were it not for the contributions of people like Andy who toil behind the scenes. Without their efforts there would be no legislation passed.

In Andy's case, he cheerfully undertook one of the most thankless tasks on the Finance Committee's list of responsibilities—passage of the Miscellaneous Tariff Bill. This legislation is made up of literally dozens of smaller bills that suspend collection of tariffs on products not made in the United States and address other Customs issues.

Passage of this legislation requires a seemingly endless effort to analyze the hundreds of bills submitted and eliminate those that are controversial or have too great a budgetary impact. It requires coordinating with a half dozen administrative agencies, the U.S. International Trade Commission, the other House of Congress, and, of course, 100 Senate offices.

As I said, it is a largely thankless task, but one that is critical to hundreds of American companies and thousands of American workers. Andy Harig was the lead staff person on this legislation for the majority and—together with his counterpart on the other side of the aisle, Carrie Clarke—he did the lion's share of this work.

Unfortunately, the Senate was not able to pass this important legislation last year, but Senator GRASSLEY and I continue to work on the bill, and I hope we can eventually win passage of it—either as a free standing bill or as part of other legislation.

But whether we succeed or not, the Senate, the business community and I all owe Andrew Harig thanks for his efforts on the Miscellaneous Tariff Bill and other international trade legislation.

Andy has decided to leave the Senate to pursue an opportunity in the private sector. I wish him all the best. Of course, the Senate will continue to work after Andy leaves, but I think it will be a bit poorer for the loss of another hard-working staff person. Goodbye, Andy, and good luck.

## HONORING IOWA STUDENTS WHO PARTICIPATED IN THE WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION NATIONAL FINALS

Mr. GRASSLEY. Mr. President, I will take a moment to congratulate the individuals from Central Academy in Des Moines, IA who participated in the We the People: The Citizen and the Constitution national finals in Washington, DC. This event is the culmination of extensive study by students throughout the country of the American system of constitutional democracy. The students from Central Academy won the State competition in West Des Moines and thus were given the distinction of representing Iowa in the national finals. I had the opportunity to meet with these students when they were in Washington and I am certainly proud to have had them representing the great State of Iowa. I am also pleased that my staff member, Aaron McKay, was able to be involved in this program as a judge for both the Iowa competition and the national finals as well as acting as a mentor for the team going into the finals. The We the People: The Citizen and the Constitution program, run by the Center for Civic Education with the help of Federal funding, provides an outstanding curriculum that promotes civic competence and responsibility among elementary and secondary students. Students take away a solid understanding of the origin of American constitutional democracy as well as the contemporary relevance of our founding documents and ideals. In short, it produces better citizens. In fact, I would like to personally recognize the Central Academy students who participated in this program, Alexander Body, Alec Davis, Ainslee Ericson, Joanna Grillas, Brian Haroldson, Daren Ho, Meryl Houser, Jonathon Kent, Michael Larking, Conrad Lee, Kyle McCord, Jasmine McDowell, Eleanore Neumann, Timothy Smith, Akili Thomas, Sarah Wang, Kyle Wilkinson, Jay Williams and their teacher, Harvey Kimble. They can all be very proud of their knowledge and accomplishments. I look forward to next year's competition.

# ADDITIONAL STATEMENTS

## ON THE RETIREMENT OF DR. KAREN J. HARSHMAN

• Mrs. BOXER. I am very pleased to take a few moments to recognize the many important accomplishments of Dr. Karen J. Harshman as she retires as superintendent of the Fontana Unified School District. Dr. Harshman has led Fontana schools through a period of unprecedented growth and during a time of increased demands on schools, and has done so with great success.

Dr. Harshman began her career in education as a substitute teacher. Since that early assignment, she has been a teacher, coordinator, principal, director, and assistant superintendent. She also serves as an instructor at local college campuses, guiding new teachers and administrators as they learn the educational ropes.

Since 1994, Dr. Harshman has lead the Fontana Unified School District as its

superintendent. During her tenure as superintendent, Fontana has seen phenomenal growth. Six schools have opened under her leadership, and the district currently ranks 17th in size in the State of California. Educational excellence has become a more prominent emphasis during her tenure, and Dr. Harshman has focused the efforts of the district on improving student performance through a variety of innovative programs known throughout California and beyond.

Dr. Harshman's accomplishments are not limited to Fontana Unified School District or education. Soroptimist International of Baldy View recently awarded her the Women Helping Women Award for bringing the American Cancer Society Relay for Life to Fontana and for her work with breast cancer survivors. Importantly, the award was also given for her lifelong work mentoring women. The Association of California School Administrators selected her as the Region 12 Superintendent of the Year for 2002. Dr. Harshman is also active in the Fontana Rotary Club, the Fontana Chamber of Commerce, and the Chaffey College Foundation.

A portion of Dr. Harshman's biography reads that ''she looks forward to every single day knowing that she is involved in the most important work on the planet.'' I invited all of my colleagues to join me in commending Dr. Karen Harshman for her great leadership doing ''the most important work on the planet''—educating our children.●

## NATIONAL CREATIVE ARTS THERAPIES WEEK

● Mrs. CLINTON. Mr. President, the process of using the arts therapeutically to assist victims of illness, trauma, disability and other personal challenges, has historically been underrecognized as a valuable treatment, yet the benefits of this treatment are far reaching. The creative arts therapies, comprising the fields of art therapy, dance/movement therapy, drama therapy, music therapy, poetry therapy and psychodrama, are disciplines that foster creative expression to promote health, communication, self-awareness, emotional, social and cognitive functioning. I rise today, to proclaim National Creative Arts Therapies Week, June 1–7, 2003 as a time to recognize this unique service.

Creative arts therapies have been practiced in the United States for over 50 years with people of all ages and problems. Such therapists work in medical hospitals, rehabilitation centers, mental health facilities, day treatment centers, nursing homes, schools, homeless shelters, correctional settings, and in private practice. Creative arts therapists have helped people who have undergone trauma, loss, acute physical and chronic illness, emotional disturbance, or struggle with depression, retardation, development disabilities and addictions. The contribution of creative arts therapists in the aftermath of 9/11, assisting victims and the bereaved through trauma treatment and the alleviation of posttraumatic stress, were invaluable.

I want to recognize and thank creative arts therapists in America who are assisting the most vulnerable in our society with valuable therapeutic intervention. There are over 15,000 licensed clinicians who meet high quality standards of graduate education and practice. Various States, including New York, have additional licensure requirements, which protect patients from fraudulent practitioners and maintain the quality of care at the highest standard. These credentialed clinicians constitute a vital force of mental health professionals in our country. However, many Americans are unable to access such services because awareness about their effectiveness and employment of such therapists is not sufficiently widespread.

The National Coalition of Creative Arts Therapies Associations is collectively celebrating the history and status of their profession. They will be showcasing workshops, presentations and exhibits throughout the United States to inform the public, health care practitioners, insurers and legislators about therapeutic value and significance of this discipline.

I therefore proclaim National Creative Arts Therapies Week, June 1–7, 2003 as a time to recognize the unique service provided by these clinicians. Further, I encourage my colleagues in Congress to support the creative arts therapies fields and expand awareness of this form of treatment. At this time of heightened sensitivity to maintaining mental health, we should recognize the creative arts therapies as a way to help those in distress through the power of the arts to heal.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

## FEINSTEIN-KENNEDY AMENDMENT TO THE FY2004 DEFENSE AUTHORIZATION BILL

● Mr. KERRY. Mr. President, today I submit into the record a statement to clarify my position on the development of low yield nuclear weapons. Circumstances prevented me from voting last week on the Feinstein-Kennedy amendment to the FY2004 defense authorization bill which would have struck any provisions that might permit research, development, testing, or deployment of low yield nuclear weapons. At the time, my vote was announced as an ''aye'' in favor of a motion to table the amendment. Through no fault of the distinguished Senator from Nevada who announced my vote, if I had been here, I would have voted ''nay,'' and supported the common sense proposal of the Senators from California and Massachusetts.

Last week, in a statement entered into the RECORD, I made clear my opposition to the development of low yield nuclear weapons, as well as the robust nuclear earth penetrator. It is absurd to think the United States will start development on a new generation of nuclear weapons at the same moment we seek the world's support in an effort to halt the spread of nuclear weapons and technology.

Senator FEINSTEIN and Senator KENNEDY were correct. These weapons don't make us safer. And I thank them for their continued leadership on this vital issue.●

## TRIBUTE TO MATT BOWLES

Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to Matt Bowles for being selected as the State Winner of the 4–H Award for Excellence. Matt will enroll in the University of Kentucky on scholarship in the fall and is the son of Larry and Diana Bowles of Mount Hermon, KY.

Matt's compassion for immigrants who struggle with language barriers led him to develop a community service project that helped his community break down cultural barriers and welcome diversity. With this program Matt solicited the aid of advanced Spanish students at his high school to help the local English as a Second Language tutoring program for Hispanics.

This award is based upon the leadership, communication, and organizational work Kentucky 4–H members have done through a 4–H Honors program sponsored by the University of Kentucky Cooperative Extension Service. Matt was selected by judges to be the recipient of this top prize because of the excellence he demonstrated through leadership in a community service project.

The efforts of Matt Bowles should be emulated. Matt has set an example that should be recognized by high school students throughout Kentucky and across America. I am convinced that he will use his strong abilities to make a difference in our country. I thank the Senate for allowing me to recognize Matt and voice his praises for his Head, Heart, Hands, and Health.

## A TRIBUTE TO OUR FRIEND

● Mr. LAUTENBERG. Mr. President I rise today to pay tribute to and wish a happy birthday to one of my dearest friends, Louis Reich.

Louis was born on May 24, 1903 in Brooklyn, NY, the middle of three children. His sister Anne is now 102. By the time he was 15, Louis had a job at a big law firm on Wall Street where he made 25 cents for a car fare and food. For lunch he ate at Max's Busy Bee where he could get a frank, beans, waffles, ice cream and coffee for 15 cents. Those were the days.

Everyday he would come up from Max's basement location and encounter men standing in the middle of the street yelling up to people in four surrounding buildings. These men were

called ''brokers'' and they were buying and selling stocks. In fact, Louis was witnessing the birth of the New York Curb Exchange. He was so entranced with the scene that he got a job as a runner paying $8 a week. Wanting a way to make more money, he headed to Jerome B. Sullivan & Co., where he was hired as a clerk.

By the time he was 22, he was the head cashier at Sullivan making $100 a week plus bonus. Soon afterwards he formed the New York Curb Cashiers Exchange and was elected president. In 1923, he was introduced to Kitty Hirshleifer by his closest friend Jerry Goldberg. Four years later, Louis and Kitty were married. When Louis got his bonus from Sullivan that month the company made him a partner and he spent his newfound wealth on a trip to the coast, a new Cadillac and an apartment for $125 a month. Not many apartments available at those rates in New York today.

The crash came in 1929 and Louis was left nearly penniless. Demonstrating his adaptability he purchased a seat on the Curb Exchange with his brother Al and his cousin Ernie. His salary was now $50 a week. From 1933 to 1938 Louis became an arbitrageur. He sensed that the Canadian market was becoming competitive and through connections in Canada he started to urge companies to apply for listing on what used to be the Curb Exchange, but now known as the American Stock Exchange.

He formed a partnership with Moe Weiss which lasted for many years. Around 1955 Lou became a governor of the American Stock Exchange and chairman of the listing committee.

A few years later in 1959 I met Lou when his back-office manager saw an ad about a company who could process payrolls. It was a company I know a little about, Automatic Data Processing. At that point I was the company's salesperson and Reich & Co. signed on. We became dear friends ever since.

I owe Lou a great deal because he really spread the word about ADP. Henry Taub worked to have ADP handle all of the back office operations. Within a year ADP had a system to process securities transactions. Today, in large part thanks to Lou, ADP is one of the largest payroll and securities processing firms in the world.

Louis Reich is now 100 years old. He brings a wonderful history and an important legacy of leadership in one of the most important industries we have. The investment and finance sector helped build this country's pre-eminence in the global economy to the point that it has become. He has many happy, exciting memories. The names he remembers from that bygone era—those who worked for him—and with him are too numerous to mention here. And the one person who stood by him through it all—the one person who will be forever in his heart and who truly would have enjoyed this day—his darling wife—Kitty, the one who he misses most of all. They are all here in spirit and will never be forgotten. We wish him many more years that we can celebrate together.●

## THE CAPTURE OF ERIC ROBERT RUDOLPH

● Mr. EDWARDS. Mr. President, I rise today to express pride and thanks for the excellent police work done by North Carolina law enforcement over the weekend, work that led to the capture of Eric Robert Rudolph, the alleged terrorist who had eluded capture for more than 5 years.

I am particularly proud of the fact that two of North Carolina's finest—Jeff Postell, a rookie officer in the Murphy Police Department and Cherokee County Sheriff's Deputy Sean Matthews—were responsible for brining Rudolph in.

I can't say enough about these exemplary lawmen, who represent the best that North Carolina and America have to offer—dedicated public servants risking their lives to make us safer. I will never forget the pride I felt as I watched Officer Postell, squinting in the glare of unasked for limelight, modestly dismiss praise for his actions by stating, ''It was my job.''

His job, indeed. As it is the job of thousands and thousands of other first responders in North Carolina and throughout the country. Men and women who day in and day out put their lives on the line to ensure our safety and ask so little in return. The least we can do for these brave public servants is to show our support for their efforts in meaningful ways. One of the most meaningful ways we can do this is to do more than just pay lip service to their efforts while cutting programs, funding, and benefits they so desperately need.

That is why it makes no sense that, instead of bolstering the efforts of our first responders, the administration is slashing the very programs that we need to help ensure a strong homeland defense. Just look at the COPS program—a program that has directly benefited the Murphy Police Department and Cherokee County law enforcement. Since it was created as part of a 1994 crime bill, the COPS program has helped communities hire more than 116,000 police officers nationwide.

We all know how important and effective the COPS program is. So why is President Bush proposing only $164 million for the COPS program next year, an 85 percent cut from the $1.1 billion that was spent in 2002? It is just plain wrong to, on the one hand, praise, take credit for, the fine work done by our local law enforcement day in and day out while, with the other hand, snatch away the funding that makes their work possible.

Yes, Officer Postell was just doing his job. And thanks to him, we can sleep a little easier. but not it is time for us to do our jobs. Let's give Officer Postell and his colleagues the tools they need to keep doing the work we need and appreciate so much.●

## IN RECOGNITION OF MICHELE PECINA, CALIFORNIA'S NATIONAL DISTINGUISHED PRINCIPAL OF THE YEAR

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention an exceptional educator—Michele Pecina, the principal of James Monroe Elementary School in Madera, CA.

Michele Pecina was recently named California's National Distinguished Principal of the Year by the National Association of Elementary School Principals. She will receive her award in November in Washington, DC.

For 9 years, Michele Pecina has been the principal at James Monroe Elementary School. Under her expert guidance, the school was named a California Distinguished School in 1997 and has also received two Bell awards from the California School Boards Association. Michele Pecina believes in her students and teachers and demonstrates that belief to them every day. The result is they believe in themselves. their success in school, and in life, is remarkable.

Californians are extremely proud of Michele Pecina. I am honored to pay tribute to her. I encourage my colleagues to join me in wishing Michele Pecina continued success as she continues her exceptional work in education.●

## HONORING REV. BOB WELLISCH

● Mr. COLEMAN. Mr. President, I ask that the following three tributes honoring the life of the late Rev. Bob Wellisch, St. Paul, MN native, priest for the Hmong Catholic community, and respected college professor, be printed in the RECORD.

The material follows.

[From the Star Tribune, May 26, 2003]

(By Nolan Zavoral)

THE REV. ROBERT WELLISCH, PASTOR TO TWIN CITIES HMONG, DIES

The Rev. Robert Wellisch, who built bridges between the Catholic establishment and the Twin Cities Hmong community, died in a traffic accident Saturday night.

Wellisch, 62, was driving back alone to the Twin Cities from Mankato when his car struck a horse on Hwy. 169, 4 miles north of Le Sueur, and slid into a ditch, according to the Minnesota Highway Patrol. Wellisch, who was wearing a seat belt, died at the scene.

A St. Paul native and longtime English professor at the University of St. Thomas, Wellisch was named chaplain for the Twin Cities Hmong Catholic community in 1984 by then-Archbishop John Roach. Eleven months ago, the present archbishop. Harry Flynn, appointed him as pastor of the largely Hmong parish of St. Vincent De Paul, in St. Paul's Frogtown area.

About 20 people from the congregation's leadership gathered informally Sunday at the church to mourn.

The Rev. Kevin McDonough, who oversees administration in the Archdiocese of St. Paul and Minneapolis, joined them.

''One of the elderly Hmong ladies came up to me, and she said, as it was translated to me, 'We are like a family that has lost its parent.''' McDonough said.

''Father Wellisch was a very quiet, unassuming guy, but it was clear to the Hmong people that he had their interest at heart.''

''He loved the Hmong,'' said Michael Mikolajczak, chairman of the St. Thomas English Department. He recalled attending a Hmong fundraiser nine years ago with Wellisch.

''They wound bits of yarn around his wrists in appreciation of all he'd done,'' Mikolajczak said. ''Had it been I, I would have cut [the yarn] off the next day.

''He wore them for a whole week.''

Va Thai Lo, deacon and administrator at St. Vincent De Paul, said in a St. Thomas news release that Wellisch ''would go everywhere to assist (Hmong) families—to their homes, to where they worked and to the hospitals.

''This is a tragic loss for us.''

Among Wellisch's accomplishments at St. Vincent, McDonough said, was to help administrators with budgeting.

''He did a fine job of encouraging them along,'' McDonough said. ''This year we had a very mature budgeting process.''

It was unclear what led Wellisch to dedicate much of his life to the Hmong. The Rev. Ed Flahavan, a retired St. Paul priest who keeps in touch with many local Catholic clergy, said he thought that the Rev. Daniel Taillez—a French priest who had once served in Vietnam—introduced Wellisch to that segment of Southeast Asia's population.

Wellisch learned to say the mass in Hmong.

''He even learned to preach in Hmong—he'd learned it that well,'' said the Rev. James Reidy, a retired priest and friend of Wellisch's. ''He had the ability to pick up language very quickly,''

Wellisch is survived by three cousins. Funeral arrangements are pending. He earned an undergraduate degree St. Thomas in 1962 and a master's degree and doctorate in English from the University of Minnesota. He was ordained in 1969 and served as an associate pastor at St. Mark's Catholic Church in St. Paul until 1971, when he joined the St. Thomas faculty.

''He was the kindest, gentlest, most supportive colleague you could want, ''Mikolajczak said. ''He loved literature—Victorian, mainly, but everything, really.

''He'd teach the modern tradition if I'd want. He'd teach the classical tradition if I'd ask. He wasn't afraid to pitch in.

''He was a priest the lay faculty accepted as a colleague. He claimed no special privileges because of his collar.''

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(By Casey Selix)

[From the Pioneer Press, May 26, 2003]

ST. PAUL PRIEST TO HMONG DIES

Some St. Vincent de Paul parishioners would drive 100 miles round-trip Sunday mornings to hear the Rev. Robert Wellisch celebrate Mass in Hmong.

More than half of the members of the church in St. Paul don't speak fluent English, so it means a lot to worship in their native language, said Kou Ly, who translated the priest's sermons into Hmong and coached him on pronunciation.

When Kou Ly and other parishioners arrived at church and found locked doors Sunday morning, they started worrying and praying.

About 10 p.m. Saturday, Wellisch died after his car hit a stray horse on U.S. 169 in LeSueur County, causing him to veer through the median and into a ditch, according to the State Patrol. Wellisch, 62, who was wearing a seat belt, died at the scene.

As one grieving Hmong elder told the Rev. Kevin McDonough through a translator Sunday, ''We are like a family that has lost its only parent.''

Besides appreciating his Hmong services, parishioners just plain liked the priest, who cared enough to show up at their children's birthday parties and other important social events in the Hmong community.

''He would do much more than a regular priest. . . . He was so good-hearted,'' said Kou Ly, adding that Hmong-speaking Catholic priests are a rarity.

It was Father Bob's good heart that took him to Mankato, MN, on Saturday to attend a pre-confirmation retreat with parish youth and their parents. And his good heart led him to drive back alone late Saturday so he could celebrate Mass the next morning with the rest of the flock. About 150 families belong to the church.

''It's a tragic loss at a number of levels,'' said McDonough, vicar general of the Archdiocese of St. Paul and Minneapolis. ''Father Bob Wellisch was one of those very gentle souls that his brother priests had a great deal of respect for. This is a real personal loss on the part of the priests and the people he served. In the last 15 years, he was in one way or another so critical to the development of the Hmong Catholic community.''

Wellisch, a St. Paul native, also was a full-time associate professor at the University of St. Thomas, where he was considered an expert in Victorian literature and where he taught in the Catholic studies department.

''He so loved the literature and the discipline and he was so kindly attentive to students that I have never heard a complaint about him,'' said Michael Mikolajczak, chairman of the English department. ''He was teaching a full load here and then ministering to the Hmong community, and he didn't stint on anything. He was just remarkably generous.''

St. Vincent de Paul Deacon Va Thai Lo had known Wellisch for 20 years. ''He was very nice, and he loved all the people very much. Any time our members called him, he would visit them at their homes if they wanted—even go to their birthday parties.''

Each morning, Wellisch would wake up at the St. Thomas faculty residence and head to St. Vincent de Paul to celebrate the daily Mass, Va Thai Lo said. Then he would return to campus to teach. On weekends, he gave services at the church in English and Hmong. In between, he tended to his parishioners' needs.

The deacon recalls Wellisch once confiding that he might be ''too old'' to learn the Hmong language.

Even so, Wellisch persevered—sometimes with amusing results, said Kou Ly, who worked with Wellisch on pronunciation.

''He would pronounce the words funny,'' Kou Ly said. ''When you mispronounce a word in Hmong it can mean a totally different thing—such as the word for stick. If you vary the tone a little it can mean blanket. We would just keep doing it, and he would laugh about it.''

After Wellisch underwent heart bypass surgery a few years ago, about 30 members of the Hmong community performed a healing ceremony.

As they tied strings around his wrist, they expressed wishes for good health and a long life for him. ''Culturally, we believe that whatever we say will stay in that string,'' Kou Ly said.

Though Hmong recommend that the strings remain in place for three days, Wellisch wore his for longer than that, friends recall.

Wellisch graduated from St. Paul's Cretin High School in 1958 and summa cum laude from St. Thomas in 1962 with a B.A. in English. He received a master's degree and a Ph.D. in English from the University of Minnesota. He was ordained by the archdiocese in 1969 and served at St. Mark's in St. Paul, the Cathedral of St. Paul, St. Paul's Priory and Holy Trinity Catholic Church in South St. Paul.

In 1984 he was appointed chaplain for the Twin Cities Hmong Catholic Community. He also was chaplain of the Hmong American National Catholic Association. He became pastor at St. Vincent de Paul last June.

Survivors include three cousins, Dale Bowen of Fridley, Alice Bowen of Sioux Falls and Gretchen Myers of Cedar Falls, Iowa.

Funeral services are pending.

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[From the Pioneer Press, May 31, 2003]

HMONG HONOR LIFE OF LATE PRIEST

(By Stephen Scott)

As they followed the casket out the back of the sanctuary, it was clear the Hmong men and women could scarcely let go of their priest.

With the death of the Rev. Robert Wellisch, they felt as if they'd lost a parent.

''You can see by the pain in their eyes what a great priest he was,'' Archbishop Harry Flynn said after Wellisch's funeral Friday. ''There is such sadness in their faces. They just keep saying to me, 'Remember us. Remember us.'''

Wellisch was the Roman Catholic chaplain to the Twin Cities Hmong community since 1985. He learned their language so he could say Mass for them. He attended their birthday parties, visited their sick, and confirmed and married their children.

Now there is much that a deeply grieving Hmong community cannot understand. Why now? Why a car accident? Why on a church youth trip? Why a horse?

''Right now, our people are very, very sad because of the way he died,'' said Va Thai Lo, deacon at St. Vincent de Paul Church in St. Paul, home to Hmong Catholics in the Twin Cities.

Wellisch, 62, died last Saturday night when his car hit a stray horse on U.S. 169 in LeSueur County. Wellisch was returning from a confirmation retreat for St. Vincent's Hmong youth in Mankato, Minn.

The Hmong Catholics share their grief with Wellisch's other ''families''—faculty at the University of St. Thomas, where he taught literature; the English-speaking Catholics who make up a fourth of St. Vincent's parish; and three cousins who survive him.

But in life, Wellisch made the Hmong community feel as if he was all theirs.

''His absence won't be just missed,'' said a letter from parishioners in the back of the church. ''We have lost our only parent. We are left as orphans who expect a parent that would never return.''

The funeral Mass at St. Vincent's reflected the life of a priest with a diverse calling.

One hundred priests and deacons processed to the hymn ''Los Peb Los Cav Txog Tswv Ntuj.'' They recessed to Amazing Grace.''

The youth choir sang Bryan Adams' ''I Will Always Return.'' They followed with ''Khoom Plig Zoo,'' with lyrics they adapted in memory of Wellisch. One phrase translates: ''When we think of you our tears come out.''

The Rev. James Reidy's homily focused on Wellisch's life as a professor. At his death, Wellisch worked full time at St. Thomas in addition to serving as the priest at St. Vincent's.

''He had a steady, tireless ministry to all he was called to serve,'' Reidy said.

The Hmong especially have been tireless in their mourning. Nearly 50 of them remained in the sanctuary all night after Thursday's visitation, just to be near Wellisch's body.

''We watch over him and look over him,'' said Ah Thao, whose daughter attended the retreat where Wellisch was last seen alive. ''We don't want to leave him alone. We guard him until he is buried.''

The community is anxious about what happens next.

''It is too big of a scope to say right now,'' said Kou Ly, a parishioner who helped Wellisch learn the Hmong language, ''He's not replaceable.''

Va Thai Lo will continue to serve St. Vincent's as a deacon, and various backup clergy will say Mass until an interim pastor or permanent priest is appointed.

''Whenever we needed him, he was there spiritually and morally,'' Khamsy Yang said in a eulogy. ''We will still have faith in God, who will bring us a new priest.''

The Archdiocese of St. Paul and Minneapolis also has ministries dedicated to Hispanics, Vietnamese, Koreans, Poles, Eritreans and American Indians.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of 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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate.

H.R. 1465. An act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the ''General Charles Gabriel Post Office.''

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 172. Concurrent resolution supporting the 20th Annual National Tourism Week.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1465. An act to designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the ''General Charles Gabriel Post Office''; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 172. Concurrent resolution supporting the 20th Annual National Tourism Week; to the Committee on the Judiciary.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1162. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2443. A communication from the District of Columbia Auditor, transmitting, pursuant to law, the report entitled ''Flawed Processes and Ineffective Systems of Accountability Pertaining to DCPS' Special Education Program Have Resulted In Costly Legal Fees and Exorbitant Charges for Related Services and Nonpublic Tuition'' received on June 1, 2003; to the Committee on Governmental Affairs.

EC–2444. A communication from the Secretary of Labor, transmitting, pursuant to law, the Semiannual Report of the Inspector General of the U.S. Department of Labor for the period October 1, 2002, through March 31, 2003; to the Committee on Governmental Affairs.

EC–2445. A communication from the Special Counsel, Office of the Special Counsel, transmitting pursuant to law, the Annual Report from the Office of Special Counsel for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–2446. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Office of Inspector General (OIG) Semiannual Report for the period October 1, 2002, through March 31, 2003; to the Committee on Governmental Affairs.

EC–2447. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (REydon, Oklahoma) (MM Docket No. 01–227; RM–10255)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2448. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (O'Brien, Stamford, Panhandle, Shamrock, Colorado City, Texas; Taloga, Oklahoma) (MB Docket Nos. 02–296, 02–297, 02–298, 02–299, 02–300, 02–302)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2449. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alamo and Milan, Georgia) (MM Docket No. 01–111)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2450. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations (Comache, Mullin and Mason, Texas) (MM Docket No. 01–159; RM–10164; 10395)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2451. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Buffalo, Oklahoma) (MB Docket No. 02–383; RM–10614)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2452. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Eldorado, Texas; Milan, New Mexico; Alpena, Michigan; Channing, Texas; Escobares, Texas; Ozone, Texas; Rotan, Texas; Wellington, Texas; Memphis, Texas; Matador, Texas; Arthur, Nebraska; Mclean, Texas; and Wheeler, Texas) (MM Docket Nos. 01–273; 02–43; MB Docket 02–17; 02–168; 02–170; 02–172; 02–173; 02–175; 02–176; 02–291; 02–292; and 02–293)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2453. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations (Douglas and Tombstone, Arizona, and Santa Clara, New Mexico) (MB Docket No. 02–374; RM–10598)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2454. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotment, FM Broadcast Stations (Junction, Texas) (MM Docket No. 01–132)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2455. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Minot, ND (MM Doc. No. 02–282, RM–10523)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2456. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Jackson, WY (MB Docket No. 02–375, RM–10605)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2457. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Great Falls, MT (MM Docket No. 00–246, RM–9859)'' received on June 1, 2003; to

the Committee on Commerce, Science, and Transportation.

EC–2458. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations, Derby, KS (MM Docket No. 01–44, RM–10022)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2459. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Opelousas, Louisiana) (MB Docket No. 02–322; RM–10584)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2460. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, TV Broadcast Stations, Hartford, CN (MM Doc. No. 01–306, RM–10152)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2461. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Blanco, TX (MB Docket No. 02–280, RM–10558)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2462. A communication from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communication Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Hibbing, MN (MB Doc. No. 01–116, RM–10069)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2463. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Trip Limit Adjustments; Pacific Halibut Fisheries; Correction (I.D. 042803E)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2464. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reopening of the directed fishing for yellowfish sole by vessels using trawl gear in the Bering Sea and Aleution Islands management area (BSAI)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2465. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed fishing for Pacific cod catcher vessels less than 60 feet length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2466. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Correction to Figure 6 to Part 679; Changes to Length Overall of a Vessel at Section 679.2 (0679)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2467. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure; prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA) (0679)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2468. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Requirement for Maintenance, Requalifications, Repair and Use of DOT Specification Cylinders; Correction of Compliance Dates (CORRECTION to Final Rule Compliance dates) (2137–AD58)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2469. A communication from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials: Transportation of Hazardous Materials; Unloading of Intermodal (IM) and UN Portable Tanks on Transport Vehicles (2137–AD44)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2470. A communication from the Assistant Chief Counsel, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Transactions Involving Documented Vessels and Other Maritime Interests; Inflation Adjustment of Civil Monetary Penalties (2133–AB48)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2471. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems; Final Rule; Interim Final Rule, Request for Comments (2127–AI49)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2472. A communication from the Deputy Assistant Administrator, Regulatory Programs, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Correction to the Final Rule Implementing Stellar Sea Lion Protection Measures for the BSAI and GOA Groundfish Fisheries (0679)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2473. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule amending the definitions of ''contracting activity'' and ''head of contracting activity'' consistent with realignment of program management responsibilities between NASA Headquarters and the field centers (RIN 2700–AC33)''; to the Committee on Commerce, Science, and Transportation.

EC–2474. A communication from the Acting Assistant Administrator for Procurement, National Aerospace and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Government Property—Instructions for Preparing NASA Form 1018 (48 CFR 1845)'' received on June 1, 2003; to the Committee on Commerce, Science, and Transportation.

EC–2475. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report entitled ''Status of Fisheries of the United States''; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 791. A bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes (Rept. No. 108–57).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 886. A bill to ratify otherwise legal appointments and promotions in the commissioned corps of the National Oceanic and Atmospheric Administration that failed to be submitted to the Senate for its advice and consent as required by law, and for other purposes (Rept. No. 108–58).

## 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. BINGAMAN:

S. 1168. A bill to amend title 23, United States Code, to establish a program to increase the use of recyclable material in the construction of Federal-aid highways; to the Committee on Environment and Public Works.

By Mr. SPECTER:

S. 1169. A bill to decrease the United States dependence on imported oil by the year 2015; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN:

S. 1170. A bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA:

S. 1171. A bill for the relief of Vichai Sae Tung (also known as Chai Chaowasaree); to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. DODD, Mr. DEWINE, Mrs. CLINTON, Mr. WARNER, Mrs. MURRAY, Mr. LUGAR, Ms. LANDRIEU, Mr. SESSIONS, and Mr. ALEXANDER):

S. 1172. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mrs. HUTCHISON):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit,

and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mrs. HUTCHISON):

S. 1174. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; read the first time.

By Ms. STABENOW (for herself, Mr. SMITH, and Mr. DAYTON):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. BYRD:

S. 1176. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. KOHL):

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALLEN (for himself and Mr. WARNER):

S. Res. 158. A resolution commending the University of Virginia Cavaliers men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse Championship; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 13

At the request of Mr. KYL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 13, a bill to provide financial security to family farm and small business owners while by ending the unfair practice of taxing someone at death.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 171

At the request of Mr. DAYTON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 171, a bill to amend the title XVIII of the Social Security Act to provide payment to medicare ambulance suppliers of the full costs of providing such services, and for other purposes.

S. 184

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 184, a bill to amend section 401 (b)(2) of the Higher Education Act of 1965 regarding the Federal Pell Grant maximum amount.

S. 198

At the request of Mr. SMITH, the names of the Senator from Missouri (Mr. TALENT) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 300

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 310

At the request of Mr. THOMAS, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Virginia (Mr. WARNER) were added as cosponsors of S. 310, 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. 322

At the request of Mr. INOUYE, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 322, a bill to amend the Internal Revenue Code of 1986 to exempt certain sightseeing flights from taxes on air transportation.

S. 333

At the request of Mr. BREAUX, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 333, a bill to promote elder justice, and for other purposes.

S. 392

At the request of Mr. REID, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 448

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 448, a bill to leave no child behind.

S. 451

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 514

At the request of Mr. BUNNING, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 514, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 544

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 544, a bill to establish a SAFER Firefighter Grant Program.

S. 554

At the request of Mr. SCHUMER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 554, a bill to allow media coverage of court proceedings.

S. 576

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 576, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements.

S. 623

At the request of Mr. WARNER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 636

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 636, a bill to amend title XVIII of the Social Security Act to provide for a permanent increase in medicare payments for home health services that are furnished in rural areas.

S. 652

At the request of Mr. CHAFEE, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 652, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 684

At the request of Mr. BUNNING, his name was added as a cosponsor of S.

684, a bill to create an office within the Department of Justice to undertake certain specific steps to ensure that all American citizens harmed by terrorism overseas receive equal treatment by the United States Government regardless of the terrorists' country of origin or residence, and to ensure that all terrorists involved in such attacks are pursued, prosecuted, and punished with equal vigor, regardless of the terrorists' country of origin or residence.

S. 764

At the request of Mr. CAMPBELL, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 764, a bill to extend the authorization of the Bulletproof Vest Partnership Grant Program.

S. 846

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 875

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 899

At the request of Mrs. HUTCHISON, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Oregon (Mr. SMITH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 899, a bill to amend title XVIII of the Social Security Act to restore the full market basket percentage increase applied to payments to hospitals for inpatient hospital services furnished to medicare beneficiaries, and for other purposes.

S. 939

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 950

At the request of Mr. ENZI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 950, a bill to allow travel between the United States and Cuba.

S. 953

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 953, a bill to amend chapter 53 of title 5, United States Code, to provide special pay for board certified Federal Employees who are employed in health science positions, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 985

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 987

At the request of Mr. DORGAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 987, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program and to make other rural health care improvements.

S. 1008

At the request of Mr. CAMPBELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

S. 1011

At the request of Mr. KERRY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1011, a bill to amend title II of the Social Security Act to restrict the application of the windfall elimination provision to individuals whose combined monthly income from benefits under such title and other monthly periodic payments exceeds $2,000 and to provide for a graduated implementation of such provision on amounts above such $2,000 amount.

S. 1015

At the request of Mr. GREGG, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1015, a bill to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1046

At the request of Mr. HOLLINGS, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1046

At the request of Mr. STEVENS, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1046, supra.

S. 1090

At the request of Mr. VOINOVICH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1090, a bill to amend title 23, United States Code, to increase the minimum allocation provided to States for use in carrying out certain highway programs.

S. 1092

At the request of Mr. CAMPBELL, the names of the Senator from Virginia (Mr. ALLEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from South Carolina (Mr. GRAHAM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1092, a bill to authorize the establishment of a national database for purposes of identifying, locating, and cataloging the many memorials and permanent tributes to America's veterans.

S. 1153

At the request of Mr. SPECTER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1153, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. VOINOVICH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1157, a bill to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

S. 1162

At the request of Mrs. LINCOLN, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr . LAUTENBERG), the Senator from Massachusetts (Mr. KERRY), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Mr. SARBANES), the Senator from Maryland (Ms. MIKULSKI), the Senator from Vermont (Mr. LEAHY), the Senator from Nebraska (Mr. NELSON), the Senator from Florida (Mr. NELSON), the Senator from Michigan (Mr. LEVIN), the Senator from Delaware (Mr. CARPER), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Delaware (Mr. BIDEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Washington (Ms. CANTWELL), the Senator from South Dakota (Mr. DASCHLE), the Senator from Michigan (Ms. STABENOW), the Senator from Connecticut (Mr. DODD), the Senator from North Dakota (Mr. CONRAD), the Senator from Ohio (Mr. VOINOVICH), the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. DORGAN), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wisconsin (Mr. KOHL), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

S. 1162

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1162, supra.

S. CON. RES. 44

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Con. Res. 44, a concurrent resolution recognizing the contributions of Asian Pacific Americans to our Nation.

S. RES. 118

At the request of Mrs. BOXER, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE), the Senator from Arkansas (Mr. PRYOR) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 118, a resolution supporting the goals of the Japanese American, German American, and Italian American communities in recognizing a National Day of Remembrance to increase public awareness of the events surrounding the restriction, exclusion, and internment of individuals and families during World War II.

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

AMENDMENT NO. 539

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 539 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 841

At the request of Mr. DODD, his name was withdrawn as a cosponsor of amendment No. 841 proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN:

S. 1168. A bill to amend title 23, United States Code, to establish a program to increase the use of recyclable material in the construction of Federal-aid highway; to the Committee on Environment and Public Works.

Mr. BINGAMAN. Mr. President, I rise to introduce legislation that I believe will provide the necessary incentives to improve State efforts in the use of recycled materials in highway construction and maintenance. The use of recycled materials in highways is an established process in certain parts of the United States, with some States using recycled materials on a regular basis. These materials include fly ash, bottom ash, rubber products from old tires, and reprocessed concrete and asphalt pavements. Less commonly used recycled commodities include glass and plastic. The American Association of State Highway and Transportation Officials has recently approved specifications for the use of biomass, including small diameter timber, providing an additional avenue for use of recycled material. The list of accomplishments is impressive, but its application is limited. Many States could do much more with the use of recycled materials in their highway systems.

Challenges faced by States in the use of recycled material in highways are attributed to several factors. Some State Departments of Transportation are unaware of the different types of recycled materials that are available in today's construction industry. Others do not have the technical expertise to take advantage of the broad range of recycled materials and techniques. Some may not have developed the necessary procurement infrastructure to include the use of recycled materials in highway construction.

To assist States in overcoming these obstacles and to provide necessary incentives for the expansion of this economically and environmentally viable practice, I am introducing the Recycled Roads Act of 2003. The purpose of this bill is to authorize the Secretary of Transportation to establish a recycled roads incentive grant program to encourage the use of recyclable material in the construction of Federal-aid highways by States and Indian tribes. The program will provide two types of grants. The first type, which is funded up to $125,000 per year, will be for a State or Indian tribe to use in employing a coordinator to promote the use of recyclable material in Federal-aid highway construction. The second type, which is funded up to $1,400,000 per year, will be for a State or Indian tribe to use to carry out projects and activities to promote the expanded use of recycled material in Federal-aid highway construction and maintenance. Total funding for both grants is $123,525,000 per year.

The case for expanded use of recycled materials in road construction is clear. Dr. T. Taylor Eighmy, Director of the University of New Hampshire Recycled Materials Resource Center, from an article entitled ''The Road to Reuse'' published in the professional journal Civil Engineering, states the case well: ''Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of natural materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

''Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavements, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement, RAP, are widely recycled using both in-place and off-site recycling methods. More than 45 States use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons are recycled each year, saving the taxpayers about $300 million annually.''

The example of RAP is one of our best success stories in the use of recycled materials in roads. However, there is much more that can be done. As Dr. Eighmy explains, ''. . . the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher industrial activities use more of the resulting by-products. . . . There also appears to be a relation between a state's

commitment to recycling and the maturity of the beneficial use program in that state.''

The Federal Highway Administration produced a policy on recycled materials in February of 2002, which strongly encourages the use of existing recyclable materials in highway construction and maintenance. As stated in the policy, ''Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of reuse. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land.

''The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, stave time, offer equal or in some cases, significant improvement to performance qualities, and provide long-term environmental benefits.''

The Federal Highway Administration policy is supported by both science and a common sense approach to the needs of building and maintaining our national highway system. This bill provides the necessary incentives to expand these beneficial recycling practices, and increase the associated environmental and engineering impacts.

In addition, this legislation was developed in consultation with several stakeholders from the Federal and state governments, and non-governmental organizations. The State of New Mexico, and the non-profit organizations Environmental Defense and the Surface Transportation Policy Project have provided letters expressing their support for this legislation.

I ask all Senators to support the Recycled Roads Act of 2003. I look forward to working with the Chairman of the Environment and Public Works Committee, Senator INHOFE, and Senator JEFFORDS, the ranking member, to incorporate his bill into the full 6-year reauthorization of the transportation bill. I would also like to thank Jeff Steinborn from my office in Las Cruces, New Mexico for his diligent work in developing the initial concept for this legislation.

I ask unanimous consent that the article from September 2001 professional society journal Civil Engineering entitled ''The Road to Reuse'' by Dr. T. Taylor Eighmy, the February 2002 Federal Highway Administration policy on recycled materials, and letters of support from the State of New Mexico, Environmental Defense, and the Surface Transportation Policy Project be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

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

[From Civil Engineering, Sept. 2001]

THE ROAD TO REUSE

(By T. Taylor Eighmy and Bryan J. Magee)

Why should we as a society continue to dispose of materials that may have inherent engineering value and suitable environmental properties and continue to rely on nonrenewable natural resources in constructing the U.S. infrastructure? Shouldn't we be making a concerted effort to use recycled materials as substitutes for natural aggregates or materials in the construction of highway infrastructure? Indeed, these materials may become increasingly deserving of consideration as we tackle deteriorating infrastructure problems in the United States. And the use of recycled materials in lieu of naturals materials may provide additional environmental benefits through better performance and lower cost because there would be less need to mine, process, and transport traditional materials.

There are many types of wastes and by-product materials with potential uses in the highway environment. Ground recycled asphalt pavement, crushed reclaimed concrete, foundry sands, coal bottom ash, blast furnace slags, nonferrous slags, steel slags, quarry by-products, shredded tires, and glass cullet can all serve as aggregate substitutes. Cement kiln dusts, silica fume, ground-granulated blast furnace slag, class F coal fly ash, and class C coal fly ash can serve as alternative cementitious materials. Ground recycled asphalt pavement, roofing shingle scraps, and ground rubber can serve as sources of asphalt cement or asphalt modifiers. And coal combustion by-products, wood ash, sludge ash, composted biomass, and ground wood wastes can serve as soil amendments, soil cover, mulch, and erosion control materials.

Applications for recycled materials within the highway environment include both bound and unbound uses: asphalt pavement, portland cement concrete pavement, granular bases and subbases, stabilized bases, embankments, structural fills, flowable fills, soil cover and erosion control, and appurtenances. Materials such as reclaimed asphalt pavement (RAP) are widely recycled using both in-place and off-site recycling methods. More than 45 states use RAP. The National Asphalt Paving Association reported in April 2000 that RAP has one of the highest recycling rates in the United States—close to 80 percent. About 73 million tons (66 million Mg) are recycled each year, saving taxpayers almost $300 million annually.

A recent, but incomplete, compilation of materials recycled in the highway environment in the United States shows that other materials are recycled annually at reasonable rates. These annual usage and recycling rates are worth noting: blast furnace slag—24 million tons (12.6 million Mg), 90 percent recycling rate; coal fly ash—16 million tons (14.6 million Mg), 27 percent; coal bottom ash—4.8 million tons (4.4 milliono Mg), 30 percent; coal boiler slag—2.3 million tons (2.1 million Mg), 91 percent; current kiln dust and lime kiln dust—9.1 million tons (8.3 million Mg), 31 percent; and steel slag—8.3 million tons (7.5 million Mg), percentage unknown. However, the number of states that use recycled materials varies significantly, as do the approaches states take in conducting beneficial use determinations, particularly on less traditional materials. There is a general sense that states with higher industrial activity use more of the resulting by-products—foundry sands and slags, for example. There also appears to be a relation between a state's commitment to recycling and the maturity of the beneficial use program in that state.

A number of European countries have routinely used recycled materials since the 1970s with a high degree of success. What is remarkable about the European story is the recycling rate of materials used (material used/material produced) in the highway environment with rates of 100 percent frequently noted. The Netherlands, a populous country with more limited aggregate resources and a high degree of industrialization and interest in land reclamation, is the best example. The annual reported totals of metric tons used, together with the recycling rates, are as follows: steel slag—0.5 million, 100 percent; blast furnace slag—1.2 million, 100 percent; coal bottom ash—0.08 million, 100 percent; coal fly ash—0.85 million, 100 percent; construction and demolition aggregates—9.2 million, 100 percent; municipal solid waste combustion bottom ash—0.8 million, 100 percent; and RAP—10.7 million, 100 percent.

Data from a variety of sources suggest potential sources of recycled materials for use in the highway environment. In their paper ''Utilization of Waste Materials in Civil Engineering,'' R.J. Collins and S.K. Ciesielski cited four major sources of waste and by-product materials for highway use: agriculture (2,100 million tons [1,905 million Mg] per year), domestic (200 million tons [181 million Mg] per year) industrial (400 million tons [363 million Mg] per year), and mineral (1,800 million tons [1,633 million Mg] per year). Combined, these account for about 4.5 billion tons per year.

Recent data from the Federal Highway Administration (FHWA) indicate that in 1997 there were almost 4 million mi (6.4 million km) of roads in the United States—4 percent under federal jurisdiction, 21 percent under state jurisdiction, and 75 percent under local jurisdiction. Data from 1992 on material uses in the highway environment from the National Research Council show that the construction, rehabilitation, and maintenance of U.S. highways require about 350 million tons (318 million Mg) of natural and manufactured materials, including 20 million tons (18 million Mg) per year of asphalt, 10 million tons (9 million Mg) per year of portland cement, and 320 million tons (290 million Mg) per year of natural aggregates, paving mixtures, and synthetic surfacing and coating materials. It is interesting to contrast these numbers with the data presented on waste and by-product production. Undoubtedly, these numbers have increased.

ASCE's 2001 Report Card for America's Infrastructure indicates that one-third of the nation's roads are in poor or mediocre condition, costing American drivers an estimated $5.8 billion and contributing to as many as 13,800 highway fatalities each year. Additionally, the assessment quotes FHWA findings that 29 percent of the nation's bridges are structurally deficient or functionally obsolete and its estimate that elmininating all bridge deficiencies would cost $10.6 billion over the course of 20 years. There is a critical need for a significant investment of money and material to help alleviate these conditions and for changes in transportation behavior, transportation investment, and the application of innovative technologies. How much of this necessary rehabilitation can make appropriate use—both economically and from long-term engineering and environmental performance perspectives—of the materials already present in pavements, base courses, subbases, embankments, bridge decks, and bridge abutments? What other waste or by-product material might be used?

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA) gave high priority to research on recycling. Largely as a result of this focus, the FHWA and the National Cooperative Highway Research Program (NCHRP) sponsored several projects related to recycling, all of them national in scope. Other federal agencies have developed guidelines or programs that in some way relate to the use of recycled materials. For example, the publication User Guidelines for Waste and By-Product Materials in Pavement Construction was developed to assist those who have an interest in using or increasing their understanding of the types of waste and by-product materials that may be recovered and used in pavement construction applications. By documenting the potential use of 19 recycled materials in six construction applications, these guidelines, which were produced by the FHWA and published in 1997, are intended to describe the nature of each material, suggest sources for obtaining additional information, and outline the issues that need to be evaluated when considering the use of a particular material. The guidelines are also intended to provide general information on engineering evaluation requirements, environmental issues, and economic considerations in determining the suitability of particular recovered materials in pavement applications. (An electronic version of the guidelines is available at the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/UserGuide/begin.htm].)

Funded by the NCHRP and completed in 1998, the Recycled Materials Information Database was created as a tool that can be used to review and store data on the properties and applications of recycled material and on testing procedures. Reference information is also included. With information on 21 materials, the database is divided into nine main categories and provides the user with both general and detailed engineering and environmental information on each material. Recommended laboratory engineering tests that can be used to assess the suitability of each waste and recycled material for transportation applications are included, along with recommendations for monitoring in-field trials. (Copies of the database may be downloaded from the Recycled Materials Resource Center Web site [www.rmrc.unh.edu/Resources/UsefulDocuments&Programs/NCHRP/NCHRP.asp].)

The Framework for Evaluating Use of Recycled Materials in the Highway Environment was recently published by the FHWA to establish a logical and hierarchical evaluation process that all states can use either to develop a beneficial use determination process or to refine an existing process of this type. The purpose of this document is to help reduce barriers to the use of recycled materials and to facilitate the migration of successful practices across state boundaries. Additionally, because the management and regulation of recycled materials use in the highway environment are jurisdictionally the responsibility of a state's department of transportation (DOT) and its environmental protection agency (EPA), a major goal was to work with state DOTs and EPAs to develop a consensus-based approach that would encourage the two agencies to work together in the evaluation process. The process uses a series of stages that can each lead to approval or a beneficial use application from both an engineering and an environmental perspective. It comprises issue definition, data evaluation, laboratory testing, and field tests. The project used an expert technical group to help develop the framework. DOTs and EPAs from Florida, Minnesota, New Hampshire, New Jersey, and New York were involved. (An electronic version of the guidelines is available on the Web site of the Recycled Materials Resource Center [www.rmrc.unh.edu/Partners/Framework/Start/start.html].)

The report Environmental Impact of Construction and Repair Materials on Surface and Ground Waters (NCHRP 25–9) was prepared by the NCHRP after determining whether commonly used construction and repair materials might affect—through the persistence of any toxic leachates—the quality of surface water or groundwater adjacent to highways. A number of widely used waste and by-product materials were included in this evaluation. By developing a model that can be applied to any medium through which the leachates might pass, the report provides users with a tool capable of predicting the potential environmental harm of various waste and by-product materials. (Copies of the report can be obtained from the Transportation Research Board's bookstore [http://national academies.org/trb/bookstore] by searching book code NR448.)

Established in 1998 in close coordination with the FHWA's Pavement Management Coordination Group, the Recycled Materials Resource Center (RMRC) works on the national level to promote the appropriate use of recycled materials in the highways environment. The RMRC forms part of the Environmental Research Group at the University of New Hampshire. It has a unique role in the growing application of recycled materials to highway construction—namely to serve as a catalyst to reduce barriers to the appropriate use of these materials. The center is a culmination of a number of diverse but integrated efforts on the part of the FHWA, other federal and state agencies, and academia to provide a cohesive approach to the complex engineering and environmental issues surrounding the use of recycled materials. The RMRC focuses on both research and outreach activities in carrying out its mission, and its principal clients are state DOTs and EPAs.

In terms of research, the RMRC channels approximately half of its overall budget to a diverse range of projects related to recycling. At present 2 projects have been completed and 11 are in progress nationwide at a number of academic institutions and consulting companies. In addition, with the request for proposals issued by the center in February, three are slated to commence in September. The projects address a range of engineering and environmental issues related to recycling, among them the mitigation of alkali silicate reactions in recycled concrete; environmental weathering of granular waste materials; concrete mixtures with inclusions to improve the sound-absorbing capacity of portland cement concrete pavements; and the development of a risk analysis framework for the beneficial use of secondary materials. Attention is also given to leaching from granular materials used in highway construction during intermittent wetting: the development and preparation of specifications for recycled materials in transportation applications; the determination of the number of revolutions needed for cold-in-place Superpave mixture design using the sequential gyratory compactor; the development of a rational and practical mix design system for full depth reclamation; the fatigue durability of stabilized recycled aggregate base course containing coal fly ash and waste-plastic strip reinforcement; and the development of lightweight synthetic aggregate from coal fly ash and waste plastics.

The RMRC orchestrates numerous activities, the principal and most accessible of which is its Web site (www.rmrc.unh.edu). The site provides a variety of tools, including a client registration feature; an information request feature; virtual demonstration sites; updates on all RMRC-funded research projects; numerous documents and programs; links to pertinent specifications, state DOT programs, literature search engines, and national and international entities; lists of scheduled events; information on funding opportunities; and access to libraries and databases. In addition the center sends out a quarterly electronic newsletter to its clients, keeping them abreast of ongoing and upcoming events related to recycling.

Of particular interest is the center's first specification to be adopted by the American Association of State Highway and Transportation Officials (AASHTO). In December 2000 AASHTO voted to adopt ''Glass Cullet Use for Soil Aggregate Base Course'' as a new national specification (M–318–01). While currently recognized as a national specification, the document will first appear in the 21st edition of the AASHTO specifications, which is slated for publication this year. This recycling specification was developed by Warren Chesner of Chesner Engineering, in Commack, New York, in conjunction with the AASHTO subcommittee on materials as part of a research project funded by the RMRC. The project is looking at the properties of selected recycled materials and is developing—with the assistance of a technical advisory group made up of representatives of 15 state DOTS—specifications in an AASHTO format for the use of these materials in highway construction.

An upcoming outreach event of note is the international conference Beneficial Use of Recycled Materials in Transportation Applications, which the center is helping to organize. All told, 163 abstracts have been submitted from engineers and researchers from 23 different countries. The event will be held in Washington, DC, November 13–15 (see [www.rmrc.unh.edu/2001Conf/overview.asp]).

In September 1999 an FHWA delegation visited Sweden, Denmark, Germany, the Netherlands, and France to review and document innovative policies, programs, and techniques that would help to reduce barriers to the use of recycled materials in U.S. highways. The delegation met with more than 100 representatives from transportation and environment ministries, research organizations, contractors, and material producers involved with recycled materials in those countries. The U.S. delegation discerned a number of factors that have played a role in the success of recycling on highways in Europe, particularly in the Netherlands. The factors fall under the general concept of sustainability within the highway environment. The major components of the sustainability initiatives are the three Es: economics, engineering, and environment. (The final report is available online at [www.international.fhwa.dot.gov/Pdfs/recycolor.pdf].)

As a follow—on to the European visit, a workshop—Partnerships for Sustainability: A New Approach to Highway Materials—was developed to share European advances in recycling in the highway environment with a targeted audience of state DOT materials engineers, state DOT environmental staff members, and state EPA staff members who work on beneficial use. Fifteen states were invited to send representatives to the workshop, and more than 100 people attended. The goals were to showcase recent developments, introduce the Dutch sustainability concept, and encourage state agency personnel to work together on all aspects of using recycled materials on highways. (The workshop is highlighted on the RMRC Web page [www.rmrc.unh.edu/partner.asp], and the final report can be accessed at [www.rmrc.unh.edu/Partners/finalreport.asp].)

The FHWA has established a team to provide leadership, direction, and technical guidance to the transportation community to promote the use of recycled materials in highway environments and to provide technical support and assistance. The team is preparing a white paper that will set forth priority initiatives for recycling, and it is forming partnerships with AASHTO's subcommittees on materials and construction, with the RMRC, and with industry. Members of the team—their FHWA division given in parentheses—include Jason Harrington and Michael Rafalowski (Infrastructure Core Business Unit), Connie Hill (Planning and Environment Core Business Unit), Terry Mitchell and Jack Youtcheff (Research and Development Support Business Unit), Michael Smith (Southern Resource Center), Walter Waidlich (New Hampshire Division), Bryan Cawley (North Dakota Division), and Jim Travis (Texas Division).

A number of state DOTs have established recycling coordinator positions. These positions frequently figure prominently in technology transfer, research coordination, and informational outreach. The DOTs of California, Massachusetts, North Carolina, Pennsylvania, and Texas all have active programs.

MASSHIGHWAY

Over the past few years, the Massachusetts DOT, MassHighway, has made significant progress on the recycling front. Steps have been taken throughout the department to increase the use of waste and recycled materials in construction projects and everyday activities; to focus on recycled, remanufactured, and environmentally beneficial materials in procurement decisions for offices, stockrooms, facilities, and construction sites; and to promote the recycling of various waste streams. Recycling and environmentally beneficial procurement are becoming part of the routine way of doing business at MassHighway. Although highway performance, safety, and cost are of primary importance, as long as recycled and environmentally beneficial materials and products can fill this bill, they will be considered comparable, if not superior, to virgin alternatives.

Recent projects in Massachusetts include the procurement of recycled antifreeze, refined oils, and safety vests manufactured from soft drink bottles that are fully recycled; the acceptance of specifications allowing for the use of recycled plastic offset blocks as a substitute for pressure-treated lumber blocks; and the commencement of a research project to investigate the use of tire shreds beneath a roadway embankment. In addition, there are plans to set up trial and demonstration projects involving bio-based lubricants, recycled street sweepings, and noise barriers made of recycled plastic.

In 1999 alone, MassHighway was able to recycle more than 10,000 tons (9,000 Mg) of waste, use more than 138,000 tons (125,000 Mg) of reclaimed or recycled materials in construction projects, and spend more than $33 million on materials and products that had a high recycled content or were environmentally beneficial. There is still much to be done. MassHighway will continue to evaluate its many procurement procedures and specifications to remove unnecessary barriers and find new applications for recycled materials and materials that are environmentally beneficial. It will also continue to examine its construction and maintenance operations to find areas where waste can be reduced. Additionally, it will continue to work in coordination with local, state, and national environmental and public works entities to share its experiences and to learn more about the use of recycled and environmentally beneficial materials in highway and roadway construction.

PENNSLYVANIA DOT

PennDOT has developed a strategic recycling program (SRP) as a tool for systematically identifying, evaluating, and implementing opportunities to sue recycled materials in transportation and civil engineering work throughout the state. The ultimate objective of the SRP is to realize economic savings and environmental benefits for both PennDOT and the state by recycling, limiting pollution, and continuing various other environmental initiatives.

Five key areas have been targeted by the state to help PennDOT achieve and sustain its mission to increase the use of recycled materials:

(1) Research: Continue to evaluate the existing uses of recycled materials and products and conduct research into new uses of recycled materials in transportation and civil engineering work.

(2) Specifications: Develop and approve material and use specifications, bidding specifications, and guidelines for the use of recycled materials that confer significant environmental, engineering, or economic benefits.

(3) Project development: Identify, promote, and plan projects that use recycled materials that conform to approved or provisional specifications.

(4) Communication: Provide information via various media to PennDOT, government agencies, and the public on the performance and applicability of recycled materials in transportation and civil engineering work.

(5) Contract bidding: Evaluate construction contract legal bidding requirements and develop innovative ways to enable PennDOT to specify the use of recycled materials in transportation construction and maintenance projects.

NORTH CAROLINA DOT

Last year NCDOT recycled 2.4 million lb (1.1 million kg) of metal, 1 million lb (450,000 kg) of paper products, and more than 30,000 lb (14,000 kg) of glass and plastic as part of their daily operations. In addition to these efforts, the department continues to seek applications for recycled products in highway construction. Since 1989 the NCDOT has used more than 7 million tires, 50,000 tons (45,000 kg) of glass beads, and 14,000 tons (13,000 kg) of asphalt shingles.

Lyndo Tippett, the state's secretary of transportation, has indicated he will expand the department's environmental efforts. ''As a native of rural North Carolina, I know firsthand the value of our state's natural resources,'' he said. ''We must be proactive about finding opportunities that not only protect our environment but also improve it.''

One such opportunity is the department's partnership with Habitat for Humanity of Wake County, which won an environmental excellence award from the FHWA this year. In this program, Habitat helps raze houses within the department's rights-of-way that are scheduled for demolition.

Prospective homeowners help demolish the houses, earning credit toward the construction of their new homes. Materials are then stored in Habitat's reuse center and sold to the general public at reduced prices. The department is currently working to develop partnerships with other Habitat chapters throughout the state.

Another initiative is a pilot project with Bion Technologies, of Clayton, North Carolina. Last year the company donated 900 lb (410 kg) of swine waste for use as an alternative to commercial fertilizer. NCDOT roadside environmental engineers are currently working with the company to monitor the effectiveness of this product in test plots of wildflower beds along U.S. 117 south of Goldsboro to see if more widespread use is warranted.

''Our partnerships with Habitat for Humanity and Bion Technologies demonstrate to the public the positive effect that recycling has on our culture as well as our environment,'' said Tippett. ''These efforts also prove that it is possible to have a quality transportation system and a beautiful environment at the same time.''

TEXAS DOT

TxDOT's road to recycling initiative represents a mammoth endeavor to use recycled materials in road construction and maintenance projects. The goal of this initiative is to increase the use of recycled materials in road construction when they confer environmental benefits and economic or engineering advantages.

Since 1995 TxDOT has coordinated more than $1 million worth of research to investigate the use of a broad array of recycled materials in road construction, including glass cullet, scrap tires, fly and bottom ash, crushed porcelain toilets, shredded brush, compost, roofing shingles, plastics, RAP, crushed concrete, and industrial wastes. The research has been equally broad in the scope of roadway construction applications studied and has examined road signs, roadway safety devices, embankments, asphalt and concrete pavements, soil erosion control, drainage, vertical moisture barriers, and road bases.

Information on the merits of recycled roadway materials has been disseminated around the world through information showcases, press releases, a video, a Web site, two conferences, and a yearlong publicity campaign.

Since the inception of its recycling program in 1994, TxDOT has spent more than $506 million on ''green'' products and diverted more than 13 million tons (12 million Mg) of materials from landfills—a diversion equivalent to more than 1,300 lb (590 kg) for every man, woman, and child in Texas. These staggering numbers are for the most part directly attributable to the use of recycled materials in road construction applications.

As part of its continuing efforts to promote the use of materials recovered from solid waste, the U.S. EPA has developed the Comprehensive Procurement Guideline (CPG) program. The institutional purchase of recycled products by government ensures that the materials collected in recycling programs will be used again in the manufacture of new products. Congress authorizes the CPG program under section 6002 of the Resource Conservation and Recovery Act (RCRA). The CPG process designates products that are or can be made with recycled materials. At present for construction products, coal fly ash and ground granulated blast furnace slag are listed for cement and concrete materials, and coal fly ash and foundry sands are listed for flowable fill. Materials are also listed for transportation and landscaping categories. (Additional information is available at [www.epa.gov/cpg/].)

OTHER INITIATIVES

Established in the 1990s by the U.S. Department of Energy (DOE), the Industries for the Future Program creates partnerships linking industry, government, and supporting laboratories and institutions to accelerate technology research, development, and deployment. The DOE's Office of Industrial Technologies is implementing the program for nine energy- and waste-intensive industries, namely agriculture, aluminum, chemicals, forest products, glass, metal casting, mining, petroleum, and steel. The program's goal of increasing competitiveness and reducing energy consumption waste involves recycling

by-products from these industries. A recent conference hosted by the DOE and the Civil Engineering Research Foundation explored recycling opportunities for these industries and in formulating plans for the future looked at perceived barriers, market needs, and collaborative relationships. (For additional information about the Industries for the Future Program, see [www.oit.doe.gov/industries.shtml].)

Life-cycle analysis (LCA) has become increasingly common in civil engineering construction applications. Indeed, its use is being widely encouraged in addressing America's infrastructure problems. An excellent example of this application is the model BridgeLCC, developed by the National Institute for Standards and Technology for use evaluating high-performance bridges. BridgeLCC (see [www.bfrl.nist.gov/bridgelccl] is geared toward helping design engineers estimate and compare the life-cycle costs of a new technology—for example, high-performance concrete or fiber-reinforced-polymer (FRP) composites—with those of a conventional technology made with conventional materials. The FHWA has instituted similar models for highway design (see [www.fhwa.dot.gov/resourcecenters/southern/msmith.htm]).

There is less experience here in the United States with the application of LCA in deciding whether to use recycled materials or traditional materials in highway work, and this is even more pronounced when environmental burdens or emissions are included in the model. Recent work by the Finnish National Road Administration has resulted in the development of a comprehensive LCA and inventory analysis program. In Finland the production and transport of materials produce the most significant environmental burdens; the activities that consume the most energy are the production of bituminous asphalt and cement and the crushing and transport of materials. The consumption of raw materials and the leaching behavior of recycled materials there were also regarded as being of great significance. A weighted environmental loading assessment for three scenarios (coal fly ash in subbase and stabilized subbase; crushed concrete in base and subbase; and blast furnace slags in base, subbase, and lower subbase) and a traditional construction scenario were conducted in the Finnish study. The use of blast furnace slag, crushed concrete, and coal fly ash in road bases was seen as imposing a lower total environmental loading than the use of coal fly ash in stabilized subbases or the use of traditional pavements using crushed rock.

Obviously, such analytical tools and case studies need to be developed and applied to scenarios here in the United States. However, the Finnish National Road Administration data suggest that in a broader sense there may be additional benefits to using recycled materials when life-cycle material costs are considered in conjunction with the harm to the environmental caused by energy production and the processing and transport of materials.

In refining their strategic plans, state DOT may find it advantageous to consider the role of recycling. In addition, as studies are carried out on proposed transportation projects under the auspices of the National Environmental Policy Act, is it possible that credit might be given for the use of recycled materials, particularly if LCA shows that the materials convey environmental benefits?

The Netherlands probably best typifies the concept of sustainability, and it offers a suitable model for certain states and metropolitan areas here in the United States. The recycling or reuse of secondary materials within the Dutch building industry is commonplace—more than 10 percent of all granular materials used in the building industry are recycled.

The Netherlands is an affluent country with high population densities and limited land resources. The public has elected not to set aside areas for landfills or aggregate mining. This has led to the practice of sustainable development within the building industry, as well as to a subset of that industry: the highway construction industry. The basic premise of the sustainability concept is that material cycles should be closed (recycling involving use, reuse, re-reuse, et cetera) so that there is less outright disposal and less consumption of non-renewable natural materials. A number of legislative initiatives, including the National Environmental Policy Plan, the Waste Materials Policy, the Soil Protection Policy, the Surface Minerals Policy, and the Construction Industry Policy Declaration, provide the underpinning for sustainable construction.

The Dutch have adopted a market philosophy that regards recycled materials as products rather than waste. This means that the product will exhibit a typical product life cycle in the marketplace. Recycled materials first undergo development before coming into widespread use and maturing. Government and private-sector publicity campaigns and policies support the market. This concept might prove applicable in the United States in states or geographic regions where population densities are high, natural aggregates are scarce, and sources of suitable recycled materials are plentiful.

The Dutch government provides clear and unequivocal engineering and environmental standards for all recycled materials. This is usually achieved through governmental research in support of the standards. Further, public or industry working groups (including contractors) work together to achieve these standards. The producers of recycled materials use certified quality assurance and quality control programs so that their goods can compete against natural materials. The policy is clear, as is the planning and implementation, which enables the producers and contractors to prepare for this new market. The government provides certain economic incentives, such as hefty landfill disposal taxes on materials that can be recycled and modest taxes on the use of natural aggregates. If these aspects are combined, then a mature recycling market can develop over time.

There is a clear need for partnerships linking the private sector, universities, research institutions, government bodies, environmental groups, and the public. This relates to the formulation and coordination of policy, the transfer of information, and making resources available for additional research and development (R&D).

The private sector can play a variety of roles. Those interested in having their by-products considered can make use of the document Framework for Evaluating Use of Recycled Materials in the Highway Environment so that they can work with state DOTs and EPAs to develop the necessary data for evaluation. Contractors can explore the use of recycled materials to help meet the requirements of performance bonds. Equipment manufacturers can also play a role by developing technologies that would make it possible to recycle materials on-site for pavements, bridges, and other civil infrastructure, thereby reducing transport costs and associated environmental burdens.

At the state level, it may be appropriate for the DOTs to consider recycling as standalone policy or as part and parcel of their strategic plans. PennDOT's SRP may be a starting point in efforts to systematically find, evaluate, and apply recycled materials in transportation and civil engineering work (see [www.dot.state.pa.us/penndot/bureaus/beq.nsf/srp?OpenPage]). State DOTs may wish to give credit to recycling strategies during the planning stage of transportation projects, as well as in analyzing alternatives and mitigation measures. In planning transportation projects states could develop checklists that ask questions about recycling choices or options for use, with the responses used in analyzing alternatives and evaluating secondary and cumulative effects. States could use information derived from LCAs as part of their benefits analysis and in information packages prepared for public hearings and for obtaining permits.

A more formal relationship between AASHTO and the Association of State and Territorial Solid Waste Management Officials is definitely worth exploring as this can help pave the way for relationships at the state level. State DOTs and EPAs might consider adopting beneficial use evaluation frameworks similar to successful ones already in place or to the generic one offered by the Framework for Evaluating Use of Recycled Materials in the Highway Environment.

A lowering of the barriers encountered in transferring technologies from one jurisdiction to another across state lines would be a great benefit. Fortunately, the Environmental Council of State (see [www.sso.org/ecos/]) has two programs related to reciprocity. The group called Interstate Technology Regulatory Cooperation (ITRC) is a state-led national coalition dedicated to achieving better environmental protection through the use of innovative technologies. The ITRC (www.itrcweb.org/) is exploring general reciprocity arrangements involving 37 state members. Six states (California, Illinois, Massachusetts, New Jersey, Pennsylvania, and Virginia), under the Environmental Technology Acceptance and Reciprocity Partnership (e.TARP) are exploring reciprocity arrangements of a more formal type, including one for beneficial use determinations.

One recommendation that was strongly emphasized in the final report on the workshop Partnerships for Sustainability: A New Approach to Highway Materials Partnerships for Sustainability is that state DOTs establish recycling coordinator positions for the purposes of technology transfer, research coordination, and outreach.

At the federal level, partnerships linking the private sector, the FHWA, the U.S. EPA, the DOE, and other competent agencies are encouraged. Two obvious examples might be coordinating the U.S. EPA's CPG program with the DOE's Industries for the Future Program. Funneling beneficial use applications and adopted specifications to the CPG program also makes sense. There may be an opportunity to establish a leadership council that could coordinate communication and policy and improve intergovernmental approaches. Shared funding should be considered for lowering barriers between jurisdictions, demonstrating the use of innovative materials, and applying ICA analysis. A recent report on the role to be played by the National Science Foundation in meeting environmental science and engineering needs in the 21st century named industrial ecology (including product and process ICA) as a program needing enhancement. This topic should include recycling for infrastructure improvement.

Congress is considering a number of bills that could serve as vehicles in promoting recycling. The reauthorization of the next highway bill in 2003 provides an excellent opportunity to further promote appropriate recycling, partnerships, technology transfer,

and R&D. Making funds available to allow two or more states to carry out joint demonstration projects would go a long way toward reducing barriers. Congress can also examine the information recently provided by the U.S. EPA's Science Advisory Board on overcoming barriers to waste utilization (see [www.epa.gov/science1/eeccm06.pdf]). One of the board's most important recommendations—interpreting key definitions so that wastes could be beneficially used and not be inappropriately labeled as hazardous—would help with the confusion at the federal level about the need for a third category of by-product. Material that qualifies for inclusion in this category would not be labeled as solid waste or as hazardous waste; rather it would be suitable for beneficial reuse in an open market. The reauthorization of the RCRA may provide a suitable opportunity for this change.

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FEDERAL HIGHWAY ADMINISTRATION
RECYCLED MATERIALS POLICY

ADMINISTRATOR'S MESSAGE

The National Highway System (NHS) is extensive, with over 160,000 miles of highway pavements and over 128,000 structures, built using large quantities of asphalt, concrete, steel, and aggregate, and smaller quantities of nonferrous metals, plastics, and other materials. Much of the system was constructed in the 1960's and 70's and is in need of major rehabilitation or total reconstruction; and much of the materials used to build that system can be recycled for use in the new construction. In order to carry out the mission of the FHWA, i.e., to ''improve the quality of the Nation's highway system,'' the NHS must be properly preserved, maintained, rehabilitated, and when necessary, reconstructed. Maintenance of highways and associated structures is critical to our ability to provide the safest, most efficient roadway system possible, while simultaneously providing the greatest level of protection to the human and natural environment.

The same materials used to build the original highway system can be re-used to repair, reconstruct, and maintain them. Where appropriate, recycling of aggregates and other highway construction materials makes sound economic, environmental, and engineering sense. The economic benefits from the re-use of nonrenewable highway materials can provide a great boost to the highway industry. Recycling highway construction materials can be a cost-saving measure, freeing funds for additional highway construction, rehabilitation, preservation or maintenance.

Recycling presents environmental opportunities and challenges, which, when appropriately addressed, can maximize the benefits of re-use. The use of most recycled materials poses no threat or danger to the air, soil, or water. Furthermore, careful design, engineering and application of recycled materials can reduce or eliminate the need to search for and extract new, virgin materials from the land. The engineering feasibility of using recycled materials has been demonstrated in research, field studies, experimental projects and long-term performance testing and analysis. Significant advances in technology over the past decade have increased the types of recycled materials in use and the range of their applications. When appropriately used, recycled materials can effectively and safely reduce cost, save time, offer equal or, in some cases, significant improvement to performance qualities, and provide long-term environmental benefits.

FHWA has established agency goals for enhancing the human and natural environment, increasing mobility, raising productivity, improving safety throughout the highway industry, and preserving national security. All of these goals are stated in our strategic plan, and we will ensure that the FHWA recycling policy and recycling programs are in alignment with those goals and underlying principles. This recycling policy statement is offered to advance the use of recycled materials in highway applications. It is intended to provide leadership, direction, and technical guidance to the transportation community for the use of recycling technology and materials in the highway environment. The FHWA policy is:

1. Recycling and reuse can offer engineering, economic and environmental benefits.
2. Recycled materials should get first consideration in materials selection.
3. Determination of the use of recycled materials should include an initial review of engineering and environmental suitability.
4. An assessment of economic benefits should follow in the selection process.
5. Restrictions that prohibit the use of recycled materials without technical basis should be removed from specifications.

FHWA has a longstanding position that any material used in highway or bridge construction, be it virgin or recycled, shall not adversely affect the performance, safety or the environment of the highway system. This remains a cornerstone in our policy statement. In order to foster innovation and future development we support research, field trials, and project demonstrations showcasing the findings.

We will do this with: People:

The FHWA Recycling Team.

Creation of a team of champions in our Division Offices that will be points of contact for recycling technology.

Partnering:

The Recycled Materials Resource Center.

Working with the AASHTO Subcommittee on Materials and Environment.

AASHTO Standing Committee on Highways recently passed a resolution on ''Use of Recycled Materials''. That document requests the establishment of a joint task force be created to provide the overall leadership for a coordinated national recycling program.

Coordination with State highway agency (SHA) Recycling Coordinators and state solid waste management regulators.

Interaction and coordination with industry partners.

Taking the lead for coordination of recycling activities and initiatives.

Promotion and Support:

Agency emphasis on recycling technology in the FHWA Strategic Plan.

Research, development, and technology transfer programs to further innovation.

Demonstration projects.

Increased training opportunities for FHWA and SHA staff.

Active promotion of recycling technology by providing needed specifications, best practices, design guidance, and material testing results to overcome barriers.

Assistance in review, evaluation, and advancement of emerging technology.

Promoting the concept of ''sustainable'' construction, i.e., construction designed for later recycling.

FREDERICK G. WRIGHT, Jr.,
*Executive Director*.

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NEW MEXICO STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT,
*Santa Fe, NM, May 6, 2003*.

Attention: Eric Burman, Legislative Fellow.
Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building, Washington, DC*.

DEAR SENATOR BINGAMAN: My staff and I have reviewed the proposed ''Recycled Roads Act of 2003'' legislation and support it for the following reasons:

The legislation supports on-going work that the NMSHTD Recycling Task Force has been doing. It will enable us to complete additional research on issues related to the use of recycled materials on our roadways. Two current issues we are pursuing are: (1) The feasibility of rubberized pavement in roadway construction, and (2) The use of compost and/or mulch as an alternative to reseeding upon the completion of construction related projects.

Another important aspect of this legislation is that through its reporting requirements, it will enhance communication and cooperation between the NMSHTD (NMDOT) and other groups who are interested in the use of recycled materials in transportation facility maintenance and construction (e.g., state and tribal Departments of Transportation).

This legislation can provide the Department an opportunity to expand and accelerate progress in areas we currently pursue with limited resources.

Sincerely,

RHONDA G. FAUGHT,
*Cabinet Secretary*.

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ENVIRONMENTAL DEFENSE,
*Washington, DC, May 22, 2003*.

Hon. JEFF BINGAMAN,
*U.S. Senate,*
*Washington, DC*.

DEAR SENATOR BINGAMAN: Environmental Defense is pleased to endorse the Recycled Roads Act, which promotes the use of nontoxic recycled materials as road construction materials. Using these recycled materials not only diverts them from landfills and incinerators, but also reduces energy use and pollution associated with manufacturing virgin materials for road construction, thus benefiting the environment and human health. It also provides economic benefits by enhancing markets for recycling of materials like glass and tires that have traditionally had limited recycling markets or viability. Because some potentially recyclable materials have toxic constituents, the bill's provisions requiring evaluation of risk (in conjunction with the Administrator of the Environmental Protection Agency) are a key aspect of the bill. As always, our endorsement is specific to the text of the bill as it stands at this point.

Thank you for taking a leadership role on this important issue.

Sincerely,

KAREN FLORINI,
*Senior Attorney*.

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SURFACE TRANSPORTATION
POLICY PROJECT,
*Washington, DC, May 22, 2003*.

Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building, Washington, DC*.

DEAR SENATOR BINGAMAN: On behalf of the Surface Transportation Policy Project, I am writing to convey our support for your legislation, the ''Recycle Roads Act of 2003.''

The Surface Transportation Policy Project, among it goals, seeks improved energy use and environmental protection. We believe that our transportation investments, services and incentives should not only meet our travel needs, but also can further our efforts to protect and enhance the integrity of our natural resources and enhance resource efficiency and energy conservation goals.

We know that the use of recyclable materials in transportation projects conserves raw materials and reduces the quantities of waste deposited in landfills. We also see recyclable materials as part of a broader effort to extend the life cycle of our transportation facilities, an important value as we continue to look for ways to leverage available dollars.

Increased recycling can deliver engineering, economic and environmental benefits, including increased opportunities for rural economic development. The legislation would help create new markets and incentives for recycling in small communities and would provide additional savings for all levels of government. The legislation would also foster greater cooperation between transportation and environmental programs carried out by states or Indian tribes.

We applaud your leadership in developing this legislation and support your efforts to move it forward during this Congress.

Sincerely,

ANNE CANBY,
*President.*

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S. 1168

*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 ''Recycled Roads Act of 2003''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) in 2000, there were more than 3,951,000 miles of highways in the United States;

(2) in the early 1990s, as much as 350,000,000 tons of raw and recyclable material were used annually for highway construction, rehabilitation, and maintenance;

(3) in 2002, the Federal Government provided $26,348,000,000, or more than 34 percent of funding, for highways in the United States;

(4) at least 45 States recycle a total of 73,000,000 tons of reclaimed asphalt pavement annually, the use of which results in an annual savings of approximately $300,000,000 as compared with the cost of using raw material;

(5) in 2002, the Federal Highway Administration issued a policy encouraging States to use recycled material in highway construction because recycling and reuse can offer engineering, economic, and environmental benefits;

(6) greater incorporation of recyclable material in highway construction would—

(A) provide a significant new national market for the use of recyclable material;

(B) create new markets and incentives for recycling in small communities;

(C) conserve raw material; and

(D) reduce the quantities of waste deposited in landfills in the United States (which would produce an additional savings for the Federal Government and State governments); and

(7) the increased use of recyclable material in highway construction could—

(A) provide additional opportunities for rural economic development; and

(B) encourage expanded use of biomass products.

**SEC. 3. USE OF RECYCLABLE MATERIAL IN FEDERAL-AID HIGHWAY CONSTRUCTION.**

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:

**''§ 139. Use of recyclable material in Federal-aid highway construction**

''(a) DEFINITION OF RECYCLABLE MATERIAL.—In this section:

''(1) IN GENERAL.—The term 'recyclable material' means any material described in paragraph (2) that is determined by the Secretary, in consultation with the Administrator of the Environmental Protection Agency—

''(A) to be recyclable and usable in construction of a Federal-aid highway; and

''(B) to have undergone a recycling process to prepare the material for further use.

''(2) MATERIALS.—The materials referred to in paragraph (1) are—

''(A) glass;

''(B) forest biomass;

''(C) a used tire or tire product;

''(D) reclaimed asphalt;

''(E) plastic; and

''(F) any other suitable material that does not contain a total concentration of any toxic constituent that poses a risk to human health or the environment—

''(i) during preconstruction activity, including storage, transportation, or preparation of the material for use in road construction;

''(ii) during the useful life of the road; or

''(iii) after the useful life of the road, including subsequent recycling, reuse, or disposal of components of or debris from the road.

''(b) PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary shall establish a recycled roads incentive grant program to encourage the expanded use by States and Indian tribes of a diverse range of recyclable material in the construction of Federal-aid highways.

''(2) GRANTS.—In carrying out this section, the Secretary shall provide to each State or qualified (as determined by the Secretary) Indian tribe—

''(A) a grant, in an amount not to exceed $125,000 for a fiscal year, to be used by the State or Indian tribe in employing a coordinator to promote the use of a diverse range of recyclable material in Federal-aid highway construction; and

''(B) a grant, on a competitive basis, in an amount not to exceed $1,400,000 for a fiscal year, to be used by the State or Indian tribe in carrying out projects and activities to promote the expanded use of a diverse range of recyclable material in Federal-aid highway construction and maintenance, such as projects and activities to—

''(i) eliminate economic barriers;

''(ii) develop markets;

''(iii) provide outreach, training, or technical assistance; or

''(iv) collect program and performance data.

''(3) ADMINISTRATION.—

''(A) REDISTRIBUTION OF FUNDS.—If funds made available for use in providing grants under subparagraph (A) or (B) of paragraph (2) for a fiscal year remain after the Secretary has provided grants under the subparagraph for the fiscal year, the Secretary—

''(i) may use the remaining funds to provide additional grants under that paragraph for the fiscal year; but

''(ii) notwithstanding any other provision of this title, shall not use the funds to provide grants or assistance under any other program under this title.

''(B) TRANSPORTATION AND ENVIRONMENTAL COOPERATION.—In providing a grant to a State or Indian tribe under paragraph (2)(B), the Secretary shall encourage cooperation between transportation and environmental programs carried out by the State or Indian tribe.

''(C) EQUITABLE TREATMENT OF STATES AND INDIAN TRIBES.—To the maximum extent practicable, the Secretary shall treat an Indian tribe as a State for the purpose of a grant provided under paragraph (2).

''(4) STATE AND TRIBAL REPORTS.—For the fiscal year in which the program under this section is implemented and each fiscal year thereafter, each State and Indian tribe that receives a grant under paragraph (2) shall—

''(A) collect a sampling of data pertaining to the use by the State or Indian tribe, during the fiscal year covered by the report, of recyclable material in the projects for construction of Federal-aid highways in the State or on land under the jurisdiction of the Indian tribe that are carried out under this section or any other provision of this title using at least $1,000,000 in Federal funds, including a description of—

''(i) each type of recyclable material used;

''(ii) the quantity of each recyclable material used; and

''(iii) the proportion that—

''(I) the quantity of each recyclable material used; bears to

''(II) the quantity of all recyclable material and raw material used; and

''(B) submit to the Secretary a report describing those data.

''(5) QUALITY CONTROL.—The Secretary shall ensure, to the maximum extent practicable, that data provided by a State or Indian tribe under paragraph (4) is of a sufficient quality and range to permit the Secretary to assess national accomplishments involving the use of recyclable material.

''(c) REPORTS.—

''(1) INITIAL REPORT.—Not later than 180 days after the date of enactment of the Recycled Roads Act of 2003, the Secretary shall submit to the appropriate committees of Congress a report on the program to be carried out under this section that includes—

''(A) an overview of program requirements;

''(B) an analysis of any significant issues relating to the program; and

''(C) a proposed timeline for implementation of the program.

''(2) ANNUAL REPORTS.—Not later than 2 years after the date of enactment of the Recycled Roads Act of 2003, and annually thereafter on the date of issuance of the annual program performance report under section 1116 of title 31, United States Code, the Secretary shall submit to the appropriate committees of Congress a report on the program under this section, including, for each recyclable material used in the construction of a Federal-aid highway during the period covered by the report, the information described in subsection (b)(4).

''(d) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account)—

''(1) $10,125,000 for use in providing grants under subsection (b)(2)(A) for each fiscal year; and

''(2) $113,400,000 for use in providing grants under subsection (b)(2)(B) for each fiscal year.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 138 the following:

''139. Use of recyclable material in Federal-aid highway construction.''.

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By Mr. SPECTER:

S. 1169. A bill to decrease the United States dependence on imported oil by the year 2015; to the Committee on Commerce, Science, and Transportation.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that would reduce our Nation's dependence on imported oil. Last year, Senator CARPER and I introduced this legislation as an amendment to the energy bill and I offer it today to begin a debate and dialogue in the Senate about the merits of this goal.

During last year's energy bill consideration, I joined over 60 of my colleagues in voting for the Levin-Bond

amendment regarding the Corporate Average Fuel Economy standards for cars, SUV's, and light trucks. Given the instability in the Middle East and our Nation's reliance on foreign oil, Senator CARPER and I offered additional language to slow the growth of our dependency on oil in a measurable way on the energy bill.

I supported the Levin-Bond amendment because, among other things, it would have invested Federal dollars in research and development of advanced technology vehicles. It would have harnessed the power of government to purchase and commercialize hybrid and fuel cell-powered vehicles. I also supported the amendment's accompanying tax incentives, which would further encourage the production and purchase of advanced, fuel-efficient vehicles.

However, the Levin-Bond amendment fell short in one important area - it did not include a clear, measurable objective for oil savings. The issue is not just the Corporate Average Fuel Efficiency, CAFE, or Miles Per Gallon, MPG,—rather it is oil and our growing dependence on imports for 56 percent of what we use. The bill I am introducing today would implement the Levin-Bond requirement that the Secretary of Transportation issue new regulations setting forth increased average fuel economy standards and further require that the Secretary of Transportation issue regulations to reduce the amount of oil consumed in our passenger cars and light trucks in 2015 by 1,000,000 barrels per day compared to consumption without such regulations in place.

Federal research has identified promising fuel technologies, including fuels developed from biomass, coal waste, and other sources that could play a role in reducing our dependence on traditional, foreign crude oil and facilitate a transition to advanced fuels. For example, one important effort that is happening in Pennsylvania involves a recent $100 million U.S. Department of Energy grant to build the first U.S. coal-waste-to-clean-fuel plant. This $612 million plant is expected to produce 5,000 barrels of sulfur-free diesel or other types of transportation fuel daily. This will have the multiple benefits of removing coal waste, reducing acid mine drainage, producing fuels that will reduce air pollution, and using a domestic energy supply, thus reducing the need to import foreign oil. The bill I am introducing today tasks the Department of Energy to work with the Department of Transportation to develop and encourage such technologies.

America uses about 8 million barrels of oil daily to power the vehicles that we drive. The Department of Energy forecasts that this amount will climb to 10.6 million barrels per day by 2015, an increase of over 35 percent. I propose to limit that growth to 23 percent, or 9.6 million barrels.

America's national security is jeopardized by our growing dependence on foreign oil. Oil imports now account for a third of our nation's trade deficit, which exceeded $400 billion in 2001. I will continue to raise the issue of the untenable position the United States is in by relying on oil from the Middle East. This is highlighted by the fact that we continue to see suicide bombings in Israel and new attacks in other Middle Eastern nations such as Saudi Arabia and Morocco.

Additionally, the exhausts of our motor vehicles are the source of significant amounts of air pollution, including a quarter of the carbon dioxide emitted into our atmosphere, which is sited as a lead contributor to global climate change.

To address these concerns, Congress need not attempt to micro manage a solution by setting higher CAFE levels. We should, however, set a clear, measurable objective—reducing the growth in oil consumption by at least a million barrels per day by 2015. We should then delegate to NHTSA, as the energy bill would have accomplished last year under the Levin-Bond amendment and my legislation does, the responsibility for working with the auto industry to achieve that objective. That approach will encourage American ingenuity and foster a public-private partnership that recognizes the interests of consumers and auto makers, as well as furthering public policy that will help relieve the very significant and dangerous policy of relying on our economy's lifeblood of oil from unstable regions.

As this body considers energy legislation, I encourage my colleagues to consider the importance of taking appropriate steps to reduce our dependence on foreign sources of energy, particularly oil. I invite my colleagues to join me in this effort by cosponsoring this legislation.

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By Mr. WYDEN:

S. 1170. A bill to designate certain conduct by sports agents relating to signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

Mr. WYDEN. Mr. President, summer is upon us. For many college athletes, that means leaving campus and heading back to a home in a different state. Some may take the opportunity to do some traveling, or even to attend sports camps in various parts of the country.

Unfortunately, this well-earned break can carry real risks for the athletes and their schools. Why? Because traveling student athletes may be big targets for opportunistic sports agents—and due to highly inconsistent state laws on the subject, the legal protections that an athlete might enjoy in the state where the college is located don't necessarily apply elsewhere.

Today I am reintroducing a bill to address this issue, the Sports Agent Responsibility and Trust Act. The purpose of the bill is simple: to set some basic, uniform nationwide rules to prevent unscrupulous behavior by sports agents who court student athletes. The universities in Oregon with top athletic programs—the University of Oregon, Oregon State University, and Portland State University—have all provided letters of endorsement for this legislation. So has the NCAA.

Too often, unscrupulous sports agents prey upon young student athletes who are inexperienced, naive, or simply don't know all of the collegiate athletic eligibility rules. The agent sees the student athlete as a potentially lucrative future client, and wants to get the biggest headstart possible on other agents. So the agent tries to contact and sign up the student athlete as early as possible, and does whatever takes to get the inside track.

In some cases, the agent may attempt to lure the student athlete with grand promises. In some cases, the agent may offer flashy gifts. To make the offer more enticing, the agent may withhold crucial information about the impact on the student's eligibility to compete in college sports.

A majority of States have enacted statutes to address unprincipled behavior by sports agents, but the standards vary from State to State and some states don't have any at all. The universities in my State of Oregon tell me that this creates a significant loophole. Specifically, Oregon has a State law, but it doesn't apply when, for example, a University of Oregon athlete goes home to another State for the summer and is contacted by an agent there. Every time that athlete crosses into another State a different set of rules apply. And if one State's laws on the subject are particularly weak, that is where shady sports agents will try to contact their targets.

That is why there ought to be a single, nationwide standard. The bill I am introducing today would establish a uniform baseline, enforceable by the Federal Trade Commission, that would supplement but not replace existing state laws. Specifically, the bill would make it an unfair and deceptive trade practice for a sports agent to entice a student athlete with false or misleading information or promises or with gifts to the student athlete or the athlete's friends or family. It would require a sports agent to provide the student athlete with a clear, standardized warning, in writing, that signing an agency contract could jeopardize the athlete's eligibility to participate in college sports. It would make it unlawful to pre-date or post-date agency contracts, and require both the agent and student athlete to promptly inform the athlete's university if they do enter into a contract.

Representative BART GORDON of Tennessee has spearheaded this legislation in the House, where the Energy and Commerce Committee and the Judiciary Committee have both considered and approved the bill this year. I'm told that consideration on the House

floor could occur this week. I applaud Congressman GORDON for his leadership on this issue, and I urge my Senate colleagues to join me in addressing this matter in the Senate.

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. 1170

*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 ''Sports Agent Responsibility and Trust Act''.

**SEC. 2. DEFINITIONS.**

As used in this Act, the following definitions apply:

(1) AGENCY CONTRACT.—The term ''agency contract'' means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

(2) ATHLETE AGENT.—The term ''athlete agent'' means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) ATHLETIC DIRECTOR.—The term ''athletic director'' means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

(4) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(5) ENDORSEMENT CONTRACT.—The term ''endorsement contract'' means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual's person, name, image, or likeness in the promotion of any product, service, or event.

(6) INTERCOLLEGIATE SPORT.—The term ''intercollegiate sport'' means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of college athletics.

(7) PROFESSIONAL SPORTS CONTRACT.—The term ''professional sports contract'' means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(8) STATE.—The term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(9) STUDENT ATHLETE.—The term ''student athlete'' means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. An individual who is permanently ineligible to participate in a particular intercollegiate sport is not a student athlete for purposes of that sport.

**SEC. 3. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE CONTACT BETWEEN AN ATHLETE AGENT AND A STUDENT ATHLETE.**

(a) CONDUCT PROHIBITED.—It is unlawful for an athlete agent to—

(1) directly or indirectly recruit or solicit a student athlete to enter into an agency contract, by—

(A) giving any false or misleading information or making a false promise or representation; or

(B) providing anything of value to a student athlete or anyone associated with the student athlete before the student athlete enters into an agency contract including any consideration in the form of a loan, or acting in the capacity of a guarantor or co-guarantor for any debt;

(2) enter into an agency contract with a student athlete without providing the student athlete with the disclosure document described in subsection (b); or

(3) predate or postdate an agency contract.

(b) REQUIRED DISCLOSURE BY ATHLETE AGENTS TO STUDENT ATHLETES.—

(1) IN GENERAL.— In conjunction with the entering into of an agency contract, an athlete agent shall provide to the student athlete, or, if the student athlete is under the age of 18 to such student athlete's parent or legal guardian, a disclosure document that meets the requirements of this subsection. Such disclosure document is separate from and in addition to any disclosure which may be required under State law.

(2) SIGNATURE OF STUDENT ATHLETE.—The disclosure document must be signed by the student athlete, or, if the student athlete is under the age of 18 by such student athlete's parent or legal guardian, prior to entering into the agency contract.

(3) REQUIRED LANGUAGE.—The disclosure document must contain, in close proximity to the signature of the student athlete, or, if the student athlete is under the age of 18, the signature of such student athlete's parent or legal guardian, a conspicuous notice in boldface type stating: ''Warning to Student Athlete: If you agree orally or in writing to be represented by an agent now or in the future you may lose your eligibility to compete as a student athlete in your sport. Within 72 hours after entering into this contract or before the next athletic event in which you are eligible to participate, whichever occurs first, both you and the agent by whom you are agreeing to be represented must notify the athletic director of the educational institution at which you are enrolled, or other individual responsible for athletic programs at such educational institution, that you have entered into an agency contract.''.

**SEC. 4. ENFORCEMENT.**

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this Act shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ACTIONS BY THE COMMISSION.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

**SEC. 5. ACTIONS BY STATES.**

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any athlete agent in a practice that violates section 3 of this Act, the State may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with this Act; or

(C) obtain damage, restitution, or other compensation on behalf of residents of the State.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for a violation of section 3, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action.

(e) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(f) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(1) is an inhabitant; or

(2) may be found.

**SEC. 6. PROTECTION OF EDUCATIONAL INSTITUTION.**

(a) NOTICE REQUIRED.—Within 72 hours after entering into an agency contract or before the next athletic event in which the student athlete may participate, whichever occurs first, the athlete agent and the student athlete shall each inform the athletic director of the educational institution at which the student athlete is enrolled, or other individual responsible for athletic programs at such educational institution, that the student athlete has entered into an agency contract, and the athlete agent shall provide the athletic director with notice in writing of such a contract.

(b) CIVIL REMEDY.—

(1) IN GENERAL.—An educational institution has a right of action against an athlete agent for damages caused by a violation of this Act.

(2) DAMAGES.—Damages of an educational institution may include amd are limited to

actual losses and expenses incurred because, as a result of the conduct of the athlete agent, the educational institution was injured by a violation of this Act or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate actions likely to be imposed by such an association or conference.

(3) COSTS AND ATTORNEYS FEES.—In an action taken under this section, the court may award to the prevailing party costs and reasonable attorneys fees.

(4) EFFECT ON OTHER RIGHTS, REMEDIES AND DEFENSES.—This section does not restrict the rights, remedies, or defenses of any person under law or equity.

**SEC. 7. LIMITATION.**

Nothing in the Act shall be construed to prohibit an individual from seeking any remedies available under existing State law or equity.

**SEC. 8. SENSE OF CONGRESS.**

It is the sense of Congress that States should enact the Uniform Athlete Agents Act of 2000 drafted by the National Conference of Commissioners on Uniform State Laws, to protect student athletes and the integrity of amateur sports from unscrupulous sports agents. In particular, it is the sense of Congress that States should enact the provisions relating to the registration of sports agents, the required form of contract, the right of the student athlete to cancel an agency contract, the disclosure requirements relating to record maintenance, reporting, renewal, notice, warning, and security, and the provisions for reciprocity among the States.

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By Mr. FRIST (for himself, Mr. BINGAMAN, Mr. DODD, Mr. DEWINE, Mrs. CLINTON, Mr. WARNER, Mrs. MURRAY, Mr. LUGAR, Ms. LANDRIEU, Mr. SESSIONS, and Mr. ALEXANDER):

S. 1172. A bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FRIST. Mr. President, I rise today to discuss a particular public health problem—the growing rates of obesity. This epidemic has steadily increased to a level twice what it was thirty years ago. Obesity now affects over sixty percent of adults and thirteen percent of children and adolescents. Among young people, it is escalating at an alarming rate. This condition causes three hundred thousand deaths a year and is second only to smoking as the Nation's leading cause of preventable death. Overweight and obesity are associated with increased risk for heart disease, the leading cause of death, cancer, the second leading cause of death, diabetes, the seventh leading cause of death, and musculoskeletal disorders. Anyone with this condition has at least a 50 percent chance of a premature death.

As obesity continues to mount, the morbidity, mortality and health care costs associated with these disorders will skyrocket. Just this last month, a Health Affairs article estimated that nearly one-tenth of U.S. health care costs are attributable to conditions resulting from obesity or being overweight. In 2002 dollars, the authors of this article estimate that obesity and overweight-related conditions cost $92.6 billion. Of which, half is financed by Medicare and Medicaid.

Healthy People 2010 calls overweight and obesity one of the Nation's leading health problems and prioritizes efforts to increase the proportion of adults who are at a healthy weight, and reduce the levels of obesity and overweight among adults, children and adolescents. The Surgeon General's report ''A Call to Action'' lists the treatment and prevention of obesity as a top national priority.

Now, if this condition was linked to an infectious or bioterrorist agent, the public outcry would be deafening, and the action to control it swift. But it is not. Obesity and being overweight is often seen as an individual problem and a personal choice, and thus does not receive much attention. Most people do not choose to be overweight. Overweight and obesity result from daily lifestyle choices that gradually accumulate. Weight gain occurs slowly, often unnoticed. Today, many Americans struggle to control their weight, collectively spending billions of dollars each year on weight loss products and programs.

The good news is that, with healthy eating and regular physical activity, obesity is preventable and treatable. That is why I, along with Senator BINGAMAN, Senator DODD, and others, am reintroducing the ''Improved Nutrition and Physical Activity, IMPACT, Act.'' I am pleased that Representatives MARY BONO and KAY GRANGER, along with other co-sponsors, introduced companion legislation in the House of Representatives earlier this year. This bill will help Americans make healthy decisions about nutrition and physical activity. It emphasizes youth education so that healthy habits can begin early. Finally, it funds demonstration projects to find innovative ways of improving eating and exercise habits.

There is no single solution to the growing epidemic of obesity. That is why the IMPACT Act takes a multifaceted approach. It implements evidence-based programs, where available, and includes rigorous evaluation of demonstration projects so we can learn what works best. This important legislation has a modest price tag, reflecting the appropriate role of the Federal Government. Most importantly, the IMPACT Act does not attempt to mandate what Americans eat or drink or to transfer to the Federal Government decisions that are best made at local levels.

Let me be clear that I am not against people making choices. I am all for choice, informed choice. What has happened, though, is that we as a society and as individuals have made choices about eating and activity, gradually and incrementally, without understanding or considering the consequences. Finally, and most importantly, this bill does not intend to and should not be considered to stigmatize those who struggle to control their weight or to demonize any sector of the country by blaming them for this epidemic. The IMPACT Act represents a bipartisan agreement that the problem of obesity is important, and takes an approach that is supported by a broad spectrum of interested parties. With the Federal Government providing assistance, all sectors of society will need to work together to help produce a healthier nation.

I believe we have crafted a good first response to the growing rates of obesity. A number of public health and industry experts support the passage of this important legislation. I ask unanimous consent that a list of the organizations supporting the legislation and the text of the bill be printed in the RECORD.

I want to thank Senators BINGAMAN and DODD for their work on this bill. I also want to thank Senator GREGG for his assistance in ensuring that this legislation can become law. Senator GREGG has worked tirelessly with my staff to ensure that we craft legislation that can be quickly passed by the Senate, and I appreciate his efforts. I look forward to having this bill become law this year.

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

GROUPS SUPPORTING THE IMPACT ACT

The Advertising Council, Inc.;
Consortium for Citizens with Disabilities Prevention Task Force;
Council on State and Territorial Epidemiologists;
Endocrine Society;
FamilyCook Productions: Bringing Families Together Through Fresh Food;
Grocery Manufacturers of America;
National Alliance for Nutrition and Activity;
National Recreation and Parks Association;
Research against Inactivity-related Disorders (RID);
Samuels & Associates: Public Health Research, Evaluation, and Policy Consultants;
Society for Nutrition Education;
Structure House;
University of North Carolina at Chapel Hill, School of Public Health; and
YMCA.

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S. 1172

*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 ''Improved Nutrition and Physical Activity Act'' or the ''IMPACT Act''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) An estimated 61 percent of adults and 13 percent of children and adolescents in the Nation are overweight or obese.

(2) The prevalence of obesity and being overweight is increasing among all age groups. There are twice the number of overweight children and 3 times the number of overweight adolescents as there were 29 years ago.

(3) An estimated 300,000 deaths a year are associated with being overweight or obese.

(4) Obesity and being overweight are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

(5) Individuals who are obese have a 50 to 100 percent increased risk of premature death.

(6) The Healthy People 2010 goals identify obesity and being overweight as one of the Nation's leading health problems and include objectives of increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(7) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionally impacts medically underserved populations.

(8) The United States Surgeon General's report ''A Call To Action'' lists the treatment and prevention of obesity as a top national priority.

(9) The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

(10) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including ''A Call To Action'' and other documents prepared by the Department of Health and Human Services and other agencies.

(11) Eating preferences and habits are established in childhood.

(12) Poor eating habits are a risk factor for the development of eating disorders and obesity.

(13) Simply urging overweight individuals to be thin has not reduced the prevalence of obesity and may result in other problems including body dissatisfaction, low self-esteem, and eating disorders.

(14) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

(15) Binge Eating is associated with obesity, heart disease, gall bladder disease, and diabetes.

(16) Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. In fact, Anorexia Nervosa has the highest mortality rate of all psychiatric disorders, placing a young woman with Anorexia at 18 times the risk of death of other women her age.

(17) Anorexia Nervosa and Bulimia Nervosa usually appears in adolescence.

(18) Bulimia Nervosa, an eating disorder from which an estimated 1.1 to 4.2 percent of American women will suffer in their lifetime, is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

(19) On the 1999 Youth Risk Behavior Survey, 7.5 percent of high school girls reported recent use of laxatives or vomiting to control their weight.

(20) Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

(21) Eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

(22) Eating disorders of all types are more common in women than men.

## TITLE I—TRAINING GRANTS

### SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.

Section 747(c)(3) of title VII of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking ''and victims of domestic violence'' and inserting ''victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders''.

### SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.

Section 399Z of the Public Health Service Act (42 U.S.C. 280h–3) is amended—

(1) in subsection (b), by striking ''2005'' and inserting ''2007'';

(2) by redesignating subsection (b) as subsection (c); and

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

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

''(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

''(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

''(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

''(i) how to treat or prevent obesity, being overweight, and eating disorders;

''(ii) the link between obesity and being overweight and related serious and chronic medical conditions;

''(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

''(iv) how to identify overweight and obese patients and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions;

''(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

''(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.''.

## TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION

### SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

### ''SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women's Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls, racial and ethnic minorities, and the underserved.

''(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

''(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

''(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

''(A) State and local educational agencies;

''(B) departments of health;

''(C) chronic disease directors;

''(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

''(E) 5-a-day coordinators;

''(F) governors' councils for physical activity and good nutrition; and

''(G) State and local parks and recreation departments; and

''(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

''(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

''(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a city, county, tribe, territory, or State;

''(2) a State educational agency;

''(3) a tribal educational agency;

''(4) a local educational agency;

''(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

''(6) a rural health clinic;

''(7) a health department;

''(8) an Indian Health Service hospital or clinic;

''(9) an Indian tribal health facility;

''(10) an urban Indian facility;
''(11) any health care service provider;
''(12) an accredited university or college; or
''(13) any other entity determined appropriate by the Secretary.

''(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

''(1) carry out community-based activities including—

''(A) planning and implementing environmental changes that promote physical activity;

''(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

''(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

''(D) establishing incentives for retail food stores, farmer's markets, food coops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

''(E) forming partnerships with senior centers and nursing homes to establish programs for older people to foster physical activity and healthy eating behaviors;

''(F) forming partnerships with day care facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(G) providing community educational activities targeting good nutrition;

''(2) carry out age-appropriate school-based activities including—

''(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(i) after hours physical activity programs;

''(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

''(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

''(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

''(3) carry out activities through the local health care delivery systems including—

''(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

''(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; or

''(4) other activities determined appropriate by the Secretary.

''(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

''(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

''(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

''(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in healthy eating behaviors and physical activity in youth.

''(j) DEFINITIONS.—In this section:

''(1) ANOREXIA NERVOSA.—The term 'Anorexia Nervosa' means an eating disorder characterized by self-starvation and excessive weight loss.

''(2) BINGE EATING DISORDER.—The term 'binge eating disorder' means a disorder characterized by frequent episodes of uncontrolled eating.

''(3) BULIMIA NERVOSA.—The term 'Bulimia Nervosa' means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

''(4) EATING DISORDERS.—The term 'eating disorders' means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

''(5) HEALTHY EATING BEHAVIORS.—The term 'healthy eating behaviors' means—

''(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

''(B) choosing foods to promote health and prevent disease;

''(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

''(D) eating in a manner to acknowledge internal signals of hunger and satiety.

''(6) OBESE.—The term 'obese' means an adult with a Body Mass Index (BMI) of 30 kg/m2 or greater.

''(7) OVERWEIGHT.—The term 'overweight' means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m2 and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

''(8) YOUTH.—The term 'youth' means individuals not more than 18 years old.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $60,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008. Of the funds appropriated pursuant to this subsection, the following amounts shall be set aside for activities related to eating disorders:

''(1) $5,000,000 for fiscal year 2004.
''(2) $5,500,000 for fiscal year 2005.
''(3) $6,000,000 for fiscal year 2006.
''(4) $6,500,000 for fiscal year 2007.
''(5) $1,000,000 for fiscal year 2008.

**SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.**

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by striking subsection (n) and inserting the following:

''(n)(1) The Secretary, acting through the Center, may provide for the—

''(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

''(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

''(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

''(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.''.

**SEC. 203. STUDY OF THE FOOD SUPPLEMENT AND NUTRITION PROGRAMS OF THE DEPARTMENT OF AGRICULTURE.**

(a) IN GENERAL.—The Secretary of Agriculture shall request that the Institute of Medicine conduct, or contract with another entity to conduct, a study on the food and nutrition assistance programs run by the Department of Agriculture.

(b) CONTENT.—Such study shall—

(1) investigate whether the nutrition programs and nutrition recommendations are based on the latest scientific evidence;

(2) investigate whether the food assistance programs contribute to either preventing or enhancing obesity and being overweight in children, adolescents, and adults;

(3) investigate whether the food assistance programs can be improved or altered to contribute to the prevention of obesity and becoming overweight; and

(4) identify obstacles that prevent or hinder the programs from achieving their objectives.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report containing the results of the Institute of Medicine study authorized under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000 for fiscal years 2003 and 2004.

**SEC. 204. HEALTH DISPARITIES REPORT.**

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities outlined in this Act and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a–1(c)(3)).

**SEC. 205. PREVENTIVE HEALTH SERVICES BLOCK GRANT.**

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended by adding at the end the following:

''(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.''.

**SEC. 206. REPORT ON OBESITY RESEARCH.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications of obesity and being overweight.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes of, prevention of, and treatment of, overweight and obesity; and

(3) recommendations on further research that is needed, including research among diverse populations, the department's plan for conducting such research, and how current knowledge can be disseminated.

**SEC. 207. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.**

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children's behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.''.

Mr. BINGAMAN. Mr. President, I rise today in support of the Improved Nutrition and Physical Activity or IMPACT Bill that Senator FRIST has introduced with myself and Senators DODD, DEWINE, CLINTON, WARNER, MURRAY, LUGAR, LANDRIEU, and SESSIONS. This is a bill that is critical in this era of chronic disease, as it addresses the mounting public health concerns of obesity, overweight, eating disorders, and their related diseases such as diabetes and cardiovascular disease.

Approximately 61 percent of adults and 13 percent of children and adolescents in our Nation today are overweight or obese. These individuals have a significantly greater risk of diseases such as diabetes, heart disease, and stroke than their healthy weight peers. Another 5 to 10 percent of Americans are suffering from eating disorders that can also manifest themselves in a number of physical and psychological illnesses including heart disease, osteoporosis, kidney failure, depression, anxiety, and suicide. Unfortunately, these rates of overweight, obesity, and eating disorders are rising in both adult and child populations. Since obesity is a health problem that disproportionately impacts medically underserved populations, it is rapidly increasing the medical burden on these already overburdened populations.

The economic implications of the obesity epidemic are equally disturbing. The estimated direct and indirect annual cost of obesity in the United States is now 117 billion dollars—exceeding the cost of tobacco-related illnesses. These costs will only continue to climb unless we make a concerted effort to stem this dangerous tide by initiating primary and secondary prevention programs.

It is this conclusion that led the United States Surgeon General to issue a Call to Action listing the treatment and prevention of obesity as a top national priority. It is this conclusion that has led Secretary Thompson to implement the Steps to a Healthier US initiative. And it is this reality that makes passing the IMPACT bill a critical step towards improving our nation's future health and well-being.

Obesity and eating disorders are complex diseases and as such require comprehensive multidisciplinary solutions. IMPACT aims to move us toward those solutions by addressing these diseases on a number of levels. First, it aims to prepare the health care community to deal with obesity from prevention to diagnosis to intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions Title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities, schools, health care organizations, and other qualified entities that promote fitness or healthy nutrition. It authorizes the CDC to collect fitness and energy expenditure information from children. It directs AHRQ to review any new information relating to obesity trends among various sub-populations and include such information in its health disparities report. It allows states to use their Preventive Services Block Grant money for community education on nutrition and increased physical activity. It instructs the Secretary to report on what research has been done in the area of obesity, what has been learned from this research, and what future research should be conducted. And finally, it asks the secretary to report on the effectiveness of the Youth Media Campaign in changing children's behaviors and reducing obesity.

IMPACT is supported by a wide variety of public and private organizations. The National Alliance for Nutrition and Activity or NANA, an organization including more than 250 national, state, and local organizations and the single largest coalition in the U.S. dedicated to promoting healthy eating and physical activity and reducing obesity states, ''NANA strongly supports your efforts to reduce obesity and improve eating and activity habits in the U.S. through the IMPACT bill.'' Other organizations that have stated their support include the American Heart Association, the American Cancer Society, the Council for States and Territorial Epidemiologists, the Society for Nutrition Education, and the American Dietetic Association.

This legislation is an excellent first step in the fight for improved health, but it is not the only step we must take. We need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce so that people have access to the healthcare professionals they need to prevent, diagnose, and treat obesity and eating disorders. We need to look at Medicare and Medicaid and insure that they provide the services necessary to help people prevent and treat obesity and its complications so that we reduce the burden of these diseases in these vulnerable populations. And we need to promote research in the areas of obesity prevention and treatment so that we can offer people better and more effective interventions in the future. These are not small goals but they are critical to our nation's health. I will continue to work on additional legislation that will take the next steps toward addressing these and other related concerns.

For today, I would like to ask all of my colleagues to join me in taking this very important first step toward reducing obesity and eating disorders by supporting this important legislation. By passing this bill we can truly IMPACT the health of our nation.

Mrs. CLINTON. Mr. President, I rise today to speak about a frightening epidemic in our Nation. A staggering 61 percent of adults and 13 percent of children and adolescents in our Nation are overweight or obese. The number of overweight children has doubled and the number of overweight adolescents has tripled since 1980, according to the Surgeon General. The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000, exceeding even smoking-related illnesses.

That is why I am pleased to join Senators FRIST, BINGAMAN, DODD and others in introducing the Improved Nutrition and Physical Activity Act of 2003. This bill takes important steps to fund programs that ensure healthy eating behaviors and improved physical activity. Funding this program will save Americans vastly more in lower health care costs. The bill also takes critical steps to educate health professionals to help us fight this epidemic. With smoking, we learned that a simple recommendation from a health professional to stop could have a dramatic impact in reducing smoking. It is just as important to make sure our health care providers are equipped to help mold healthy behaviors in our fight against obesity.

I also appreciate Senator FRIST's willingness to incorporate important provisions from my Promoting Healthy Eating Behaviors in Youth Act of 2002. While it is so important to fight the obesity epidemic, we should not inadvertently send the wrong message by

telling our children and adults simply to eat less and exercise. Unfortunately, many adolescents misinterpret this as a message that they should eat to achieve the body of a runway model. Anorexia and bulimia are increasingingly common among our Nation's youth. Recent data from the 1999 Youth Risk Behavior Survey indicated that 7 percent of young women who were very thin (body mass index less than 15 percentile) reported taking laxatives or vomiting to lose weight or to avoid gaining weight. An even larger percentage 9 percent of these very thin young women reported using diet pills.

While it is important to prevent diabetes and heart disease that may result from obesity, eating disorders also have their own very serious consequences. Anorexia nervosa, which will affect 3.7 percent of American women sometime in their lifetime, leads to heart failure, kidney failure, and osteoporosis. In fact, a young woman is 12 times more likely to die than other women her age without anorexia.

Poor eating habits have also led to a ''calcium crisis'' among American youth. Very few adolescent girls (14 percent get the recommended daily amount of calcium, placing them at serious risk for osteoporosis and other bone diseases. Because nearly 90 percent of adult bone mass is established by the end of adolescent growth period, the Nation's youth's insufficient calcium intake is truly a calcium crisis. The consequence of this crisis will be seen years later, when we are likely to face an unprecedented incidence of osteoporosis in women.

That is why I am especially grateful to see the use of a balanced ''healthy eating behavior'' definition in the bill, and to see that a portion of the grants in the bill are set aside for eating disorders education programs. While we certainly need to focus on exercise and appropriate nutritional behavior, it is certainly just as important to teach our children and adults how to engage in regular physical exercise and lose weight in a healthy way.

I am proud to join Senators FRIST, BINGAMAN, DODD, WARNER, DEWINE, MURRAY, LUGAR, and LANDRIEU in this important legislative initiative, and eagerly anticipate its progress as we fight a significant public health epidemic.

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By Mr. GRASSLEY (for himself, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. ALEXANDER, and Mrs. HUTCHISON):

S. 1173. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I want to speak briefly about low-income families and the recently passed tax bill. There has been much heat and very little light about what we have done in this bill. Most of the heat has been focused on the conference decision not to retain the Senate position regarding acceleration from 10 percent to 15 percent as part of the refundable child credit—a change already scheduled to take place in 2005.

Before I discuss this matter in detail, let me start by saying that I agree with my colleagues that we should seek to reconsider this provision. I am introducing legislation today that will do that, and will also, of equal, and perhaps greater importance, provide a uniform definition of a child and make the $1,000 child credit permanent. Finally, my bill will eliminate the marriage penalty that is contained in the child credit. This bill is an encompassing effort to help low-income and middle-income families.

The uniform definition of a child will help hundreds of thousands of families receive tax benefits for which they are not currently eligible. As important, it will bring simplification and clarity for millions of families, ensuring that they are not subject to IRS audit and collection efforts.

The bill also makes permanent the $1,000 child credit. Otherwise, in 2005 working families with two eligible children will receive a $600 tax increase as the tax credit drops to $700. In addition, the bill accelerates the refundable calculation from 10 percent to 15 percent.

Finally, the bill addresses the marriage penalty contained in the child credit. Currently, the child credit phases out at $75,000 for a single mother and a $110,000 for a married couple. My bill would eliminate the marriage penalty by having the credit phase out at $150,000. In addition, it adjusts the phase-out level for inflation.

I do not need to wait for comments from my colleagues or from the media to take this action. Many from the media who attended my press conference the day of final passage of the conference report will recall that I stated then that I would quickly seek to revisit the child tax credit issues and seek Senate action on permanency of the child credit.

Let me turn now to the acceleration issue. The media and some members of Congress seem to have a willful blindness as they discuss this matter. What are they blind to? The Earned Income Credit, EIC, program provides great assistance to the very population that is of concern.

Let me give you an example: A family of four making $11,000 will be eligible for $50 under the refundable child credit. By accelerating it, as proposed by my bill and by others, they will now be eligible for $75. What does this family get under EIC? In 2002 they will get a check for $4,140. That means that family is paying no income tax and payroll tax of $842 and is getting a payment from the federal government of almost $3,300 in excess of the payroll tax they pay.

You would never know this from the media accounts and the press releases. And even if there is a mention of the EIC, I have seen no mention of the dollar amount—the $4,00-plus check for families with two children and $2,500 for families with one child. Why is that? Because the chicken littles are too busy running around. I would hope that the concept of ''context'' would not be something of which the media has to be reminded. You would think from reading speeches and media accounts that the whole tax relief provided in the tax code to a family making $11,000 is the refundable child credit. The child credit for these families at this income level is a thimble compared to the enormous benefits of EIC.

Let me remind my colleagues of the purpose of the child credit: It was designed to address the perceived penalty for working families as the EIC began to phase out. In fact, the original proposal of the refundable child credit that I drafted with Senator BAUCUS in 2001 would not have begun to take effect until the point where the EIC begins to phase-out—at approximately $13,500 for a head of household and $14,500 for married couples.

The Finance Committee heard testimony, and it was the repeated view of academics, that Congress needed to address the phase-out of the EIC. There was no testimony to the Senate Finance Committee and I can find very little in respectable academic discussions that advocated an increase in the check for EIC recipients—that the EIC top amount of $4,000 plus for two children or $2,500 for one child was insufficiently generous.

So that is what was the genesis of the Finance Committee's support for a child credit—addressing somewhat the EIC phase-out as families begin to make more money. However, the beginning point of the phase-in was shifted at the request of some Senators to $10,000. That does not negate that the underlying purpose was and is to deal with the EIC phase-out.

This concern about the phase-out is reflected in the actions we took in conference. By raising the child credit to $1,000 we helped put more money in the pocket of a single mom with one child making $17,000 to $20,000.

That single mom making $20,000 will now get a $1,000 check instead of a $600 check under previous law.

What if we were to only do as some propose and do acceleration to 15 percent but not increase the child credit in 2005 to $1,000?

Yes, it will mean a bit more for those families already receiving a $4,000-plus check under EIC—and I recognize that every penny counts to these families. But this proposal will also mean a tax increase on that single mom making $18,000, that single dad making $19,000 and that married couple with one child making $20,000. Why? Because they benefit more from the increase in the child credit to $1,000. The acceleration will not benefit them; they will quickly meet the maximum child credit. It is the increase to $1,000 that is the real

benefit for these families that do not receive the maximum benefits under EIC.

That is why I urge my colleagues to support my legislation that helps millions of working families, and doesn't impose a tax on families that are working hard and getting themselves a little bit better paying job.

And let me close with one other note. My colleagues should remember that it still takes 3 million taxpayers off the rolls completely. They will no longer have to pay tax under this legislation. Much of that is due to the increase in the child credit to $1,000.

Finally, for those who want to talk about income tax relief for low-income individuals, I would encourage them to remember this is many ways a bill that is in concert with the 2001 tax relief that created the 10 percent bracket and provided great income tax relief to singles. Again, a bigger picture that provides greater context of our work will show that we are providing broad-based relief to millions of taxpayers.

I urge my colleagues to work with me in passing this full relief for families. I also think it is important that we pass legislation that can be passed into law by working with the House and the White House. We have already passed legislation that deals with just the 10 percent to 15 percent—the Finance Committee passed it and the Senate passed it. The Senate is on record on this matter already. Now is the time to bring real relief and permanent relief to all working families.

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By Ms. STABENOW (for herself, Mr. SMITH, and Mr. DAYTON):

S. 1175. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

Ms. STABENOW. Mr. President, I believe ''home'' is one of the warmest words in the English language. At the end of a long day, I think the favorite phrase of every hardworking working man and woman in this country is: ''Well, I'll see you tomorrow. I'm going home now.''

That is why I rise today to introduce the First Time Homebuyers' Tax Credit Act of 2003.

The bill I am introducing will spread that warmth by opening the door to homeownership to millions of hardworking families, helping them cover the initial down payment and closing costs.

This initiative is in keeping with our longstanding national policy of encouraging homeownership.

Owning a home has always been a fundamental part of the American dream.

We, in Congress, have long recognized the social and economic value in high rates of homeownership through laws that we have enacted, such as the mortgage interest tax deduction and the capital gains exclusion on the sale of a home.

Over the life of a loan, the mortgage interest tax deduction can save homeowners thousands of dollars that they could use for other necessary family expenses such as education or health care.

These benefits, however, are only available to individuals who own their own home.

It is important also to note that owning a home is a principle and reliable source of savings as homeowners build equity over the years and their homes appreciate.

For many people, it is home equity—not stocks—that help them through the retirement years.

In addition, owning a home insulates people from spikes in housing costs.

Indeed, while rents may go up, the costs of a monthly mortgage payment, in relative terms, will go down over the course of the mortgage.

In my own State of Michigan, the homeownership rate of 74 percent is the third highest in the Nation and well above the national rate of 66 percent.

In Oregon, the home State of my bill's lead Republican sponsor, Senator GORDON SMITH, the homeownership rate is 64.3 percent—about 2 percent below the national average.

However, as impressive as these numbers may initially sound, not everyone enjoys the benefits of homeownership.

For example, homeownership in Michigan among whites is 78 percent; Native Americans 60 percent; Hispanics 55 percent; African Americans 51 percent; and Asians 50 percent.

A national study by the Fannie Mae Foundation found that in the top third of income levels, 44 percent of people under the age of 31 owned their own home.

But, for the lowest third on the income scale, only 15.6 percent owned their own home—a 28 percent gap!

Why do we face these disparities? Clearly, one of the biggest barriers to homeownership for working families is the cost of a down payment and the costs associated with closing a mortgage.

According to the Mortgage Bankers Association, typical closing costs on an average sized loan of $175,000 can approach approximately $4,000.

Even with relatively recent mortgage products that allow a downpayment of as little as 3 percent of the value of a home, total costs can quickly approach over $9,000.

This is an impossible amount to save for those who are scraping by, working hard to make ends meet.

To address this problem, I am introducing the First Time Homebuyers' Tax Credit Act of 2003.

My bill authorizes a one-time tax credit of up to $3,000 for individuals and $6,000 for married couples.

This credit is similar to the existing mortgage interest tax deduction in that it creates incentives for people to buy a home.

To be eligible for the credit, taxpayers must be first-time homebuyers who were within the 27 percent tax bracket or lower in the year before they purchase their home. That is $67,700 for single filers, $96,700 for heads of household, $112,850 for joint returns. There is a dollar-for-dollar phase-out beyond the cap.

Normally, tax credits like this are an after-the-fact benefit. They do little to get people actually into a home.

What is particularly innovative and beneficial about the tax credit in this bill, however, is that, for the first time, the taxpayer can either claim the credit in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

The transferred credit would go toward helping with the down payment or closing costs. This is cash at the table.

As mandated in the bill, the eligible homebuyer would have the money for the lender from the Treasury within 30 days of application.

I am happy to say that this legislation already has strong support. Among those who have already written to me in support of this concept are:

The American Bankers Association; America's Community Bankers; the Housing Partnership Network; the National Housing Conference; the National Congress for Community Economic Development; the National Council of La Raza; the National Association of Affordable Housing Lenders; the Manufactured Housing Institute; Fannie Mae; Freddie Mac; National Community Reinvestment Coalition; Standard Federal Bank; Habitat for Humanity, and, the National American Indian Housing Council.

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

There being no objection, the letters were ordered to be printed in the RECORD.

HABITAT FOR
HUMANITY INTERNATIONAL,
*Washington, DC, May 12, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR STABENOW: On behalf of Habitat for Humanity International, I want to commend you for your leadership on issues of affordable housing and for putting forth legislation—the First-Time Homebuyers Tax Credit Act—that will enable low-income families with little or no savings to overcome the two largest obstacles faced on the path to homeownership; downpayments and closing costs.

As you know, Habitat for Humanity has witnessed, through the sale of over 135,000 homes worldwide to Habitat homeowner families, that homeownership is one of the most important personal and financial investments for individuals, families, and communities. By expanding first-time homeownership opportunities to thousands of low-income families via a one-time tax credit, the First-Time Homebuyers Tax Credit Act will help close the homeownership gap and provide new wealth-building opportunities for thousands who would perhaps in no other way experience the American Dream.

Habitat for Humanity affiliates across the country address the issue of daunting financial barriers posed by downpayments and

closing costs by charging only a minimal amount or by enabling potential homeower families to forgo the requirement altogether, relying on a homeowner's ''sweat equity'' in the construction of their home as sufficient deposit. While this legislation may not directly affect the work of our Habitat affiliates, HFHI is pleased to offer our support to you as we work together to provide new homeownership opportunities to strengthen families, revitalize neighborhoods, and close the homeownership gap among racial groups.

Again, we applaud your commitment to affordable housing issues and for sponsoring legislation that reflects your conviction that all Americans should have a decent, safe, and affordable place in which to live. If we can be of any assistance, please do not hestitate to contact me or Amy Randel, Director of Government Relations, at 202/628–9171.

Gratefully yours,

TOM JONES,
*Vice President, HFHI/Managing Director.*

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STANDARD FEDERAL BANK,
*Troy, MI, March 27, 2003.*

Hon. DEBBIE A. STABENOW,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: Standard Federal Bank National Association (''SFB'') appreciates the opportunity to comment on the proposed First-Time Homebuyers' Tax Credit Act of 2003. This letter is written on behalf of SFB and all of its LaSalle Bank Corporation (''LBC'') affiliates.

LBC is a subsidiary of ABN AMRO Bank N.V. (''Bank'') which is headquartered in Amsterdam, the Netherlands. The Bank has over $519 billion in assets, approximately 111,000 employees, and a network of approximately 3,500 offices in over 70 countries and territories. The Bank maintains several branches, agencies and offices in the United States. In addition, ABN AMRO Incorporated, a full-service investment banking, advisory, and brokerage firm, headquartered in New York, New York, is also a subsidiary of the Bank.

LBC is the financial holding company for the U.S. domestic banking operations of the Bank and is headquartered in Chicago. LBC is among the largest foreign financial holding companies in North America with $90 billion in assets. The U.S. operations of the Bank include LaSalle Bank National Association, located in Chicago, Illinois, and Standard Federal Bank National Association, located in Troy, Michigan. These banks maintain over 400 offices in Illinois, Michigan, and Indiana.

The advantages of home ownership are both obvious and clearly instrumental in providing a secure lifestyle to our citizens. Owning one's own home is the primary source of wealth building for most Americans. While rents and other living expenses increase with inflation, the monthly mortgage payment can remain constant, and in relative terms will become an even smaller portion of the family's financial obligations over time.

An additional benefit to home ownership is the mortgage interest tax deduction. Home owners can use the money they save on taxes to meet other family expense, such as education and health care, benefits which are not available to renters.

We want to express our strong support for the concept of expanding homeownership opportunities contained in the proposed First-Time Homebuyers' Tax Credit Act of 2003, which you have been instrumental in brining up for Congressional approval. This legislation has the potential to provide a significant opportunity for home ownership to many families and individuals who are not able to meet the financial burden of down payment and closing costs. The First Time Homebuyers' Tax Credit, perhaps used in conjunction with other available federal, state, and local homebuyers' incentive programs, will bring the dream of owning one's own home well within the grasp of many additional people.

We understand that some details of the program, particularly as it relates to the transfer of the tax credit to a lender, remain to be worked out. However, we are supportive of the concept of the tax credit and of income limits for participation.

We appreciate the opportunity to comment on this important legislation and congratulate you for providing leadership to this effort. We hope that our comments and our support will assist in bringing the tax credit program to fruition for the benefit of first time homebuyers.

Sincerely,

MARY M. FOWLIE,
*Group Senior Vice President.*

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NATIONAL COMMUNITY
REINVESTMENT COALITION,
*Washington, DC, March 18, 2003.*

Hon. DEBBIE A. STABENOW,
*Senate Hart Building,*
*U.S. Senate, Washington DC.*

DEAR SENATOR STABENOW: On behalf of the National Community Reinvestment Coalition (NCRC) and our over 600 member organizations, we would like to express our most sincere gratitude for taking time out of your busy schedule to participate in our Congressional Luncheon held on Thursday, March 13, 2003 at the Senate Hart Building.

Our National Community Reinvestment Coalition (NCRC) membership and staff truly enjoyed your encouraging and well-stated remarks. In addition, we are truly grateful to you regarding your leadership in authoring ''The First Time Homebuyers Tax Credit Act of 2003'', and we applaud you as a champion for this cause. We would like for you to know that we stand willing and anxious to assist you in the introduction of this bill in the 108th Congress.

Again, thank you for your pioneering spirit and continued support in assisting those who have encountered economic injustices. If NCRC can further assist you in eradicating these causes, please do not hesitate to contact me directly or our Director of Legislative and Regulatory Affairs, Crystal Ford, at (202) 628–8866.

Sincerely,

JOHN TAYLOR,
*President and CEO.*

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NATIONAL CONGRESS FOR
COMMUNITY ECONOMIC DEVELOPMENT,
*Washington, DC, April 25, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senator, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: The National Congress for Community Economic Development (NCCED), on behalf of its more than 700 member community development corporations (CDCs) nationwide, supports the proposed Homeownership Tax Credit bill to be introduced by Senator Gordon Smith and you.

The proposed legislation is innovative because it provides homebuyers with the ability to transfer their tax credit to the lender at closing in order to offset downpayment and closing costs. Downpayment and closing costs have consistently been one of the greatest barriers to homeownership for low and moderate-income families.

NCCED is the national trade association representing more than 3,600 CDCs nationwide. We were founded in 1970 and since have advocated for the community economic development industry, whose work creates wealth, builds healthy and sustainable communities, and achieves lasting economic viability. NCCED fulfills its mission of service to its members working in disinvested urban and rural communities through education, resource development, advocacy, networking, training, technology assistance, policy initiatives, and strategic partnerships.

NCCED's annual conference will be held this year in Detroit, Michigan on October 9 and 10, 2003. We would welcome the opportunity for you to share your thoughts with the expected 500 conference attendees who will be there to learn from the successes of Detroit's community development corporations.

Please contact me at (202) 289–9020 if you would like more information. We look forward to working with you on policy issues related to community revitalization.

Sincerely,

ROY O. PRIEST,
*President and CEO.*

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THE HOUSING PARTNERSHIP
NETWORK,
*Boston, MA, May 12, 2003.*

Senator DEBORAH STABENOW,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: On behalf of the Housing Partnership Network, I would like to extend our support for your proposed Homeownership Tax Credit Act of 2002. This legislation would authorize a one-time tax credit of up to $3,000 for individuals and $6,000 for married couples to help pay downpayment and closing costs for eligible first-time homebuyers.

The lack of funds for downpayment and closing costs is a significant barrier for many lower income families who wish to purchase a home in communities throughout the country. The proposed homeownership credit is a particularly innovative solution to help families overcome this obstacle because of the transferability feature. By allowing buyers to transfer the credit to their mortgage lender at closing, the credit can provide an immediate infusion of cash to help the family finance the home purchase.

Founded in 1990, the Housing Partnership Network is a national membership intermediary for regional nonprofit housing partnerships. The Network currently has 77 members operating in 37 states. (The full membership list is attached.) The Network and our members sponsor a range of programs to provide counseling, mortgage finance, and downpayment assistance to promote affordable homeownerships opportunities for low and moderate income families. The Network's members have provided homeownership counseling to over 225,000 families and have developed or rehabilitated 200,000 homes.

The Network is a national funding intermediary for the HUD Housing Counseling Program, and has provided $8 million to support the counseling programs of 35 organizations over the last eight years. Focused primarily on homebuyer education, the program underwrites a range of services, including post-purchase, foreclosure prevention, and reverse equity mortgage counseling. There are also homeless assistance and renter counseling components.

Our member that operates in the Washington, DC area, the Community Development and Preservation Corporation, is familiar with the federally authorized homeownership tax credit in the District of Columbia. This program has been quite successful and your bill would extend this benefit to many other communities. The innovative

transferability feature which you have included in the legislation will make this resource even more useful to first time homebuyers.

The proposed credit is a creative approach to use the tax system to facilitate homeownership for lower income families. As this bill makes its way through the legislative process, we would recommend that the income eligibility for the credit be more narrowly drawn to ensure the public resource is more efficiently targeted to lower income beneficaries.

We appreciate the leadership you have provide in helping address the nation's affordable housing crisis, and look forward to working with you and your staff on this and other issues.

Sincerely,

THOMAS BLEDSOE,
*President.*

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NATIONAL COUNCIL OF LA RAZA,
*Washington, DC, May 21, 2003.*

Hon. DEBORAH STABENOW,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR STABENOW: On behalf of the National Council of La Raza (NCLR), I write in support of the First-Time Homebuyers' Tax Credit Act of 2003. NCLR is the nation's largest Hispanic constituency-based organization, representing more than 37 million Latinos nationwide. The opportunity to become a homeowner is essential to NCLR's mission to promote economic mobility and financial stability within the Hispanic community.

As you may know, Latino representation within the homebuying market is increasing, accounting for 16.3% of all new homebuyers from 1995 to 2000. That said, we remain concerned that the rate of Hispanic homeownership, 48% continues to lag behind the national average of 68%.

Homeownership is often the largest and single most important asset for a family, building wealth and improving community stability. Further initiatives that facilitate homeownership opportunities are essential for improving Hispanic and low-income neighborhoods. Too many working Latino families are unable to save enough money for closing costs and downpayments, and are barred from attaining the American dream of homeownership. Legislation such as yours will break down barriers to homeownership, of which affordability is a major component.

NCLR looks forward to working with you on this and other innovative affordable housing efforts. Please contact Janis Bowdler, Housing Policy Analyst, (202) 776–1748, to discuss further ways in which we can work together on these important issues.

Sincerely,

RAUL YZAGUIRRE,
*President/CEO.*

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NATIONAL ASSOCIATION OF
AFFORDABLE HOUSING LENDERS,
*March 12, 2003.*

Hon. DEBBIE A. STABENOW,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: The National Association of Affordable Housing Lenders (NAAHL), which represent America's leaders in community lending and investment, strongly supports the proposed First-Time Homebuyers' Tax Credit Act of 2003, to help working families buy their first home through a tax credit to help cover the downpayment and closing costs.

NAAHL is the only association devoted to increasing private capital investment in low- and moderate-income communities. NAAHL represents 200 organizations that are leaders in lending and investing, including more than 70 insured depository institutions, 45 non-profit providers and 800 individuals. Members include the who's who of private sector lenders and investors in affordable housing and community development: banks, thrifts, insurance companies, community development corporations, mortgage companies, loan consortia, financial intermediaries, pension funds, foundations, local and national nonprofits, and public agencies.

As you well know, the number of working families with critical housing needs has continued to grow in recent years, and working families have identified the lack of affordable housing as one of their biggest problems. The First-Time Homebuyers' Tax Credit Act would make it significantly easier for many households to realize the American dream of homeownership by providing them with a valuable resource for overcoming one of the biggest barriers to homeownership—the cost of a downpayment and closing costs.

The proposed legislation evolves from longstanding public policy to create incentives to homeownership because of the inherent benefits of homeownership for both individuals and society. Your bill effectively complements the existing mortgage interest tax deduction—which saves families thousands of dollars for other necessary expenditures after a home has been acquired—by providing a tax credit that facilitates the first-time purchase of a home for working families. The legislation also addresses another key concern, narrowing the homeownership gap between the lowest and highest income groups, and among different races.

NAAHL and our member companies look forward to working closely with you to enact this legislation. We share your goal of expanding homeownership opportunities, and sincerely appreciate your commitment to helping make housing more affordable.

Sincerely,

JUDY KENNEDY,
*President.*

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MANUFACTURED HOUSING INSTITUTE,
*March 18, 2003.*

Hon. DEBBIE A. STABENOW,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: The Manufactured Housing Institute (MHI) supports the ''First-Time Homebuyers' Tax Credit Act of 2003,'' which we understand you will be introducing in the near future.

This legislation would permit a one-time tax-credit to first-time homebuyers which can be used for down payment and closing costs in connection with the purchase of a principal residence. This will help creditworthy homebuyers overcome the biggest impediment to purchasing a first home today—the accumulation of sufficient funds to finance the down payment and closing costs required at loan settlement.

If structured properly, this program will help credit-worthy low- and moderate-income homebuyers to purchase and remain in manufactured homes for many years to come.

Sincerely,

CHRIS STINEBERT,
*President, Manufactured Housing Institute.*

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FANNIE MAE,
*May 13, 2003.*

Hon. DEBBIE STABENOW,
*Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I understand that you will be introducing a bill shortly that would provide for a one-time tax credit for first time homebuyers in America's lowest tax brackets.

Your legislation, The Homeownership Tax Credit Act of 2003, providing a tax credit of up to $3,000 for moderate-income individuals, is the kind of assistance low and moderate income families can harness to better afford the American Dream of homeownership.

As you know, the availability of funds for a downpayment is a key barrier to homeownership. Our National Housing Survey found that 32 percent of Americans say they would have difficulty making a downpayment for the purchase of a home. We at Fannie Mae support the use of tax credits to promote homeownership and appreciate your work in this regard.

We look forward to continuing our work with you to increase the opportunity for more Americans to own homes of their own.

Sincerely,

WILLIAM R. DALEY.

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*Washington, DC, May 12, 2003*

Hon. DEBBIE A. STABENOW,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I am writing to commend your efforts in introducing the ''FIRST-TIME HOMEBUYERS' TAX CREDIT ACT OF 2003''. Your legislation providing a tax credit to assist first-time homebuyers with closing costs or down payment assistance is very important

Becasue of innovative products and services offered by the banking industry, the United States has achieved the highest homeownership rate in our nation's history. Nevertheless, as you have recognized, millions still face barriers to homeownership because of difficulty in accumulating an adequate down-payment or because of costs associated with the loan transaction. By providing assistance in the form of a Federal tax rebate, paid before a borrower closes on a loan, your legislation can make homeownership a reality for many more Americans.

Thank you for your leadership on this issue.

Sincerely,

FLOYD E. STONER,
EXECUTIVE DIRECTOR,
CONGRESSIONAL
RELATIONS AND PUBLIC POLICY,
*American Bankers Association.*

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FREDDIE MAC,
*Washington, DC, May 5, 2003.*

Hon. DEBBIE STABENOW,
*U.S. Senate, Senate Hart Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: Freddie Mac is pleased to support your legislation, The Homeownership Tax Credit Act of 2003. We appreciate your extraordinary leadership in broadening homeownership opportunities for America's working families and look forward to continuing to work with you to achieve this common goal.

The Homeownership Tax Credit Act addresses one of the primary barriers that many working families and other Americans face in trying to buy a home, the cost of a down payment and the closing costs involved in the purchase of a home. Your legislation takes an innovative approach to knocking down this barrier to homeownership by providing a tax credit that the taxpayer can either claim in the year after he or she buys a first home or the taxpayer can transfer the credit directly to a lender at closing.

At Freddie Mac, we work to help America's families realize the dream of homeownership, by making low-cost mortgage financing available to families every day. Freddie Mac has made mortgage financing available for more than 27 million homes. We are strongly committed to improving the quality of life for homeowners and renters by making decent, accessible housing a reality for America's families.

As a member of the Senate Committee on Banking, Housing and Urban Affairs, you have consistently demonstrated your outstanding support for increasing homeownership in America, and we look forward to working with you to help America's families realize the American Dream of homeownership.

Sincerely,

DWIGHT FETTIG,
*Director, Congressional Relations.*

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NATIONAL AMERICAN INDIAN HOUSING COUNCIL, OFFICE OF GOVERNMENTAL AFFAIRS,
*Washington, DC, May 8, 2003*

Hon. DEBBIE STABENOW,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR STABENOW: I write today to let you know that you have the support of the National American Indian Housing Council for your Homeownership Tax Credit bill. We will be watching for when the bill is introduced so we can be sure to inform our members.

The National American Indian Housing Council is a national membership organization representing over 400 of the 564 federally-recognized tribes and their tribally designated housing entities on low-income housing, mortgage lending, finance and economic development issues. We currently have ten member tribes from your home state of Michigan.

Although much of our effort goes to helping tribal housing agencies build and finance homes for tribal members where the real estate market is nearly non-existent, we are always looking to help those tribal members that are ready and able for homeownership, but are driven away by high down-payments and closing costs associated with buying a home. Your idea to offer a transferable tax credit to first-time homebuyers would be very helpful. We believe in the benefits of homeownership and support your effort for making it less cumbersome for lower income Americans.

Please do not hesitate to contact me for further information or for any assistance you might need in the passage of this legislation.

Sincerely,

RUSSELL SOSSAMON,
*Chairman.*

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JUNE 3, 2003.

Hon. DEBBIE STABENOW,
*U.S. Senate, Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR STABENOW: I want to take this opportunity to express America's Community Bankers' support for your initiative to provide Americans the opportunity to own their own home. The First Time Homebuyers' Tax Credit Act of 2003 is greatly needed to address the current affordable housing crisis in this country.

Homeownership is an important goal for ACB. Our members originate more than 25 percent of all U.S. mortgages. This legislation will assist first-time homebuyers and lenders by converting federal income tax credits into cash for down payments and closing fees. We support giving qualified first-time buyers the option of either handing over their credit to their lenders or using it later to reduce their own personal income taxes.

Over the years, ACB members have helped people with owning a home. Your initiative will create additional opportunities for our members to continue assisting first-time homebuyers in securing a mortgage.

ACB urges your colleagues in the House of Representatives to support this legislation and increase the number of new American homeowners. We applaud your efforts in offering a solution to a problem many Americans face.

Thank you for your leadership on this issue.

Sincerely,

ROBERT R. DAVIS,
*Executive Vice President and Managing Director, Government Relations.*

Earlier today, at a press conference, Senator SMITH and I were also joined by the Mortgage Bankers Association of America and we have received positive comments from the National Association of Homebuilders about my legislation.

Clearly, the breadth and diversity of support is strong for this legislation.

This is a bold and aggressive effort to reach out to a large number of working families to help them get into this first home.

The Joint Committee on Taxation has estimated that up to 16.8 million working people would get into their first home over the next seven years because of this new tax credit.

People like Christine Nelson, with whom I met this morning. Christine is a working mom. She works as an administrative assistant for a national association. She is carefully saving up to buy her first home.

In addition to supporting her daughter, however, Christine has student loans that she is paying for.

These multiple obligations make it difficult for her to come up with that $9,000 I mentioned earlier.

The $3,000 tax credit she is eligible for would make a tremendous difference in her life. It would get her and her daughter into that first home much faster.

We are working to send a message to Christine and other people all over the country that if you are working hard to save up enough to get into that first home, the Federal Government will make a strategic investment in your family—it will offer a hand up.

This is not unlike what we already do through the mortgage interest tax deduction for millions of people who are fortunate enough already to own their own home.

We certainly won't do all the hard work for you. You must be frugal and save and do most of the work yourself, but we, in Congress, understand that it is good for America to enhance homeownership.

We also understand that this sort of investment in working families stimulates the economy.

No one can deny that when the First Time Homebuyers' Tax Credit is enacted and used by millions of people, every single time the credit is used, it will be stimulative.

Why?

Because it means someone bought a house. And that generates economic activity for multiple small business people. Realtors. Lenders. House appraisers. Inspectors. Title insurers. And so on. And there is a ripple of economic activity by the new homeowners as they fix up their new homes and get settled in.

Housing has been such a bright light in the sluggish economy we've faced for the last few years. My bill is designed to ensure that the housing sector remains a strong component of our economy.

Finally, let me close by emphasizing how happy and proud I am that this tax legislation is bipartisan. In a closely divided Senate, and a closely divided Congress, it is so important to work across the aisle and Senator SMITH, who is a real champion for good housing policy, is someone I want to work closely with on this bill and other important housing legislation. He understands how housing tax benefits help build strong communities and provide economic security for millions of families.

I am committed to seeing this legislation passed. And, I welcome the chance to work with all of my colleagues to see the dream of homeownership expanded to all people.

Home. Sentimentally, it is one of the warmest words in the English language. Economically, it is the key word in bringing millions of families in from the cold and letting them begin building wealth for themselves and their family.

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

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

S. 1175

*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 ''First-Time Homebuyers' Tax Credit Act of 2003''.

**SEC. 2. REFUNDABLE CREDIT FOR FIRST-TIME HOMEBUYERS.**

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

**''SEC. 36. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual who is a first-time homebuyer of a principal residence in the United States during any taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 10 percent of the purchase price of the residence.

''(b) LIMITATIONS.—

''(1) MAXIMUM DOLLAR AMOUNT.—

''(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed the excess (if any) of—

''(i) $3,000 ($6,000 in the case of a joint return), over

''(ii) the credit transfer amount determined under subsection (c) with respect to the purchase to which subsection (a) applies.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning after December 31, 2003—

''(i) the $3,000 amount under subparagraph (A) shall be increased by an amount equal to $3,000, multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting '2002' for '1992' in subparagraph (B) thereof, and

''(ii) the $6,000 amount under subparagraph (A) shall be increased to twice the $3,000 amount, as adjusted under clause (i) for the taxable year.

If the $3,000 amount as adjusted under clause (i) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.

''(2) TAXABLE INCOME LIMITATION.—

''(A) IN GENERAL.—If the taxable income of the taxpayer for any taxable year exceeds the maximum taxable income in the table under subsection (a), (b), (c), or (d) of section 1, whichever is applicable, to which the 25 percent rate applies, the dollar amounts in effect under paragraph (1)(A)(i) for such taxpayer for the following taxable year shall be reduced (but not below zero) by the amount of the excess.

''(B) CHANGE IN RETURN STATUS.—In the case of married individuals filing a joint return for any taxable year who did not file such a joint return for the preceding taxable year, subparagraph (A) shall be applied by reference to the highest taxable income of either such individual for the preceding taxable year.

''(c) TRANSFER OF CREDIT.—

''(1) IN GENERAL.—A taxpayer may transfer all or a portion of the credit allowable under subsection (a) to 1 or more persons as payment of any liability of the taxpayer arising out of—

''(A) the downpayment of any portion of the purchase price of the principal residence, and

''(B) closing costs in connection with the purchase (including any points or other fees incurred in financing the purchase).

''(2) CREDIT TRANSFER MECHANISM.—

''(A) IN GENERAL.—Not less than 180 days after the date of the enactment of this Act, the Secretary shall establish and implement a credit transfer mechanism for purposes of paragraph (1). Such mechanism shall require the Secretary to—

''(i) certify that the taxpayer is eligible to receive the credit provided by this section with respect to the purchase of a principal residence and that the transferee is eligible to receive the credit transfer,

''(ii) certify that the taxpayer has not received the credit provided by this section with respect to the purchase of any other principal residence,

''(iii) certify the credit transfer amount which will be paid to the transferee, and

''(iv) require any transferee that directly receives the credit transfer amount from the Secretary to notify the taxpayer within 14 days of the receipt of such amount.

Any check, certificate, or voucher issued by the Secretary pursuant to this paragraph shall include the taxpayer identification number of the taxpayer and the address of the principal residence being purchased.

''(B) TIMELY RECEIPT.—The Secretary shall issue the credit transfer amount not less than 30 days after the date of the receipt of an application for a credit transfer.

''(3) PAYMENT OF INTEREST.—

''(A) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall pay interest on any amount which is not paid to a person during the 30-day period described in paragraph (2)(B).

''(B) AMOUNT OF INTEREST.—Interest under subparagraph (A) shall be allowed and paid—

''(i) from the day after the 30-day period described in paragraph (2)(B) to the date payment is made, and

''(ii) at the overpayment rate established under section 6621.

''(C) EXCEPTION.—This paragraph shall not apply to failures to make payments as a result of any natural disaster or other circumstance beyond the control of the Secretary.

''(4) EFFECT ON LEGAL RIGHTS AND OBLIGATIONS.—Nothing in this subsection shall be construed to—

''(A) require a lender to complete a loan transaction before the credit transfer amount has been transferred to the lender, or

''(B) prevent a lender from altering the terms of a loan (including the rate, points, fees, and other costs) due to changes in market conditions or other factors during the period of time between the application by the taxpayer for a credit transfer and the receipt by the lender of the credit transfer amount.

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

''(1) FIRST-TIME HOMEBUYER.—

''(A) IN GENERAL.—The term 'first-time homebuyer' has the same meaning as when used in section 72(t)(8)(D)(i).

''(B) ONE-TIME ONLY.—If an individual is treated as a first-time homebuyer with respect to any principal residence, such individual may not be treated as a first-time homebuyer with respect to any other principal residence.

''(C) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of married individuals who file a joint return, the credit under this section is allowable only if both individuals are first-time homebuyers.

''(D) OTHER TAXPAYERS.—If 2 or more individuals who are not married purchase a principal residence—

''(i) the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and

''(ii) the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed the amount in effect under subsection (b)(1)(A) for individuals filing joint returns.

''(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121. Except as provided in regulations, an interest in a partnership, S corporation, or trust which owns an interest in a residence shall not be treated as an interest in a residence for purposes of this paragraph.

''(3) PURCHASE.—

''(A) IN GENERAL.—The term 'purchase' means any acquisition, but only if—

''(i) the property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b) (but, in applying section 267 (b) and (c) for purposes of this section, paragraph (4) of section 267(c) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants), and

''(ii) the basis of the property in the hands of the person acquiring it is not determined—

''(I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or

''(II) under section 1014(a) (relating to property acquired from a decedent).

''(B) CONSTRUCTION.—A residence which is constructed by the taxpayer shall be treated as purchased by the taxpayer.

''(4) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of acquisition (within the meaning of section 72(t)(8)(D)(iii)).

''(e) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under subsection (a) for any expense for which a deduction or credit is allowed under any other provision of this chapter.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.

''(g) PROPERTY TO WHICH SECTION APPLIES.—

''(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

''(A) the taxpayer purchases the residence on or after January 1, 2003, and before January 1, 2010, or

''(B) the taxpayer enters into, on or after January 1, 2003, and before January 1, 2010, a binding contract to purchase the residence, and purchases and occupies the residence before July 1, 2011.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to general rule for adjustments to basis) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) in the case of a residence with respect to which a credit was allowed under section 36, to the extent provided in section 36(f).''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by striking ''or'' before ''enacted'' and by inserting before the period at the end '', or from section 36 of such Code''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 36 and inserting the following new items:

''Sec. 36. Purchase of principal residence by first-time homebuyer.''.

''Sec. 37. Overpayments of tax.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

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By Mr. BYRD:

S. 1176. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

Mr. BYRD. Mr. President, today I am introducing legislation designed to fulfill an important promise made by the Federal Government to the people of my State and my region some 38 years ago. I am speaking of the promise to build and complete a network of highways through the Appalachian region known today as the Appalachian Development Highway System or ADHS. I look forward to working with my fellow Senators to have my legislation included in the measure to reauthorize the Federal-aid Highway Program, one of the most important, if not the most important, pieces of legislation which will be considered during this Congress. The Federal-aid Highway Program is at the very core of the Federal infrastructure investment exercise.

On September 30 of last year, our very capable Federal Highway Administrator, Ms. Mary Peters, testified before the Committee on Environment and Public Works on the condition and performance of our National Highway System. The Administration's Conditions and Performance Report has

again reminded us that a great deal more needs to be invested in our infrastructure if we are not to fall further and further behind in stemming the deterioration of our nation's highways and bridges and alleviating congestion on our nation's roads.

At the September 30 hearing, Administrator Peters testified that, even in the wake of the historic funding increase accomplished through TEA–21, congestion on our roads continues to worsen. An investment in our highway infrastructure by all levels of government will have to increase by more than 65 percent or $42.2 billion per year to actually improve the condition of our nation's highways. A funding increase of more than 17 percent or $11.3 billion will be necessary simply to maintain the current inadequate conditions of our highway network, where more than one in four of our nation's bridges are classified as deficient.

Having served as both Chairman and Ranking Member of the Senate Appropriations Committee, I have sought to do my part by championing the highest level of Federal highway investment for all fifty States that is possible under our budget constraints. Earlier this year, I am pleased to report that the Senate prevailed in the conference with the House on the Omnibus Appropriations Bill for Fiscal Year 2003 and rejected every penny of the $8.6 billion cut in highway funding proposed by President Bush. And just last month, I was pleased to join with Senators BOND and REID, the respective Chairman and Ranking Member of the Surface Transportation Subcommittee, in sponsoring a bipartisan amendment to the Budget Resolution for Fiscal Year 2004 that boosted funding for our Federal-aid Highway Program by several billion dollars. That amendment commanded 79 votes on the Senate floor.

While serving in the other body, I had the great privilege of casting my vote in favor of establishing the Interstate highway System back in 1958. However, in 1964, it was recognized by the first Appalachian Regional Commission that while the Interstate Highway System was slated to provide historic economic benefits to most of our Nation, the system was designed to bypass the Appalachian Region due to the extremely high cost associated with building Highways through Appalachia's rugged topography. As a result, the construction of the interstates would have had the detrimental effect of drawing passengers and freight, and the accompanying economic benefits, away from the Appalachian Region.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian Region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, my region of the country would have been left solely with a transportation infrastructure of dangerous, narrow, winding roads which follow the path of river valleys and stream beds between mountains. These roads are still, more often than not, two-lane roads that are squeezed into very limited rights-of-way. They are characterized by low travel speeds and long travel distances and are often built to inadequate design standards.

One of the observations contained in Administrator Peters' testimony back in September that especially caught my eye was her statement that ''the condition of higher-order roads, such as interstates, has improved considerably since 1993 while the condition on many lower-order roads has deteriorated.'' It appears that the pattern of road conditions is beginning to mirror the distribution of wealth in our country, whereby the rich are getting richer while the poor get poorer. That observation is most pertinent when you consider the challenge of completing the Appalachian Development Highway System.

We have virtually completed the construction of the Interstate Highway System and have moved on to many other important transportation goals. However, the people of my region are still waiting for the Federal Government to live up to its promise, made some 38 years ago, to complete the ADHS. The system is still less than 80 percent complete and I regret to observe that my home State of West Virginia is below the average for the entire Appalachian Region with only 72 percent of its mileage complete and open to traffic.

The rationale behind the completion of the Appalachian Development Highway System is no less sound today than it was in 1964. Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack timely road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable well-paying jobs because of poor road access to major employment centers. The entire status of the Appalachian Development Highway System is laid out in great detail in the Cost to Complete Report for 2002 recently completed by the Appalachian Regional Commission. This is the most comprehensive report on the status of the Appalachian Development Highway System to date and I commend the staff of the Appalachian Regional Commission for their hard work on this report. The last report was completed in 1997 just prior to Congressional consideration of TEA–21.

The enactment of TEA–21 signaled a new day in the advancement of the Appalachian Development Highway System. Through the work of the Committee on Environment and Public Works, the House Transportation and Infrastructure Committee, and the Administration, we took a great leap forward by authorizing direct contract authority from the Highway Trust Fund to the States for the construction of the ADHS. Up until that point, funding for the Appalachian Development Highway System had been limited to uncertain and inconsistent general fund appropriations. By provding the States of the Appalachian Region with a consistent and predictable source of funds to move forward on its uncompleted ADHS segments, TEA–21 served to reinvigorate our efforts to honor the promise made to the people of the Appalachian Region.

As is made clear in the Cost to Complete Report, this initiative has been a great success. States are making greater progress toward the completion of the system than they have in any five-year segment in recent memory. Since the last Cost to Complete Report, 183 miles of the system have been opened to traffic and we have successfully brought down the cost to complete the system by roughly $1.7 billion in Federal funds.

Back when we were debating TEA–21, some questions were asked as to how committed the States would be to completing the unfinished segments to the Appalachian Development Highway System. I am pleased to report that the 13 States, to date, have succeeded in obligating just under 90 percent of the obligation authority that has been granted to them for the completion of the system. A 90-percent obligation rate compares quite favorably to some of the other transportation programs through which the States were granted multiple years to obligate their funds.

According to the ARC's Cost to Complete Report, the remaining Federal funds needed to complete the ADHS are now estimated to be $4.467 billion. When adjusted for inflation over the life of the next highway bill, using the standard inflation calculation for highway projects, a total of $5.04 billion will need to be authorized to complete the system. That is a lot of money and I believe that figure deserves some explanation.

The considerable cost of completing the last 20 percent of the ADHS is explained by the fact that the easiest segments of the system to build have already been built. Much of the costs associated with completing the most difficult unfinished segments are driven by the requirement to comply with other Federal laws, especially the laws requiring environmental mitigation measures when building new highways through rural areas. While the $5.04 billion figure may seem large to some of my colleagues, I would remind them the last highway bill authorized more than $218 billion in federal infrastructure investment over six years. It is my sincere hope and expectation that the next highway bill will authorize an even greater amount.

Of critical importance to this debate is the fact that the unfinished segments of the ADHS represent some of most dangerous and most deficient roadways in our entire Nation. Often lost in our debate over the necessity to

invest in our highways is the issue of safety. The Federal Highway Administration has published reports indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite certain that the percentage is a great deal higher in the Appalachian Region.

The Federal Highway Administration found that upgrading two-lane roads to four-lane divided highways decreased fatal car accidents by 71 percent and that the widening of traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kind of road improvements that are funded through the ADHS. In my state, the largest segment of unfinished Appalachian Highway, if completed, will replace the second most dangerous segment of roadway in West Virginia. So, even those who would question the wisdom of completing these highways in the name of economic development should take a hard look at the fact that the people of rural Appalachia are taking their lives in their hands every day as they drive on dangerous roads.

It is time for this Congress, in concert with the Administration, to take the last great leap forward and authorize sufficient contract authority to finally complete the Appalachian Development Highway System. If we enact another six-year highway bill with sufficient funds to complete the system, we will finally pay the full costs of the ADHS almost 45 years after the system was first promised to the people of my region. The legislation I am introducing today, the ''Appalachian Development Highway System Completion Act,'' will provide sufficient contract authority to complete the system. Importantly, it will guarantee that the states of the Appalachian Region do not pay a penalty, either through the distribution of minimum allocation funds, or the distribution of obligation limitation, for receiving sufficient funds to complete the Appalachian system.

I am very pleased that this Administration has taken on the goal of completing the ADHS. In her letter accompanying the Cost to Complete Report, Administrator Peters said ''the completion of the ADHS is an important part of the mission of the Federal Highway Administration. We consider the accessibility, mobility and economic stimulation provided by the ADHS to be entirely consistent with the goals of our agency.'' Ms. Peters further stated that the Appalachian Regional Commission's 2002 Cost to Complete Report, ''provides a sound basis for apportioning future funding to complete the system.'' I thank Mary Peters and the entire Federal Highway Administration for their leadership on this issue and I look forward to working with Ms. Peters and her agency to ensure that this commitment is borne out in the transportation reauthorization legislation that is developed by the Congress.

Completion of a new highway bill will be a mammoth task for this Congress. As I look back over the many years of my public career, one of the accomplishments of which I am most proud was my amendment providing an additional $8 billion in funding to break the logjam during the debate on the Intermodal Surface Transportation Efficiency Act in 1991. Another was my sponsorship of the Byrd-Gramm-Baucus-Warner Amendment during the Senate debate of TEA–21 in 1998. That effort resulted in some $26 billion in funding being added to that bill and put us on a path to historic funding increases for our nation's highway infrastructure. I look forward again to working with my fellow Senators on completion of a bill that makes the necessary investments in our nation's highways, not just in the Appalachian Region, but across our entire country.

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By Mr. HATCH (for himself and Mr. KOHL):

S. 1177. A bill to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today, with my colleague Senator Kohl, to introduce S. 1177, the Prevent All Cigarette Trafficking, PACT Act of 2003. I do so because of my concern that contraband cigarettes contribute heavily to the profits of organized crime syndicates, specifically global terrorist organizations. Furthermore, illegal cigarette trafficking has had a damaging impact on the economies of numerous States.

Organized crime syndicates typically purchase cigarettes in States with low taxes and transport the product into states wit high taxes to illegally sell to small retailers below market costs. The Internet has exacerbated this problem. Frequently, these syndicates produce counterfeit State and city tax stamps in order to make it less risky for these small retailers to sell them to consumers. For example, Virginia has a per pack tax of 2.5 cents, while New York City has a per pack tax of $3. Organized crime syndicates, such as those affiliated with the Lebanon-based terrorist organization, Hezbollah, have been known to purchase and transport cigarettes in tractor-trailers up Interstate 95 from Virginia to New York for resale. As one can easily see, a State such as New York is losing millions of dollars in revenue each year because of unpaid taxes on these contraband cigarettes, while terrorist organizations are making millions in profits.

Recent articles in the Washington Post and New York Post revealed that a cigarette-smuggling ring, which allegedly purchased over 70,000 cartons from undercover Federal agents in a sting operation last fall, does in fact have ties to Hezbollah. If this group had been successful in its racketeering scheme, it would have amounted to a loss of nearly $2.4 million in tax revenue for New York and millions in profits for Hezbollah, allowing this organization to finance their terrorist activities.

Members of an organized crime syndicate arrested in Charlotte, NC last year for smuggling contraband cigarettes from North Carolina to Michigan were also using their illegal profits to aid Hezbollah, according to the Charlotte Observer. The Buffalo News reported that one of the members of the Charlotte syndicate, Mohamad Hammoud, allegedly has ties to a recently arrested Detroit-area syndicate, which includes two women from the Seneca Nation of Indians' Cattaraugus reservation. Because the syndicate transported the cigarettes from North Carolina to Michigan for resale, Michigan lost $12.50 per carton in sales and excise taxes. These examples illustrate that cigarette smuggling is not only a lucrative business for organized crime but also detrimental to the budgets of many states.

The PACT Act attacks the problem of illegal cigarette trafficking by these organized crime syndicates through its strengthening of the Jenkins Act of 1949, 15 U.S.C. §§ 375–378, 2003. In its current form, the Jenkins Act requires tobacco vendors to register with each State tax administrator in which they sell cigarettes, as well as file a monthly report that provides shipment information within each State. Failure to do so is a misdemeanor. Compliance with this statute enables States to collect cigarette excise, sales and use taxes from consumers. This legislation, which the distinguished Senator from Wisconsin and I are introducing, strengthens the Act by increasing the reporting requirements first established under Jenkins, expressly including cigarette orders placed through the Internet, lowering the threshold for cigarettes to be treated as contraband from 60,000 to 10,000, increasing the criminal penalty for violating the Act to a felony and creating a substantial civil penalty.

The PACT Act will also provide State attorneys general with the option to bring actions in federal court, which is a tool desired by many states. According to a GAO report from last year on Internet cigarette sales, online cigarette sellers simply do not comply with the Jenkins Act requirements—in fact most of them defiantly state that they do not comply with the Jenkins Act. Many State attorneys general realize that this practice is unfair not only to their individual States, but also to the brick and mortar retailers located in their state, placing these businesses at an unfair commercial disadvantage. Providing these state attorneys general with the ability to bring actions against these out-of-state Internet vendors for lost revenue is crucial in leveling the playing field and collecting the rightful revenue for states like Washington, California, New York, Wisconsin, Michigan and Rhode Island.

I ask my colleagues to join Senator KOHL and me in our efforts to help stop the funding of global terrorist organizations and ensure that States are able

to recover lost revenue by co-sponsoring and supporting the PACT Act of 2003.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 158—COMMENDING THE UNIVERSITY OF VIRGINIA CAVALIERS MEN'S LACROSSE TEAM FOR WINNING THE 2003 NCAA DIVISION I MEN'S LACROSSE CHAMPIONSHIP

Mr. ALLEN (for himself, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 158

Whereas the students, alumni, faculty, and supporters of the University of Virginia are to be congratulated for their commitment and pride in their National Champion men's lacrosse team;

Whereas in 2003, the University of Virginia claimed its second National Championship in 5 years, with an overall season of 15 and 2;

Whereas the Cavaliers won the NCAA first round 19 to 8 against Mount St. Mary's, beat Georgetown 12 to 7 in the Quarterfinals, and Maryland 14 to 4 in the Semifinals;

Whereas the University of Virginia Cavaliers won the championship game by defeating the Johns Hopkins Blue Jays 9 to 7;

Whereas the University of Virginia team was led by A.J. Shannon with 4 goals, John Christmas with 2 goals, and received outstanding effort and support from Chris Rotelli and Billy Glading, while goalie Tillman Johnson had 13 saves and was selected Most Outstanding Player of the championship game;

Whereas every player on the Cavalier team contributed to their success in this championship season and they are Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Charlie Glazer, Zach Heffner, Brett Hughes, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl.

Whereas Head Coach Dom Starsia has coached the University of Virginia men's lacrosse team for 11 years, and has led the University of Virginia men's lacrosse team to the NCAA Tournament for a university-record 11th consecutive time;

Whereas Coach Starsia has led the team to a school record 15 wins this season;

Whereas Coach Starsia is 1 of only 3 coaches in college lacrosse history to win 100 games at 2 different colleges: the University of Virginia and Brown University; and

Whereas Coach Starsia and his coaching staff, including Assistant Coaches David Curry, Marc Van Arsdale, and Hannon Wright deserve much credit for the outstanding determination and accomplishments of their young team: Now, therefore, be it

*Resolved,* That the Senate—

(1) congratulates the University of Virginia men's lacrosse team for winning the 2003 NCAA Division I Men's Lacrosse National Championship;

(2) recognizes the achievements of all the team's players, coaches, and support staff, and invites them to the United States Capitol Building to be honored;

(3) requests that the President recognize the achievements of the University of Virginia men's lacrosse team and invite them to the White House for an appropriate ceremony honoring a National Champion team; and

(4) directs the Secretary of the Senate to—

(A) make available enrolled copies of this resolution to the University of Virginia for appropriate display; and

(B) transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I men's lacrosse national championship team.

Mr. ALLEN. Mr. President, today I congratulate the University of Virginia Men's Lacrosse team for their victory in the NCAA Division 1 men's lacrosse championship with a 9 to 7 victory over the previously top-ranked Johns Hopkins University and submit a resolution expressing the congratulations of the United States Senate to these young men.

The University of Virginia Cavaliers Lacrosse Team captured their second National Championship title in five years, finishing the 2003 season with a record of 15 wins and 2 losses, a university record. Head Coach Don Starsia has coached the men's lacrosse team for the past 11 years and each year has led the team to the NCAA tournament; also a university record.

As a Cavalier myself, I want to express the pride felt by all students, faculty and alumni of the University of Virginia at this tremendous accomplishment by the men's lacrosse team. Coach Starsia and his coaching staff; Marc Van Arsdale, David Curry and Hannon Wright, deserve much of the credit for the accomplishment of these student athletes and should also be commended.

The members of the University of Virginia 2003 Men's Lacrosse team have indeed made their university proud and should be applauded for their leadership, both on and off the playing field. I congratulate Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Dough Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyle Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tilman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morrissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskay, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli, trainer Katie Serenelli, the team doctor, Dan Mistry, and manager Kristin Madl for their accomplishments.

I hope my colleagues will join with Senator WARNER and me to pass this Resolution recognizing the National Champion University of Virginia Men's Lacrosse team.

Mr. WARNER. Mr. President, it is with great pride that I, along with my colleague from Virginia, Mr. ALLEN, come before you today. I come in support of a resolution submitted by Mr. ALLEN and myself commemorating the University of Virginia Men's Lacrosse Team, who defeated Johns Hopkins University for the 2003 NCAA National Championship last Monday. I would like to congratulate the head coach, Mr. Dom Starsia, his staff and the 41 young men on the UVA lacrosse team for a job well-done. The Cavaliers finished the season with an impressive record of 15 wins and 2 losses and had 8 players receive All-American Honors. Goalie, Tillman Johnson, received Most Outstanding Player honors for leading Virginia to victories over the University of Maryland and Johns Hopkins University during the NCAA tournament. These student-athletes deserve this chamber's recognition for their commitment to excellence through their dedication to the UVA lacrosse team and the academic rigors of the University of Virginia during this successful season. The people of Virginia take great pride in their state colleges and universities, and the success of the University of Virginia lacrosse team is a testament to the great accomplishments, both in the classroom and on the athletic field, made by Virginia schools during the past year.

The players follow: Mike Abbott, Andrew Agoliati, Jimmy Barter, Ryan Binder, Ned Bowen, Doug Brody, Patrick Buchanan, David Burman, John Christmas, Michael Culver, Jack deVilliers, Kyl Dixon, Andrew Faraone, Jon Focht, Newton Gentry, Foster Gilbert, Brendan Gill, Billy Glading, Charlie Glazer, Zach Heffner, Brett Hughes, Tillman Johnson, Hunter Kass, Nathan Kenney, Ted Lamade, Jared Little, Kevin McGrath, J.J. Morissey, Justin Mullen, Chris Ourisman, Matt Paquet, Matt Poskey, Derrick Preuss, Chris Rotelli, A.J. Shannon, Hatcher Snead, Calvin Sullivan, Ryan Thompson, Matt Ward, Trey Whitty, Joe Yevoli.

The coaches follow: Dom Starsia, David Curry, Marc Van Arsdale, Hannon Wright.

## AMENDMENTS SUBMITTED & PROPOSED

SA 843. Mrs. FEINSTEIN proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 844. Mrs. FEINSTEIN (for herself, Mr. NICKLES, Mr. MCCAIN, Mr. KYL, Mr. GREGG, Mr. WYDEN, Mr. LEAHY, Mr. SCHUMER, Mr. SUNUNU, and Mr. REED) proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, supra.

SA 845. Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, supra.

SA 846. Mr. FITZGERALD (for Mr. GREGG) proposed an amendment to the bill S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

## TEXT OF AMENDMENTS—May 22, 2003

**SA 813.** Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following new section:

**SEC. ___. AIR FARES FOR MEMBERS OF ARMED FORCES.**

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the armed forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the armed forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

**SA 814.** Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

**SEC. 213. MODIFICATION OF PROGRAM ELEMENT OF SHORT RANGE AIR DEFENSE RADAR PROGRAM OF THE ARMY.**

The program element of the short range air defense radar program of the Army may be modified from Program Element 602303A (Missile Technology) to Program Element 603772A (Advanced Tactical Computer Science and Sensor Technology).

**SA 815.** Mr. LEVIN (for Ms. MIKULSKI) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 169, between lines 5 and 6, insert the following:

(d) INTEGRATED HEALING CARE PRACTICES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs may, acting through the Department of Veterans Affairs–Department of Defense Joint Executive Committee, conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans.

(2) Amounts authorized to be appropriated by section 301(21) for the Defense Health Program may be available for the program under paragraph (1).

**SA 830.** Mr. WARNER (for Mrs. HUTCHISON) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 71, strike lines 12 through 21, and insert the following:

(d) AVAILABILITY OF FUNDS FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY THE BROOKS AIR FORCE BASE DEMONSTRATION PROJECT.—(1) Up to $500k of the funds made available under subsection (a) may (notwithstanding the limitation in such subsection) also be used for making basic support payments for fiscal year 2004 to a local educational agency that received a basic support payment for fiscal year 2003, but whose payment for fiscal year 2004 would be reduced because of the conversion of Federal property to non-Federal ownership under the Department of Defense infrastructure demonstration project at Brooks Air Force Base, Texas, and the amounts of such basic support payments for fiscal year 2004 shall be computed as if the converted property were Federal property for purposes of receiving the basic support payments for the period in which the demonstration project is ongoing, as documented by the local educational agency to the satisfaction of the Secretary.

(2) If funds are used as authorized under paragraph (1), the Secretary shall reduce the amount of any basic support payment for fiscal year 2004 for a local educational agency described in paragraph (1) by the amount of any revenue that the agency received during fiscal year 2002 from the Brooks Development Authority as a result of the demonstration project described in paragraph (1).

(e) DEFINITIONS.—In this section:

(1) The term ''educational agencies assistance'' means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term ''local educational agency'' has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

(3) The term ''basic support payment'' means a payment authorized under section 8003(b(1)) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(1)).

**SA 831.** Mr. WARNER (for Mr. DOMENICI (for himself, Mr. MCCAIN, Mr. NELSON of Florida, and Mr. CORNYN)) proposed an amendment to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

**SEC. 1039. SENSE OF SENATE ON RECONSIDERATION OF DECISION TO TERMINATE BORDER SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.**

(a) FINDINGS.—The Senate makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important to preventing the infiltration of illegal narcotics across United States borders.

(2) The expertise of members of the National Guard in vehicle inspections at United States borders have made invaluable contributions to the identification and seizure of illegal narcotics being smuggled across United States borders.

(3) The support provided by the National Guard to the Customs Service and the Border Patrol has greatly enhanced the capability of the Customs Service and the Border Patrol to perform counter-terrorism surveillance and other border protection duties.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

## TEXT OF AMENDMENTS—June 3, 2003

**SA 843.** Mrs. FEINSTEIN proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 12, strike lines 19 through 24 and insert the following:

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the renewable fuel requirement—

''(I) is not needed for the State or region to comply with this Act because the State or region can comply in ways other than adding renewable fuel; or

''(II) would harm the economy or environment of a State, a region, or the United States; or''.

**SA 844.** Mrs. FEINSTEIN (for herself, Mr. NICKLES, Mr. MCCAIN, Mr. KYL, Mr. GREGG, Mr. WYDEN, Mr. LEAHY, Mr. SCHUMER, Mr. SUNUNU, and Mr. REED) proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 6, between lines 17 and 18, insert the following:

''(C) ELECTION BY STATES.—The renewable fuel program shall apply to a State only if

the Governor of the State notifies the Administrator that the State elects to participate in the renewable fuel program.

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**SA 845.** Mr. BINGAMAN (for Mrs. LINCOLN) proposed an amendment to amendment SA 539 proposed by Mr. FRIST (for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, and Mr. BAUCUS) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

At the end of the amendment, insert the following:

**SEC. ___. ACCELERATION OF INCREASE IN REFUNDABILITY OF THE CHILD TAX CREDIT.**

(a) ACCELERATION OF REFUNDABILITY.—

(1) IN GENERAL.—Section 24(d)(1)(B)(i) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by striking ''(10 percent in the case of taxable years beginning before January 1, 2005)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) ADVANCE PAYMENT.—

(1) IN GENERAL.—Subsection (b) of section 6429 of the Internal Revenue Code of 1986 (relating to advance payment of portion of increased child credit for 2003) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) section 24(d)(1)(B)(i) applied without regard to the parenthetical therein.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 101(b) of the Jobs and Growth Tax Relief Reconciliation Act of 2003.

**SEC. ___. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.**

(a) IN GENERAL.—Section 362 of the Internal Revenue Code of 1986 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph (B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.''.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) of the Internal Revenue Code of 1986 (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after February 13, 2003.

**SEC. ___. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.**

(a) IN GENERAL.—Section 755 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

**SEC. ___. REPEAL OF SPECIAL RULES FOR FASITS.**

(a) IN GENERAL.—Part V of subchapter M of chapter 1 of the Internal Revenue Code of 1986 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) of the Internal Revenue Code of 1986 is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) of such Code is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) of such Code is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) of such Code is amended by striking the last sentence.

(5) Paragraph (5) of section 860G(a) of such Code is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(6) Subparagraph (C) of section 1202(e)(4) of such Code is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(7) Subparagraph (C) of section 7701(a)(19) of such Code is amended by adding ''and'' at the end of clause (ix), by striking '', and'' at the end of clause (x) and inserting a period, and by striking clause (xi).

(8) The table of parts for subchapter M of chapter 1 of such Code is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—The amendments made by this section shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance of such interests.

**SEC. ___. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.**

(a) IN GENERAL.—Paragraph (2) of section 163(l) of the Internal Revenue Code of 1986 is amended by striking ''or a related party'' and inserting ''or equity held by the issuer (or any related party) in any other person''.

(b) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or

by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 163(l) of the Internal Revenue Code of 1986 is amended by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

**SEC. ___. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.**

(a) IN GENERAL.—Subsection (a) of section 269 of the Internal Revenue Code of 1986 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person acquires stock in a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax by securing the benefit of a deduction, credit, or other allowance,

then the Secretary may disallow such deduction, credit, or other allowance.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

**SEC. ___. MODIFICATIONS OF CERTAIN RULES RELATING TO CONTROLLED FOREIGN CORPORATIONS.**

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) of the Internal Revenue Code of 1986 (relating to passive investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if there is only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i) of subpart F income of such corporation for such period.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years on controlled foreign corporation beginning after February 13, 2003, and to taxable years of United States shareholder in which or with which such taxable years of controlled foreign corporations end.

**SEC. ___. CONTROLLED ENTITIES INELIGIBLE FOR REIT STATUS.**

(a) IN GENERAL.—Subsection (a) of section 856 of the Internal Revenue Code of 1986 (relating to definition of real estate investment trust) is amended by striking ''and'' at the end of paragraph (6), by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

''(7) which is not a controlled entity (as defined in subsection (l)); and''.

(b) CONTROLLED ENTITY.—Section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(l) CONTROLLED ENTITY.—

''(1) IN GENERAL.—For purposes of subsection (a)(7), an entity is a controlled entity if, at any time during the taxable year, one person (other than a qualified entity)—

''(A) in the case of a corporation, owns stock—

''(i) possessing at least 50 percent of the total voting power of the stock of such corporation, or

''(ii) having a value equal to at least 50 percent of the total value of the stock of such corporation, or

''(B) in the case of a trust, owns beneficial interests in the trust which would meet the requirements of subparagraph (A) if such interests were stock.

''(2) QUALIFIED ENTITY.—For purposes of paragraph (1), the term 'qualified entity' means—

''(A) any real estate investment trust, and

''(B) any partnership in which one real estate investment trust owns at least 50 percent of the capital and profits interests in the partnership.

''(3) ATTRIBUTION RULES.—For purposes of this paragraphs (1) and (2)—

''(A) IN GENERAL.—Rules similar to the rules of subsections (d)(5) and (h)(3) shall apply; except that section 318(a)(3)(C) shall not be applied under such rules to treat stock owned by a qualified entity as being owned by a person which is not a qualified entity.

''(B) STAPLED ENTITIES.—A group of entities which are stapled entities (as defined in section 269B(c)(2)) shall be treated as one person.

''(4) EXCEPTION FOR CERTAIN NEW REITS.—

''(A) IN GENERAL.—The term 'controlled entity' shall not include an incubator REIT.

''(B) INCUBATOR REIT.—A corporation shall be treated as an incubator REIT for any taxable year during the eligibility period if it meets all the following requirements for such year:

''(i) The corporation elects to be treated as an incubator REIT.

''(ii) The corporation has only voting common stock outstanding.

''(iii) Not more than 50 percent of the corporation's real estate assets consist of mortgages.

''(iv) From not later than the beginning of the last half of the second taxable year, at least 10 percent of the corporation's capital is provided by lenders or equity investors who are unrelated to the corporation's largest shareholder.

''(v) The corporation annually increases the value of its real estate assets by at least 10 percent.

''(vi) The directors of the corporation adopt a resolution setting forth an intent to engage in a going public transaction.

No election may be made with respect to any REIT if an election under this subsection was in effect for any predecessor of such REIT.

''(C) ELIGIBILITY PERIOD.—

''(i) IN GENERAL.—The eligibility period (for which an incubator REIT election can be made) begins with the REIT's second taxable year and ends at the close of the REIT's third taxable year, except that the REIT may, subject to clauses (ii), (iii), and (iv), elect to extend such period for an additional 2 taxable years.

''(ii) GOING PUBLIC TRANSACTION.—A REIT may not elect to extend the eligibility period under clause (i) unless it enters into an agreement with the Secretary that if it does not engage in a going public transaction by the end of the extended eligibility period, it shall pay Federal income taxes for the 2 years of the extended eligibility period as if it had not made an incubator REIT election and had ceased to qualify as a REIT for those 2 taxable years.

''(iii) RETURNS, INTEREST, AND NOTICE.—

''(I) RETURNS.—In the event the corporation ceases to be treated as a REIT by operation of clause (ii), the corporation shall file any appropriate amended returns reflecting the change in status within 3 months of the close of the extended eligibility period.

''(II) INTEREST.—Interest shall be payable on any tax imposed by reason of clause (ii) for any taxable year but, unless there was a finding under subparagraph (D), no substantial underpayment penalties shall be imposed.

''(III) NOTICE.—The corporation shall, at the same time it files its returns under subclause (I), notify its shareholders and any other persons whose tax position is, or may reasonably be expected to be, affected by the change in status so they also may file any appropriate amended returns to conform their tax treatment consistent with the corporation's loss of REIT status.

''(IV) REGULATIONS.—The Secretary shall provide appropriate regulations setting forth transferee liability and other provisions to ensure collection of tax and the proper administration of this provision.

''(iv) Clauses (ii) and (iii) shall not apply if the corporation allows its incubator REIT status to lapse at the end of the initial 2-year eligibility period without engaging in a going public transaction if the corporation is not a controlled entity as of the beginning of its fourth taxable year. In such a case, the corporation's directors may still be liable for the penalties described in subparagraph (D) during the eligibility period.

''(D) SPECIAL PENALTIES.—If the Secretary determines that an incubator REIT election was filed for a principal purpose other than as part of a reasonable plan to undertake a going public transaction, an excise tax of $20,000 shall be imposed on each of the corporation's directors for each taxable year for which an election was in effect.

''(E) GOING PUBLIC TRANSACTION.—For purposes of this paragraph, a going public transaction means—

''(i) a public offering of shares of the stock of the incubator REIT;

''(ii) a transaction, or series of transactions, that results in the stock of the incubator REIT being regularly traded on an established securities market and that results in at least 50 percent of such stock being held by shareholders who are unrelated to persons who held such stock before it began to be so regularly traded; or

''(iii) any transaction resulting in ownership of the REIT by 200 or more persons (excluding the largest single shareholder) who in the aggregate own at least 50 percent of the stock of the REIT.

For the purposes of this subparagraph, the rules of paragraph (3) shall apply in determining the ownership of stock.

''(F) DEFINITIONS.—The term 'established securities market' shall have the meaning set forth in the regulations under section 897.''.

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 856(h) of the Internal Revenue Code of 1986 is amended by striking ''and (6)'' each place it appears and inserting '', (6), and (7)''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after May 8, 2003.

(2) EXCEPTION FOR EXISTING CONTROLLED ENTITIES.—The amendments made by this section shall not apply to any entity which is a controlled entity (as defined in section 856(l) of the Internal Revenue Code of 1986, as added by this section) as of May 8, 2003, which is a real estate investment trust for the taxable year which includes such date, and which has significant business assets or activities as of such date. For purposes of the preceding sentence, an entity shall be treated as such a controlled entity on May 8, 2003, if it becomes such an entity after such date in a transaction—

(A) made pursuant to a written agreement which was binding on such date and at all times thereafter, or

(B) described on or before such date in a filing with the Securities and Exchange Commission required solely by reason of the transaction.

**SEC. ___. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.**

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**"SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—

''(A) IN GENERAL.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(B) EXEMPTION FOR CERTAIN REQUESTS REGARDING PENSION PLANS.—The Secretary shall not require payment of user fees under such program for requests for determination letters with respect to the qualified status of a pension benefit plan maintained solely by 1 or more eligible employers or any trust which is part of the plan. The preceding sentence shall not apply to any request—

''(i) made after the later of—

''(I) the fifth plan year the pension benefit plan is in existence, or

''(II) the end of any remedial amendment period with respect to the plan beginning within the first 5 plan years, or

''(ii) made by the sponsor of any prototype or similar plan which the sponsor intends to market to participating employers.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of subparagraph (B)—

''(i) PENSION BENEFIT PLAN.—The term 'pension benefit plan' means a pension, profit-sharing, stock bonus, annuity, or employee stock ownership plan.

''(ii) ELIGIBLE EMPLOYER.—The term 'eligible employer' means an eligible employer (as defined in section 408(p)(2)(C)(i)(I)) which has at least 1 employee who is not a highly compensated employee (as defined in section 414(q)) and is participating in the plan. The determination of whether an employer is an eligible employer under subparagraph (B) shall be made as of the date of the request described in such subparagraph.

''(iii) DETERMINATION OF AVERAGE FEES CHARGED.—For purposes of any determination of average fees charged, any request to which subparagraph (B) applies shall not be taken into account.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

| "Category | Average Fee |
|---|---|
| Employee plan ruling and opinion .. | $250 |
| Exempt organization ruling ..... | $350 |
| Employee plan determination ..... | $300 |
| Exempt organization determination. | $275 |
| Chief counsel ruling ..... | $200. |

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2013.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7528. Internal Revenue Service user fees.''.

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(3) Section 620 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(c) LIMITATIONS.—Notwithstanding any other provision of law, any fees collected pursuant to section 7528 of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Internal Revenue Service unless provided by an appropriations Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

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**SA 846.** Mr. FITZGERALD (for Mr. GREGG) proposed an amendment to the bill S. 313, to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Animal Drug User Fee Act of 2003''.

**SEC. 2. FINDINGS.**

Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications.

(3) The fees authorized by this title will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

**SEC. 3. FEES RELATING TO ANIMAL DRUGS.**

Subchapter C of chapter VII of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

**"PART 4—FEES RELATING TO ANIMAL DRUGS**

**"SEC. 739. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.**

''(a) DEFINITIONS.—For purposes of this subchapter:

''(1) The term 'animal drug application' means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

''(2) The term 'supplemental animal drug application' means—

''(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

''(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

''(3) The term 'animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

''(4) The term 'animal drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

''(5) The term 'investigational animal drug submission' means—

''(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

''(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

''(6) The term 'animal drug sponsor' means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

''(7) The term 'final dosage form' means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

''(8) The term 'process for the review of animal drug applications' means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

''(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

''(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

''(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

''(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

''(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

''(F) Development of standards for products subject to review.

''(G) Meetings between the agency and the animal drug sponsor.

''(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

''(9) The term 'costs of resources allocated for the process for the review of animal drug applications' means the expenses incurred in connection with the process for the review of animal drug applications for—

''(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

''(B) management of information, and the acquisition, maintenance, and repair of computer resources,

''(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

''(D) collecting fees under this section and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

''(10) The term 'adjustment factor' applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2003.

''(11) The term 'affiliate' refers to the definition set forth in section 735(9).

''(b) TYPES OF FEES.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

''(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

''(A) IN GENERAL.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

''(i) A fee established in subsection (c) for an animal drug application; and

''(ii) A fee established in subsection (c) for a supplemental animal drug application for which safety or effectiveness data are required, in an amount that is equal to 50 percent of the amount of the fee under clause (i).

''(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

''(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

''(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

''(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph (B) if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

''(2) ANIMAL DRUG PRODUCT FEE.—Each person—

''(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

''(B) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection (c). Such fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.

''(3) ANIMAL DRUG ESTABLISHMENT FEE.—Each person—

''(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

''(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

''(C) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual fee established in subsection (c) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

''(4) ANIMAL DRUG SPONSOR FEE.—Each person—

''(A) who meets the definition of an animal drug sponsor within a fiscal year; and

''(B) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection (c). The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

''(c) FEE AMOUNTS.—Except as provided in subsection (b)(1) and subsections (d), (e), (g), and (h), the fees required under subsection (b) shall be established to generate fee revenue amounts as follows:

''(1) TOTAL FEE REVENUES FOR APPLICATION AND SUPPLEMENT FEES.—The total fee revenues to be collected in animal drug application fees under subsection (b)(1)(A)(i) and supplemental animal drug application fees under subsection (b)(1)(A)(ii) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

''(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (b)(2) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

''(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (b)(3) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

''(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in sponsor fees under subsection (b)(4) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

''(d) ADJUSTMENTS.—

''(1) INFLATION ADJUSTMENT.—The revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

''(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year for which fees are being established; or

''(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District Columbia.

The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2004 under this subsection.

''(2) WORKLOAD ADJUSTMENT.—After the fee revenues are adjusted for inflation in accordance with paragraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004 to reflect changes in review workload. With respect to such adjustment:

''(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

''(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (c), as adjusted for inflation under paragraph (1).

''(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2008, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal

year 2009 If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2008

''(4) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year beginning after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection (c) and the adjustments provided under this subsection.

''(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

''(e) FEE WAIVER OR REDUCTION.—

''(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (b) where the Secretary finds that—

''(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

''(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

''(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

''(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

''(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

''(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

''(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

''(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

''(3) RULES FOR SMALL BUSINESSES.—

''(A) DEFINITION.—In paragraph (1)(E), the term ''small business'' means an entity that has fewer than 500 employees, including employees of affiliates.

''(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

''(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(E) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

''(f) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 738(5)(B) that is submitted by a person subject to fees under subsection (b) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

''(g) ASSESSMENT OF FEES.—

''(1) LIMITATION.—Fees may not be assessed under subsection (b) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

''(2) AUTHORITY.—If the Secretary does not assess fees under subsection (b) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (b) relating to the date fees are to be paid.

''(h) CREDITING AND AVAILABILITY OF FEES.—

''(1) IN GENERAL.—Fees authorized under subsection (b) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

''(2) COLLECTIONS AND APPROPRIATION ACTS.—

''(A) IN GENERAL.—The fees authorized by this section—

''(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

''(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

''(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

''(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

''(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

''(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

''(A) $5,000,000 for fiscal year 2004;

''(B) $8,000,000 for fiscal year 2005;

''(C) $10,000,000 for fiscal year 2006;

''(D) $10,000,000 for fiscal year 2007; and

''(E) $10,000,000 for fiscal year 2008;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

''(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

''(i) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (b) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(j) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (e), or for a refund of any fee collected in accordance with subsection (b), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

''(k) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.

''(l) ABBREVIATED NEW DRUG APPLICATIONS.—The Secretary shall—

''(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

''(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.''.

**SEC. 4. ACCOUNTABILITY AND REPORTS.**

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to Congress for the goals and plans for meeting the goals for the process for the review of animal drug applications for the fiscal years after fiscal year 2008, and for the reauthorization of section 739 of the Federal Food, Drug, and Cosmetic Act (as

added by section 3), the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, veterinary professionals, representatives of consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall—

(A) publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry;

(B) present the recommendations to the Committees referred to in that paragraph;

(C) hold a meeting at which the public may comment on the recommendations; and

(D) provide for a period of 30 days for the public to provide written comments on the recommendations.

(b) PERFORMANCE REPORTS.—Beginning with fiscal year 2004, not later than 60 days after the end of each fiscal year during which fees are collected under part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(c) FISCAL REPORT.—Beginning with fiscal year 2004, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (a), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

**SEC. 5. SUNSET.**

The amendments made by section 3 shall not be in effect after October 1, 2008, and section 4 shall not be in effect after 120 days after such date.

## NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LAND AND FORESTS

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

The hearing will be held on Thursday, June 12, at 2:30 p.m. in SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 434—A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System Resources; S. 435—A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; S. 490—A bill to direct the Secretary of Agriculture to convey certain land in the Lake Tahoe Basin Management Unit Nevada, to the Secretary of the Interior, in trust for the Washoe Indian Tribe of Nevada and California; H.R. 762—To amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act and for other purposes; S. 1111—A bill to provide suitable grazing arrangements on National Forest System land to persons that hold a grazing permit adversely affected by the standards and guidelines contained in the Record of Decision of the Sierra Nevada Forest Plan Amendment and pertaining to the Willow Flycatcher and the Yosemite Toad; H.R. 622—To provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes. (Contact: Frank Gladics 202–224–2878 or Dick Bouts 202–224–7545).

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

For further information, please contact the staff as indicated above.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 3, 2003 at 10:00 a.m. to hold a Hearing on Nominations.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, June 3, 2003 at 10:00 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Status of Tribal Fish and Wildlife Management Programs.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 3, 2003 at 2:30 p.m. to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Tuesday, June 3, 2003 from 10:00 a.m.–12:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 3 at 2:30 p.m. to receive testimony regarding S. 268, authorizes the Pyramid of Remembrance Foundation to establish a memorial in the District of Columbia and its environs to honor members of the armed forces of the Untied States who have lost their lives during peacekeeping operations, humanitarian efforts, training, terrorist attacks, or covert operations; S. 296, to require the Secretary of Defense to report to Congress regarding the requirements applicable to the inscription of veterans' names on the memorial wall of the Vietnam Veterans Memorial; S. 470, to extend the authority for the construction of a memorial to Martin Luther King, Jr.; and S. 1076, to authorize construction of an education center at or near the Vietnam Veterans Memorial.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Tuesday, June 3, 2003, at 2:30 p.m. on Space Propulsion in SR–253.

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

## PRIVILEGES OF THE FLOOR

Mr. DOMENICI. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Julie Nichole Bostick and Rick Feger of my office during the remainder of today's session.

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

Mr. BINGAMAN. I ask unanimous consent that Wendy Miller, who is a fellow with Senator LIEBERMAN's office, be granted the privilege of the floor during the pendency of S. 14.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the following individuals from my office be allowed floor privileges during the duration of the Energy bill over the next several days and perhaps weeks: Jesse Watson, Fayla Lucero, Evan Cochnar, Kelly-Renae Edwards, Nick Goldberg, Joshua Medina, Chet Roach, Daniel Peters, and Elaine Blest.

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

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 186, 187, and 188. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

FARM CREDIT ADMINISTRATION

Lowell Junkins, of Iowa, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Glen Klippenstein, of Missouri, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Julia Bartling, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

## LEGISLATIVE SESSION

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

## MEASURE READ THE FIRST TIME—S. 1174

Mr. FITZGERALD. Mr. President, I understand that S. 1174 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1174) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. FITZGERALD. Mr. President, I now ask for its second reading and object to further proceedings on this matter.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

## ANIMAL DRUG USER FEE ACT OF 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that action on S. 313 be vitiated and the Senate proceed to its immediate consideration; that the committee amendments be withdrawn, and that the amendment that is at the desk be agreed to, and the bill, as amended, be read a third time and passed.

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

The committee amendments were withdrawn.

The amendment (No. 846) was agreed to.

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

The bill (S. 313), as amended, was read the third time and passed.

## ORDERS FOR WEDNESDAY, JUNE 4, 2003

Mr. FITZGERALD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, June 4. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until the hour of 11 a.m., with the first 30 minutes under the control of Senator BROWNBACK or his designee; provided further that the remaining time be equally divided between the two leaders or their designees and that Senators be limited to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say through you to the acting majority leader, we are confident that the child care amendment offered by the Senator from Arkansas, through the Senator from New Mexico, will pass. We do not really care if it is done in the energy bill or in a separate, freestanding arrangement. Whatever the two leaders work out, we are happy to work on this.

The energy bill, as it is now before the Senate, is a revenue measure. We understand the importance of moving the energy bill. We want to cooperate in any way we can.

However, we do understand the importance of this matter that was not taken care of in the tax bill that involves 12 million children in America. So we hope that can be resolved quickly and that we can have a vote on it in the next few days. We look forward to cooperating with the majority in any way we can to move this matter forward.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

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

## PROGRAM

Mr. FITZGERALD. For the information of all Senators, following morning business tomorrow, the Senate may resume consideration of S. 14, the Energy Bill. The Senate made progress today on the ethanol issue, and it is hoped that the Senate can complete action on that issue during Wednesday's session. Tomorrow the Senate may also consider the House Defense authorization bill under the consent order entered earlier.

In addition, discussions are under way as to a process for consideration of the child tax credit legislation. This evening, Senator GRASSLEY introduced that legislation and began the process of placing that bill on the calendar. Negotiations will continue as to the best way to address that issue.

We are also working to clear additional nominations during tomorrow's session. Therefore, Members should expect votes throughout the day, and Senators will be notified when the first vote is scheduled.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FITZGERALD. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:45 p.m., adjourned until Wednesday, June 4, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 3, 2003:

EXECUTIVE OFFICE OF THE PRESIDENT

JOSHUA B. BOLTEN, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE MITCHELL E. DANIELS, JR., RESIGNED.

DEPARTMENT OF LABOR

ROBERT LERNER, OF MARYLAND, TO BE COMMISSIONER OF EDUCATION STATISTICS FOR A TERM EXPIRING JUNE 21, 2009, VICE PASCAL D. FORGIONE, JR., TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY 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. WILLIAM S. WALLACE, 0000

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

BETH A. SALAMANCA, OF VIRGINIA
M. ERIN SOTO, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DAVID J. BARTH, OF VIRGINIA
KAREN J. DOSWELL, OF MARYLAND
NANCY ESTES, OF FLORIDA
SUSAN KOSINSKI FRITZ, OF WYOMING
R. DAVID HARDEN, OF MARYLAND
GARY C. JUSTE, OF FLORIDA
JANET B. PAZ-CASTILLO, OF WASHINGTON
LESLIE K. REED, OF CALIFORNIA
SCOTT ALAN STOFEL, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

KATHY ELAINE BODY, OF VIRGINIA

CATHY J. BOWES, OF VIRGINIA
DERRICK S. BROWN, OF FLORIDA
ALICIA DINERSTEIN, OF NEW YORK
AMAN DJAHANBANI, OF VIRGINIA
ROGER L. LAPP JR., OF VIRGINIA
NADEREH C. LEE, OF FLORIDA
BRADFORD CLEAVELAND PALMER, OF CONNECTICUT
KERRY PELZMAN, OF NEW HAMPSHIRE
KURT A. POPE, OF FLORIDA
REBECCA JO ROHRER, OF WISCONSIN
JENNIFER L. SCOTT, OF FLORIDA
PALMER J. WYVILLE-STAPLES, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

ALEXANDER G. AMDUR, OF THE DISTRICT OF COLUMBIA

DEPARTMENT OF STATE

JUAN T. AVECILLA, OF CALIFORNIA
MARK E. BALKOVICH, OF MARYLAND
JAMES ANDREW BALL IV, OF CALIFORNIA
TIFFANY M. BARTISH, OF ILLINOIS
JEREMY A. BECK, OF IDAHO
JENNIFER L. BECKER, OF KANSAS
GREGORY L. BERNSTEEN, OF FLORIDA
NANCY ROSENKRANZ BIASI, OF OREGON
ALEC M. BIERBAUER, OF MARYLAND
MARK L. BLAIS, OF TEXAS
KEVIN BRADY, OF TEXAS
KIRNINDER PAL BRAICH, OF NEW JERSEY
JOYCE A. BROOKS, OF MARYLAND
ERIC BRADLEY BURKHART, OF VIRGINIA
THEODORE R. CALABIA, OF VIRGINIA
JOSH M. CARTIN, OF CALIFORNIA
JOSEPH LEE CHAMBERLAIN, OF COLORADO
CAROLINE CHUNG, OF VIRGINIA
MICHAEL L. COLLINS, OF VIRGINIA
BARBARA ANN CORDANO, OF TEXAS
FRED THOMAS CRAWFORD IV, OF VIRGINIA
COLLEEN E. CRENWELGE, OF TEXAS
JUSTIN CHARLES CREVIER, OF WASHINGTON
RICHARD R. DIAZ, OF VIRGINIA
MARGIT R. DITTMER, OF VIRGINIA
RACHAEL THOMASIN DOHERTY, OF THE DISTRICT OF COLUMBIA
DENISE A. ERBE, OF VIRGINIA
ANN MARIE EVERITT, OF MONTANA
STEFANIE BATES EYE, OF TEXAS
GEORGE FARAG, OF NEW JERSEY
MICHAEL L. FERNANDEZ, OF VIRGINIA
KATHRYN SMITH FITRELL, OF WASHINGTON
REBECCA L. FRERICHS, OF WYOMING
JEFFREY P. FURGAL, OF VIRGINIA
DANIEL L. GAGE, OF NEW MEXICO
DAVID JOSEPH GAINER, OF MARYLAND
SUSAN M. GOLDEN, OF VIRGINIA
MARY BETH GOODMAN, OF VIRGINIA
CHRISTOPHER M. GROVES, OF CALIFORNIA
GABRIELLE J. GUIMOND, OF WASHINGTON
ANDREW M. HAMILTON, OF VIRGINIA
JOHN HARDMAN, OF MARYLAND
DAVID B. HARRISON, OF FLORIDA
CLAUS P. HEPPNER, OF VIRGINIA
CAROLINA HIDEA, OF ARIZONA
JOHNATHAN ALEXANDER HILTON, OF THE DISTRICT OF COLUMBIA
ANNY CHI-JIN HO, OF MARYLAND
JEROME P. HOHMAN, OF THE DISTRICT OF COLUMBIA
HOLLY CHRISTINE HOLZER, OF ILLINOIS
TERESA HOOPER, OF VIRGINIA
ELIZABETH S. HOSINSKI, OF VIRGINIA
ROKSANA K. HOUGE, OF TEXAS
MICHELLE M. JAVOR, OF MINNESOTA
JAMES A. JIMENEZ, OF FLORIDA
THOMAS LESLIE JOHNSTON III, OF COLORADO
ANDRA M. JORDAN, OF VIRGINIA
WENDY ANNETTE KAHLER, OF VIRGINIA
MARY VIRGINIA KANE, OF MARYLAND
HYUN S. KIM, OF ILLINOIS
JULES KIM, OF CALIFORNIA
ANTHONY R. KING, OF VIRGINIA
TERRI L. KING, OF MARYLAND
RICHARD W. KLEIN, OF VIRGINIA
ALBERT J. KRAAIMOORE, OF NEW MEXICO
NEILL GORDON KROST, OF CALIFORNIA
LOURDES MARIA LAMELA, OF THE DISTRICT OF COLUMBIA
BRET A. LANSDELL, OF VIRGINIA
RICHARD WILLIAM LA ROCHE JR., OF CALIFORNIA
IRENE LAVOIE, OF VIRGINIA
SCOTT C. LEIBFRIED, OF VIRGINIA
LEON C. LOWDER III, OF NEW YORK
LORA OMAN LUND, OF VIRGINIA
KERRY G. MADDY, OF VIRGINIA
THOMAS MAHOLCHIC, OF VIRGINIA
ROBERT MARKS, OF OREGON
ERIK C. MARTINI, OF MARYLAND
LAURIE A. MATTHEWS, OF VIRGINIA
ANDREA MCCARLEY, OF VIRGINIA
DAVID L. MCCARTHY, OF VIRGINIA
DANIEL P. MCFEELY, OF VIRGINIA
TRINA M. MCREYNOLDS, OF TEXAS
TRACI L. MELL, OF ILLINOIS
ELISE M. MELLINGER, OF PENNSYLVANIA
HARRY B. MEYER JR., OF MARYLAND
MEGHAN M. MOORE, OF ALASKA
JEREMY NATHAN, OF ILLINOIS
BRENDAN JAMES O'BRIEN, OF VIRGINIA
JAMES A. OLEYAR, OF VIRGINIA
MARK ALAN PANNELL, OF WASHINGTON
ELAINE A. PAPLOS, OF CALIFORNIA
RONALD DREW PERKEL, OF COLORADO
JON E. PIECHOWSKI, OF ILLINOIS
RYAN T. POOL, OF TEXAS
ALLEN LEWIS POWELL, OF VIRGINIA
SANJAY RAMESH, OF NEW JERSEY
ERINN CHRISTINE REED, OF VIRGINIA
ROBERT RICHARDS, OF VIRGINIA
CHRISTINE RIEHL, OF PENNSYLVANIA
LAN H. RIGGIN, OF VIRGINIA
JEFFREY E. RIGLER, OF OKLAHOMA
PHILIP WESTON ROSKAMP, OF TEXAS
JOSHUA N. RUBIN, OF VIRGINIA
JOSEPH HARRY RUNYON, OF FLORIDA
CONSTANTINE M. SAAB, OF VIRGINIA
DAVID SAUER, OF MINNESOTA
JILL MARIE SECARD, OF FLORIDA
DAVID J. SHAO, OF TEXAS
MACHUTMI AWUNGSHI SHISHAK, OF PENNSYLVANIA
JAMES MATTHEW SINDLE, OF VIRGINIA
PATRICK ISAMU SMELLER, OF MARYLAND
KATHLEEN SPEAR, OF VIRGINIA
JOSEPH A. STRZALKA, OF MICHIGAN
LISA SWENARSKI DE HERRERA, OF CALIFORNIA
CATHERINE E. TAYLOR, OF UTAH
IVETTE M. TIMMINS, OF VIRGINIA
JULIE MARGUERITE VIBUL, OF TENNESSEE
GEORGE L. WARD, OF MARYLAND
MICHAEL B. WITHAM, OF VIRGINIA
CHRISTIAN YARNELL, OF NEW JERSEY
KENNETH M. ZURCHER, OF KANSAS
AREND C. ZWARTJES, OF TEXAS

CONSULAR OFFICER OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

DENIS P. COLEMAN JR., OF FLORIDA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATED OF AMERICA, CLASS OF COUNSELOR

DEPARTMENT OF STATE

C. STEVEN MCGANN, OF NEW YORK

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DEPARTMENT OF STATE

PETER H. CHASE, OF WASHINGTON

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

*To be medical director*

THOMAS D. MATTE

*To be senior surgeon*

WILLIAM B. BAINE
MAURA K. DOLLYMORE
TERRY J. GOLDEN
AUGUSTA E. HAYS
RICHARD S. KAPLAN
MARY L. LINDEGREN
VICTORIA T. RAMIREZ

*To be surgeon*

WILLIE CACHO
KIMBERLEY K. FOX
MICHAEL F. IADEMARCO
ALI S. KHAN
PETER H. KILMARX
DAVID K. KIM
ABRAHAM G. MIRANDA
ABELARDO MONTALVO
DAVID M. MORENS
JOHN F. MORONEY
LYNN A. PAXTON

*To be senior assistant surgeon*

MICHAEL G. BRUCE
DANIEL R. FEIKIN
BRUCE W. FURNESS
ALICIA GARCIA
RICHARD S. HARRIS
DENISE J. JAMIESON
PAUL T. KITSUTANI
VENKATARAMA R. KOPPAKA
MONA SARAIYA

*To be senior dental surgeon*

DONALD C. BELCHER
MICHAEL F. GMUREK
GARY L. PANNABECKER

*To be dental surgeon*

MARK R. BOGNAR
JEFFERY R. COMBS

*To be senior assistant dental surgeon*

MARLON A. BROWN
CHARLES G. HOUCK
GLENN P. MARTIN
KATHLEEN M. OCONNOR
GODFREY O. ONUGHA
TIMOTHY L. RICKS
TODD M. TOVAREK
CHARLES M. WEBER

*To be nurse director*

AUDREY M. KOERTVELYESSY

*To be senior nurse officer*

DAVID W. EDDINGER
STEPHANIE L. KING

*To be nurse officer*

AMY S. COLLINS
THOMAS B. ELLIS
ANGELA M. MARTINELLI
GENISE Y. NIXON
JAMES R. REID
JAMES F. SABATINOS
DEBRA L. SCOTT
LYNN A. SLEPSKI
TINA ALICE TAH
FRANCES E. WALL

*To be senior assistant nurse officer*

JANICE ADAMS
PETER D. BENNETT
WILLIAM D. BODEN
KAREN M. COOK
CATHERINE M. DENTINGER
LISA A. DENZER
MICHELLE E. DOSSETT
DIANE DOUGLAS
SHANNON C. DUNN
ANTHONY L. DURAN
TODD D. GENZER
BRENT T. HALL
CHRIS L. HENNEFORD
JODI L. HENNESSY
DIANNE MISKINIS HILLIGOSS
WILLADINE M. HUGHES
ANITA L. JOHNSON
KAREN L. KOSAR
ANITA C. KRUMM
STARDUST W. MAZZARIELLO
LYNN L. WEISS

*To be assistant nurse officer*

CINDY L. BRITT
ALEXIS MOSQUERA
SPENCER T. SMITH

*To be senior engineer officer*

DAVID KOSKI
SHARON A. MILLER

*To be senior assistant engineer officer*

STEVEN J. ANDERSON
FRANK B. BEHAN
CHARLES M. COTE
JONATHAN W. FOGARTY
CHUCRI A. KARDOUS
DENMAN K. ONDELACY

*To be senior scientist*

FRANCOIS M. LALONDE

*To be scientist*

CHARLES D. KIMSEY JR.

*To be senior assistant scientist*

RICHARD S. GARFEIN
MINNIS T. HENDRICKS JR.
ROBIN L. LYERLA
KATHLEEN Y. MCDUFFIE
STEPHANIE R. MILES-RICHARDSON
JOSHUA A. MOTT
STEPHANIE L. SANSOM

*To be senior sanitarian*

DAVID A. BLEVINS

*To be sanitarian*

ROBERT S. NEWSAD

*To be senior assistant sanitarian*

CHRISTOPHER W. ALLEN
MYRNA J. BUCKLES
TIMOTHY E. JIGGENS
JOSEPH W. MATTHEWS
A THOMAS MIGNONE JR.
ALAN G. PARHAM
RHONDA S. SEARS

*To be senior assistant veterinary officer*

JENNIFER H. MCQUISTON

*To be pharmacist director*

JAMES U. IMHOLTE

*To be pharmacist*

JEFFREY T. BINGHAM
JEFFREY R. FRITSCH
GARY M. GIVENS
RAYMOND GOLDSTINE
VERNON T. LEW
JUDY L. ROSE
PETER WEISS

*To be senior assistant pharmacist*

JAMES T. BARLOW

LYNDALL S. BLACKMON
LANA Y. CHEN
MICHAEL J. CONTOS
TRACY L. FARRILL
ELLEN C. FRANK
EDWARD A. HOUSER
ALINA R. MAHMUD
DAVID G. MOENY
SURYAMOHAN V. PALANKI
JENNIFER SRIVER POST
ANN M. REYNOLDS
JULIE K. RHIE
BRIAN D. SCHILLING
KENNETH H. SCHMIDT
MARK N. STRONG
BRANDON L. TAYLOR
STACEY A. THORNTON
ROBYN R. TILLEY
CASSONDRA M. WHITE

*To be assistant pharmacist*

ELAINE J. HU
ELIZABETH F. YUAN
JOSEPH F. ZAGAME III

*To be senior dietitian*

GLEN P. REVERE

*To be dietitian*

ELAINE J. AYRES

*To be senior assistant dietitian*

ROBERT M. COLLISON
GRAYDON T. YATABE

*To be therapist*

MARTHA A. DUGANNE

*To be senior assistant therapist*

MIKE D. FAZ

*To be assistant therapist*

DAMIEN W. AVERY
TESHARA G. BOUIE
AYANNA Y. HILL
JACKIE M. PETERMAN

*To be senior health services officer*

JAMES F. SAVIOLA

*To be health services officer*

TERRY J. SCHLEISMAN
DANA R. TAYLOR

*To be senior assistant health services officer*

JEFFREY T. BOSSHART
ANA D. CINTRON
GARY M. COLE
BRIAN K. CULLIGAN
CHRISTOPHER C. DUNCAN
ABNNAH B. FORBES
ANNA T. GONZALES
DIANE C. HANNER
JOSEPH B. HENRY
DAWN A. KELLY
JEAN O. PLASCHKE
JACQUELINE D. RODRIGUE
DONNA RUSCH
JAY A. SELIGMAN
JOHN H. STADICK
JENNIFER S. STEUBEN

*To be assistant health services officer*

ALLYSON M. ALVARADO
MARJORIE BALDO
REBECCA A. BUNNELL
STANTON C. HAWKES
SUZANNE CAROLE HENNIGAN
AMY L. HOLDER
SCARLETT A. LUSK
RONALD R. PINHEIRO

## CONFIRMATIONS

Executive Nominations Confirmed by the Senate June 3, 2003:

FARM CREDIT ADMINISTRATION

LOWELL JUNKINS, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

GLEN KLIPPENSTEIN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

JULIA BARTLING, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.