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# *Senate*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. This morning, we will be led in prayer by our guest Chaplain, Dr. K. Randel Everett, president of the John Leland Center for Theological Studies.

## PRAYER

The guest Chaplain offered the following prayer:

Let us bow together in prayer.

Dear Father, we thank You for surrounding these Senators with such a great cloud of witnesses who have served in the seats of honor before them. We thank You for those who stood with courage during difficult days. We thank You for those whose wisdom guided our Nation through times of darkness. We thank You for the times when the Senate stood in unity in pursuit of justice when the world was threatened by the forces of evil.

Dear Lord, we pray that You will give these Senators freedom from the encumbrances of business, of pettiness, and worry. Loosen them from any of the sins of prejudice or bitterness or anger that might entangle them. Give them the discipline to run with endurance the race You have set before them. Fix their eyes on You, the author and perfecter of sight. And fill them with Your spirit so that they will not grow weary or lose heart.

Endow them with Your gifts of faith, hope, and love: Faith that You are the sovereign God, hope that righteousness will prevail, and love for You, for Your creation, and for each individual as a person of worth and value.

In Thy name we pray. Amen.

The PRESIDENT pro tempore. I ask the Democratic assistant leader if he will lead us in the Pledge of Allegiance to the flag.

## PLEDGE OF ALLEGIANCE

The Honorable HARRY REID, a Senator from the State of Nevada, 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 Chair recognizes the assistant Republican leader.

## SCHEDULE

Mr. MCCONNELL. Mr. President, for the information of all Senators, this morning Senator DOLE will give her maiden speech in the Senate.

When the Senate resumes consideration of the Energy bill, Senator BOXER will offer the first of her two amendments. The votes in relation to those amendments, as well as the pending Schumer amendment, will be stacked to occur later in the day. There are a number of scheduling conflicts, and we will be looking for the most appropriate time this afternoon for those votes to occur.

In addition to the ethanol amendments, a LIHEAP amendment is pending. Members may want to speak on that issue as well. Therefore, the vote on first- and second-degree LIHEAP amendments may be stacked to occur later today as well.

It is hoped that Senators who have additional amendments will make themselves available to offer those amendments so that further progress can be made on this important legislation.

I also add that it is possible we could reach an agreement for the filing deadline for all first-degree amendments.

Having said that, votes will occur on amendments throughout the day on the Energy bill, with the goal of making substantial progress towards its completion.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada.

## SENATOR DOLE'S MAIDEN SPEECH

Mr. REID. Mr. President, I am aware that the distinguished Senator from North Carolina is going to make her maiden speech today. I haven't had the opportunity to say to her privately what I will say publicly, and that is my fault. But I simply say that we have this big horserace coming up this Saturday—the Belmont Stakes—and we talked about the pedigree of the horses that are going to be running that race. Rarely in the history of the Senate has there been anyone come with a pedigree of the Senator from North Carolina. She not only has a distinguished husband with whom we all served here in the Senate who was so direct and so full of humor and so full of wisdom, and a person we still miss today, but being a Senator in her own right, she has a pedigree that is basically unsurpassed: A person who served as a Cabinet officer on at least two separate occasions, who served in other capacities in the White House, and who was so good in her capacity as head of the International Red Cross, doing work all over the world that is still being done as a result of her leadership.

The Senate is certainly favored with her presence, and I look forward, as does all of the Senate, to hearing her maiden speech today.

Mr. MCCONNELL. Mr. President, let me also say that had Senator DOLE not recruited my wife to come into government, I never would have met her. So in addition to all of her substantial accomplishments, she also has made extraordinarily good hiring decisions over the years and brought outstanding

people to Washington, and particularly outstanding women.

We are here today to listen to her maiden speech. She enters the Senate with an extraordinary record, as the Senator from Nevada has pointed out, that goes far beyond what most of us did when we came here. She has already made an important contribution to this body.

I yield the floor.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business not to extend beyond the hour of 10 a.m., with the time under the control of Senator DOLE.

The Chair recognizes the Senator from North Carolina.

## NATIONAL HUNGER AWARENESS DAY

Mrs. DOLE. Mr. President, I first thank the majority whip, Senator MCCONNELL, and the Democrat whip, Senator REID, for their very kind comments this morning. Then I thank you, Mr. President, and other members of the leadership, for your unwavering support of this freshman class.

I also recognize Senator FRIST for the traditional courtesies of a maiden speech to be extended to the new Senator and express my appreciation for his commitment to the rich history of this great tradition.

Tradition is held that, by waiting a respectful length of time, senior colleagues would appreciate the humility shown by a new Member of the Senate who would use the occasion to address an issue of concern.

I come in that sense today to share my thoughts on a matter that weighs heavily on my mind. Hunger is the silent enemy lurking within too many American homes. It is a tragedy I have seen firsthand and far too many times throughout my life in public service. This is not a new issue.

In 1969, while I was serving as Deputy Assistant to the President for Consumer Affairs, I was privileged to assist in planning the White House Conference on Food, Nutrition, and Health. In opening the conference, President Nixon said:

> Malnutrition is a national concern because we are a nation that cares about its people, how they feel, how they live. We care whether they are well and whether they are happy.

This still rings true today.

On National Hunger Awareness Day, I want to highlight what has become a serious problem for too many families, particularly in North Carolina.

My home State is going through a painful economic transition. Once thriving textile mills have been shuttered. Family farms are going out of business. Tens of thousands of workers have been laid off from their jobs. Entire areas of textile and furniture manufacturing are slowly phasing out as high-tech manufacturing and service companies become the dominant industry of the State. Many of these traditional manufacturing jobs have been in rural areas where there are fewer jobs and residents who are already struggling to make ends meet.

In 1999, North Carolina had the 12th lowest unemployment rate in the United States. By December 2001, the State had fallen to 46—from 12 to 46. That same year, according to the Rural Center, North Carolina companies announced 63,222 layoffs. Our State lost more manufacturing jobs between 1997 and the year 2000 than any State except New York.

Entire communities have been uprooted by this crisis. In the town of Spruce Pine in Mitchell County, 30 percent—30 percent—of the town's residents lost their jobs in the year 2001. Ninety percent of those layoffs were in textile and furniture manufacturing. These are real numbers and real lives from a State that is hurting.

Our families are struggling to find jobs, to pay their bills, and, as we hear more and more often, to even put food on the table. In fact, the unemployment trend that started in 1999 resulted in 11.1 percent of North Carolina families not always having enough food to meet their basic needs. That is according to the U.S. Department of Agriculture. And North Carolina's rate is higher than the national average. This means that among North Carolina's 8.2 million residents, nearly 900,000 are dealing with hunger. Some are hungry, others are on the verge.

My office was blessed recently to meet a young veteran, Michael Williams, and his family. Michael served his country for 8 years in the U.S. Army before leaving to work in private industry and use the computer skills he had gained while serving in the military. He was earning a good living, but after September 11 and the terrorist attacks, he and his wife Gloria felt it was time to move their two children closer to family back home in North Carolina. As he said, ''It was time to bring the grandbabies home.''

But Michael has found a shortage of jobs since his return. He worked with a temp agency but that job ended. It has been so hard to make ends meet that the family goes to a food bank near their Clayton, NC, home twice a month because with rent, utilities, and other bills, there is little left to buy food.

Their story is not unlike so many others. Hard-working families are worrying each day about how to feed their children. As if this were not enough, our food banks are having a hard time finding food to feed these families. In some instances, financial donations have dropped off or corporations have scaled back on food donations. In other cases, there are just too many people and not enough food.

At the Food Bank of the Albemarle in northeast North Carolina, executive director Gus Smith says more people are visiting this food bank even as donations are off by 25 percent. Thus Gus says, ''We just can't help everybody at this point in time.'' To try to cope, they recently moved to a 4-day workweek, meaning the entire staff had to take a 20-percent pay cut just to keep the doors open.

America's Second Harvest, a network of 216 food banks across the country, reports it saw the number of people seeking emergency hunger relief rise by 9 percent in the year 2001 to 23.3 million people. In any given week, it is estimated that 7 million people are served at emergency feeding sites around the country.

These numbers are troubling indeed. No family—in North Carolina or anywhere in America—should have to worry about where they will find food to eat. No parent should have to tell their child there is no money left for groceries. This is simply unacceptable.

I spent most of the congressional Easter recess going to different sites in North Carolina: homeless and hunger shelters, food distribution sites, soup kitchens, farms, even an office where I went through the process of applying for Government assistance through the WIC Program, the Women, Infants, and Children Program.

I was also able to meet, on several occasions, with a group known as the Society of Saint Andrew. This organization, like some others across the country, is doing impressive work in the area of gleaning. That is when excess crops, that would otherwise be thrown out, are taken from farms, packing houses, and warehouses, and distributed to the needy.

Gleaning immediately brings to my mind the Book of Ruth in the Old Testament. She gleaned in the fields so that her family could eat. You see, Mr. President, in Biblical times farmers were encouraged to leave crops in their fields for the poor and the travelers. Even as far back as in Leviticus, Chapter 19, in the Old Testament, we read the words:

> And thou shalt not glean thy vineyard, neither shalt thou gather every grape of thy vineyard; thou shall leave them for the poor and the stranger.

So gleaning was long a custom in Biblical days, a command by God to help those in need. It is a practice we should utilize much more extensively today. It is astounding that the most recent figures available indicate that approximately 96 billion pounds of good, nutritious food, including that at the farm and retail levels, is left over or thrown away in this country.

It is estimated that only 6 percent of crops are actually gleaned in North Carolina. A tomato farmer in North Carolina sends 20,000 pounds of tomatoes to landfills each day during harvest season.

Mr. President, I ask unanimous consent to present an example of produce on the Senate floor.

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

Mrs. DOLE. Sometimes the produce cannot be sold. Sometimes it is underweight or not a perfect shape, like this sweet potato I show you in my hand. This would be rejected because it is not the exact specification. Other times it is simply surplus food, more than the grocery stores can handle, but it is still perfectly good to eat.

Imagine the expense to that farmer in dumping 20,000 pounds of tomatoes each day during his harvest season. And this cannot be good for the environment. In fact, food is the single largest component of our solid waste stream—more than yard trimmings or even newspapers. Some of it does decompose, but it often takes several years. Other food just sits in landfills, literally mummified. Putting this food to good use, through gleaning, will reduce the amount of waste going to our already overburdened landfills.

I am so appreciative of my friends at the Environmental Defense Fund for working closely with me on this issue. Gleaning also helps the farmer because he does not have to haul off and plow under crops that do not meet exact specifications of grocery chains, and it certainly helps the hungry, by giving them not just any food but food that is both nutritious and fresh.

The Society of Saint Andrew is the only comprehensive program in North Carolina that gleans available produce and then sorts, packages, processes, transports, and delivers excess food to feed the hungry.

In the year 2001, the organization gleaned 9.7 million pounds—almost 10 million pounds—or 29.1 million servings of food. It only costs a penny—1 penny—a serving to glean and deliver this food to those in need. Even more amazing, the Society of Saint Andrew does all this with a tiny staff and an amazing 9,200 volunteers.

These are the types of innovative ideas we should be exploring. I have been told by the Society of Saint Andrew that $100,000 would provide at least 10 million servings of food for hungry North Carolinians.

I set out to raise that money for the Society in the last few weeks, and thanks to the compassion of a number of caring individuals, companies, and organizations, we were able to surpass our goal and raise $180,000—enough for over 18 million servings of food. More than ever, I believe this is a worthy effort that can be used as a model nationwide.

I am passionate about leading an effort to increase gleaning in North Carolina and across America. The gleaning system works because of the cooperative efforts of so many groups, from the Society of Saint Andrew and its volunteers who gather and deliver the food, to the dozens of churches and humanitarian organizations that help distribute this food to the hungry. Indeed, gleaning is, at its best, a public-private partnership.

Private organizations are doing a great job with limited resources. But we must make some changes on the public side to help them leverage their scarce dollars to feed the hungry. I have heard repeatedly that the single biggest concern for gleaners is transportation. The food is there. The issue is how to transport it in larger volume.

I want to change the Tax Code to give transportation companies that volunteer trucks for gleaned food a tax incentive. And there are other needed tax changes. Currently, only large publicly traded corporations can take tax credits for giving food to these gleaning programs. But it is not just large corporations that provide this food; it is the family farmers and the small businesses. Why should a farmer who gives up his perfectly good produce or the small restaurant owner who gives food to the hungry not receive the same tax benefits? The Senate has already passed legislation as part of the CARE Act that would fix this inequity. Now the House of Representatives needs to complete work on this bill.

However, but the answer to the hunger problem does not stop with gleaning. That is just part of the overall effort. There are other ways we can help, too.

This year, we will be renewing the National School Lunch Program and other important child nutrition programs, and there are some areas I am interested in reviewing.

Under School Lunch, children from families with incomes at or below 130 percent of poverty are eligible for free meals. Children from families with incomes between 130 percent and 185 percent of poverty can be charged no more than 40 cents. This may seem to be a nominal amount, but for a struggling family with several children the costs add up. School administrators in North Carolina tell me that they hear from parents in tears because they don't know how to pay for their child's school meals.

The Federal Government now considers incomes up to 185 percent of poverty when deciding if a family is eligible for benefits under the WIC program. Should we not use the same standard for School Lunch? Standardizing the guidelines would even allow us to immediately certify children from WIC families for the School Lunch Program. It is time to clarify this bureaucratic situation and harmonize our Federal income assistance guidelines so we can help those most in need.

The School Lunch Program is the final component of our commitment to child nutrition, and we must do everything to maintain and strengthen its integrity so that it works for those who need it and isn't viewed as a Government giveaway.

There are a lot of interesting ideas being discussed such as adjusting area eligibility guidelines in the Summer Food Program. But these need to be looked at carefully, and we need to ask important questions such as how many people would be affected and what is the cost. I have discussed many of these ideas with groups such as America's Second Harvest, Bread for the World, the Food Research and Action Center, and the American School Food Service Association. I look forward to the opportunity of exploring them further during reauthorization of these important programs in the Agriculture Committee, on which I am honored to serve.

Our work cannot stop within our own borders. The Food and Agriculture Organization of the United Nations says hunger affects millions worldwide. During my 8 years as president of the American Red Cross, I visited Somalia during the heart-wrenching famine. In Mojada, I came across a little boy under a sack. I thought he was dead. His brother pulled back that sack and sat him up and he was severely malnourished. He couldn't eat the rice and beans in the bowl beside him; he was too malnourished. I asked for camel's milk to feed him.

As I put my arm around his back and lifted that cup to his mouth, it was almost as if little bones were piercing through his flesh. I will never forget that. That is when the horror of starvation becomes real, when you can touch it.

There are many things that will haunt me the rest of my life. When I visited Goma, Zaire, which is now Congo, this was a place where millions of Rwandans had fled the bloodshed in their own country but they stopped at the worst possible place, on volcanic rock. You couldn't drill for latrines so cholera and dysentery were rampant. You couldn't dig for graves, so I was literally stepping over dead bodies as I tried to help those refugees. Those bodies were carried to the roadside twice a day. They were hauled off to mass graves.

Former Senators Bob Dole and George McGovern are the architects of the Global Food Program, which has a goal of ensuring that 300 million schoolchildren overseas get at least one nutritious meal a day. The Department of Agriculture estimates that 120 million schoolage children around the world are not enrolled in school in part because of hunger or malnutrition. The majority of these children are girls. The Global Food for Education Program is now operating in 38 countries and feeding 9 million schoolchildren.

I want to see this program expanded. I plan to work on Appropriations to advance that goal. Just helping a child get a good meal can make such a difference in developing countries. Feeding children entices them to come to school which allows them to learn, to have some hope, some future. And improved literacy certainly helps the productivity, thereby boosting the economy.

This problem deserves national discussion. Hunger affects so many aspects of our society. In the spirit of that landmark conference held by the White House in 1969, I am asking President Bush to convene a second White House conference so that the best and brightest minds can review these problems together.

I am honored to work with leaders of the battle to eradicate hunger: Former Congressman Tony Hall, now the United States Ambassador to the U.N. food and agricultural programs, and former Congresswoman Eva Clayton from my own State of North Carolina, now an assistant director general for the U.N. Food and Agriculture Organization in Rome. Both were champions on hunger while in Congress. And there are many others. Former Agriculture Secretary Dan Glickman, a leader on gleaning; Catherine Bertini, Under Secretary General of the United Nations who was praised for her leadership to get food aid to those in need throughout the world; Congresswoman JO ANN EMERSON, cochair of the Congressional Hunger Center who carries on the legacy of her late husband Bill who was a dear friend and leader on this issue.

Here in this body, my chairman on the Agriculture Committee, THAD COCHRAN, and ranking member TOM HARKIN, DICK LUGAR, PATRICK LEAHY, PAT ROBERTS, and GORDON SMITH are leaders in addressing hunger issues.

Partisan politics has no role in this fight. Hunger does not differentiate between Democrats and Republicans. Just as it stretches across so many ethnicities, so many areas, so must we.

As Washington Post columnist David Broder wrote yesterday: America has some problems that defy solution. This one does not. It just needs caring people and a caring government working together.

I get inspiration from the Bible and John, chapter 21, when Jesus asked Peter: Do you love me? Peter, astounded that Jesus was asking him this question again, says: Lord, you know everything. You know that I love you. And Jesus replies: Then feed my sheep.

One of North Carolina's heroes, the Reverend Billy Graham, has often said that we are not cisterns made for hoarding; we are vessels made for sharing. I look forward to working with Billy Graham in this effort. Indeed every religion, not just Christianity, calls on us to feed the hungry. Jewish tradition promises that feeding the hungry will not go unrewarded. Fasting is one of the pillars of faith of Islam and is a way to share the conditions of the hungry poor while purifying the spirit and humbling the flesh. Compassion or karuna is one of the key virtues of Buddhism. This issue cuts across religious lines, too.

I speak today on behalf of the millions of families who are vulnerable, who have no voice, for this little Sudanese girl in this picture, stumbling toward a feeding station and so many like her. I saw this picture some years ago in a newspaper. It broke my heart. I went back to find that picture today because, as I recall the story, she had been walking for a long, long way and she had not yet reached that feeding station. That has been emblazoned on my mind since that time.

Anthropologist Margaret Meade said: Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.

One of my heroes is William Wilberforce, a true man of God. An old friend John Newton persuaded him that his political life could be used in the service of God. He worked with a dedicated group. They were committed people of faith. His life and career were centered on two goals: abolishing slavery in England and improving moral values. He knew that his commitment might cost him friends and influence but he was determined to stand for what he believed was right. It took 21 years and Wilberforce sacrificed his opportunity to serve as Prime Minister. But he was the moving force in abolishing slavery and changing the moral values of England.

In my lifetime, I have seen Americans split the atom, abolish Jim Crow, eliminate the scourge of polio, win the cold war, plant our flag on the surface of the Moon, map the human genetic code, and belatedly recognize the talents of women, minorities, the disabled, and others once relegated to the shadows. Already a large group of citizens has joined what I believe will become an army of volunteers and advocates.

Today I invite all of my colleagues to join me in this endeavor. Let us recommit ourselves to the goal of eradicating hunger. Committed individuals can make a world of difference, even, I might say, a different world.

Mr. President, I ask unanimous consent that my letter to President Bush be printed in the RECORD.

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

U.S. SENATE,
*Washington, DC, June 4, 2003.*

President GEORGE W. BUSH,
*The White House,*
*Washington, DC.*

DEAR MR. PRESIDENT: The White House Conference on Food, Nutrition and Health, convened by President Richard Nixon on December 2, 1969, may well have been one of the country's most productive and far-reaching White House conferences. At the time, President Nixon said that the conference was ''intended to focus national attention and resources on our country's remaining—and changing—nutrition problems.'' In hindsight, it achieved that and more.

So much has been accomplished since that historic White House conference. With bipartisan support in Congress, the food stamp program has been reformed and expanded, school nutrition programs have been improved and now reach over 27 million children each school day, WIC was created, and nutrition labels now appear on most food items.

At the same time, however, the mission is not complete. There are children who qualify for reduced price meals in North Carolina, and throughout the country, but their families cannot afford even this nominal fee. And while 16 million children participate in the free and reduced school lunch program, in the summer many children go without. America's Second Harvest, an extraordinary organization, reports that demand often exceeds the supply of food in local communities. Further, the country is challenged by the paradox of hunger and obesity.

Mr. President, it is time, I believe, for another White House conference to assess the progress we have made in the fight against hunger and to recommit the country to the remaining challenges. I was pleased to work with President Nixon on the 1969 conference; I would be honored to work with you on a second historic conference.

There is a very special tradition in America when it comes to fighting hunger. Perhaps it is a function of our agricultural bounty, the famines in Europe that led to early migration, or the teachings of all major religions, but Americans are intolerant of hunger in our land of plenty.

Mr. President, I hope you will convene a second White House conference with the business, civic and charitable organizations, educators and advocates who continue to work tirelessly to address hunger in America and around the world. Hunger is not a partisan issue and I know that we can work together, with our colleagues on both sides of the political aisle, to address the problems and needs that still exist. Thank you very much for your consideration.

Sincerely,

ELIZABETH DOLE.

Mrs. DOLE. Mr. President, I yield the floor.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for up to 5 minutes as if in morning business.

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

## PRAISING SENATOR ELIZABETH DOLE

Mr. ALEXANDER. Mr. President, I want to join in the praise for the Senator from North Carolina. She reminds us today of what an advantage it is to have someone of such experience serving in our so-called freshman class. She has been a pioneer during her whole career, whether at Harvard Law School, the Nixon White House, or in the Cabinet of two Presidents. I have had the privilege of working with her all during that time on a parallel track.

On two occasions, I competed in a Presidential race with another person named Dole. I am not embarrassed to say I did relatively better against her husband than I did against her. They are both here and I have enormous admiration for both her and her husband, and all of us are enriched by her membership in our class in the Senate.

## THE CHILD TAX CREDIT

Mr. ALEXANDER. Mr. President, today, the President visited with troops overseas to thank them. I want those troops to know we are paying attention to their families at home.

Last week, as chairman of the Subcommittee on Children and Families, I held a hearing at Fort Campbell in

Tennessee and Kentucky to look at the issues faced by military parents raising children. Senator CHAMBLISS did the same in Georgia, and Senators DODD and BEN NELSON will do the same in their respective home States of Connecticut and Nebraska.

Later this month, we will have a joint hearing in Washington of the Subcommittee on Children and Families, which I chair, and the Subcommittee on Personnel of the Armed Services Committee, which Senator CHAMBLISS chairs. Senators DODD and NELSON are the ranking Democrats. That joint hearing is to focus on military families raising children.

Our military has dropped from 3 million to 1.4 million, so we have fewer people in the Armed Services, but we have more missions; we have fewer soldiers; we have more women as a part of the military; we have more military spouses working; we have longer deployments; we have more military children. As a result, we need to be thinking about the families at home as we think about the warriors overseas. I wanted the full Senate to know that four Senators and two subcommittees are addressing these issues.

I think that makes it even more important that the leadership on the Republican and Democratic sides find a way to fix the problem that occurred with the child tax credit in the recently enacted Tax Bill.

President Bush had recommended that we increase from $600 to $1,000 the child tax credit to help parents raising children, including families that make $10,500 to $26,625. Refundability for these lower income families is to be increased from 10 to 15 percent in 2005 under the 2001 Tax Bill. The full Senate voted for that to be accelerated to 2003 and 2004 when it passed its version of the Tax Bill. In the final version of the Tax Bill, those between $10,500 and $26,625 were left out. Some of those families left out of the Tax Bill are serving in our military.

It was not the intention of the Senate to do that, I don't believe. I doubt if most Members of the House want that result. That is why on Tuesday I cosponsored Senator GRASSLEY's bill to fix the problem, and I am prepared to vote for any reasonable proposal in the Senate that the leadership can negotiate in the next few days to make it clear that our Senate and our Congress put a priority on parents raising children.

I thank the Chair.

## CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, morning business is now closed.

## ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. 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:

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.

Domenici (for Frist) Amendment No. 850, 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.

Schumer/Clinton Amendment No. 853 (to Amendment No. 850), to exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from California, Mrs. BOXER, is recognized.

Mrs. BOXER. Mr. 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.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 854

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself, Senator LUGAR, and Senator CANTWELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 854.

The PRESIDING OFFICER. 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 promote the use of cellulosic biomass ethanol derived from agricultural residue)

On page 8, strike lines 16 through 19 and insert the following:

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

''(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

''(B) if the cellulosic biomass is derived from agricultural residue, shall be considered to be the equivalent of 2.5 gallons of renewable fuel.''

Mrs. BOXER. Mr. President, I am very delighted to offer this amendment on behalf of myself, Senator LUGAR, and Senator CANTWELL. I think it is quite a pro-ethanol amendment because what we are trying to do here is encourage the development of ethanol that is produced from agricultural residues.

This amendment will, in fact, promote the production of agricultural residue ethanol. I want to tell my colleagues why this is important. I believe that biomass ethanol derived from agricultural residue could be a significant source of ethanol in California and also throughout the United States. Every State has agricultural waste, including those producing corn.

I hope my colleagues who have the production of corn, wheat, sugarcane, rice, barley, beets, or oats in their States will realize this amendment is very important to them. I also believe the use of agricultural residue ethanol will make it easier for many of our States—certainly for California—to meet an ethanol mandate without price spikes and gasoline shortages as it increases the flexibility that the country has to meet this mandate.

What is agricultural residue ethanol? I am sure if people are watching, they are thinking: This cannot be interesting. To me, it is very interesting because it is fuel made from the fibrous portion of plants, as is ethanol, but it differs from conventional ethanol in the following significant ways.

First, the manufacturing process does not consume fossil fuels but rather uses plant byproducts and waste to create the energy to run the process. So, in a time in our history when we are trying to lessen our dependence on fossil fuel, I think this amendment is quite an important statement for us to make. I am very proud that Senator LUGAR agrees because he is someone with much experience in this area.

Second, the raw material does not compete as a food source for humans and is available today based on existing farm practices.

Third, it uses existing waste products, thus decreasing disposal needs.

Ethanol made from agricultural residue, such as rice, wheat straw, and sugarcane waste, can be locally produced and does not require that corn and other commodities be grown just to make ethanol.

What we are talking about is using the residue, not growing food just to produce ethanol at a time when we are throwing food away because we have an overabundance in many of these areas. And, then we have been very energy inefficient by using the fossil fuel to develop the ethanol. What we are saying is the waste of agricultural materials is going to be put to good use.

Is this a pie-in-the-sky idea? No, it is not. In 1999, Sacramento Valley produced enough rice straw waste—500,000 tons of which is burned in the field—to

produce 100 million gallons of agricultural residue ethanol.

By putting these agricultural wastes to good use, converting them into energy resources, agricultural ethanol residue production reduces landfill disposal and open-air burning. We are using the waste we otherwise would dispose of either by burning, which dirties the air, or throwing it into a landfill. This will improve air quality and water quality.

Further, agricultural residue ethanol reduces greenhouse gases by more than 90 percent compared to gasoline. I reiterate, agricultural residue ethanol reduces greenhouse gases by more than 90 percent compared to gasoline. And it also creates markets for unused agricultural products that are generally expensive to dispose of. Agricultural residue ethanol can give our farmers and our rural communities enhanced economic security.

We clearly know that as a new technology, agricultural residue ethanol faces an uphill struggle to break into the ethanol market.

Right now we know, when we look at the marketplace, that there is much room to grow here if we look at the numbers. We only have a very small number of gallons that are being derived from anything other than corn. So we have a chance. This, again, is not a pie-in-the-sky idea.

Currently, the only commercial facility is the Iogen facility in Canada which converts wheat straw into fermentable sugar and the sugar into bioethanol. Iogen Corporation's goal is to produce 180,000 gallons of ethanol annually. I believe we should promote these types of facilities in the United States of America. Our amendment, I believe, will ensure this.

We provide in our amendment more incentives for this type of agricultural residue ethanol production in the United States of America. As this mandate hits my State of California, and other States, where they have to spend a lot of money to bring that ethanol into to the State, it is going to be very cost competitive to import this type of ethanol from Canada. Why do we want to do that when we have the ability, if we have wheat, corn, beets, oats, barley, or rice, to name a few? We can do this in our country, and we can have a whole new industry. We can make ethanol more affordable to those of us who live in States far away from the Midwest.

In the underlying bill, there is a 1.5-gallon credit for numerous types of biomass ethanol. This means that a gallon of biomass ethanol counts as 1.5 gallons in meeting the bill's mandate. So there is a little incentive to use biomass ethanol, and I am very proud of that because we worked hard on that issue in our committee.

What we want to do, it seems to me, is increase that credit to 2.5 gallons if the ethanol is made from agricultural residues. The fact is that agricultural residues provide us with an amazing opportunity and a promising opportunity to produce ethanol that has the potential of providing many economic and environmental benefits.

We are very pleased to offer this amendment. Right now, up to this point, we have seen amendments that people have viewed as anti-ethanol. This is an amendment that should bring us together. It should unite us because there are so many other crops that could be used—and, by the way, are going to be used—but we want to incentivize those agricultural crops.

That is what our amendment does. Senator LUGAR, Senator CANTWELL, and I are very pleased to offer this amendment. We are very hopeful it will be adopted. We are very hopeful we will not have opposition.

Mr. President, I retain the remainder of my time and yield the floor. I also 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.

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

The PRESIDING OFFICER. The Senator from Nevada does not control the time.

Mr. REID. Mr. President, I ask unanimous consent that the quorum call I will call for shortly be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the quorum call will be charged equally to both sides.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. DOMENICI. Mr. President, I note the presence of the Senator from California who has just offered an amendment which expands the substances that can be used for ethanol conversion. I am willing to accept the amendment. I favor the amendment. I understand the distinguished minority manager would like to speak on the subject at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I congratulate the Senator from California on this amendment. It substantially improves this portion of the bill and does provide additional opportunity for developing ethanol from these other sources. It is good environmental policy. It is good energy policy. I very much support the amendment.

As I understand it, most of those people who looked at this agreed to it. I agree with my colleague from New Mexico that this is an amendment we should agree to unanimously in the Senate and we should maintain it in conference, insisting on it in our discussions with the House.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I cannot thank enough both of my colleagues, my friends, from New Mexico, Senator DOMENICI and Senator BINGAMAN.

I want to make sure Senators understand exactly what we do. We increase the credit to 2.5 gallons if the ethanol is made from agricultural residue. It is giving an incentive to our farmers who produce rice, wheat, barley, oats, sugar beets, and others, an incentive to use the waste.

I was going to have a rollcall vote on this, but given the assurances of Senators DOMENICI and BINGAMAN, who have stated very clearly and have told me they will not drop this amendment in conference—can I rely on that commitment? I ask both my friends one more time.

Mr. DOMENICI. Yes, I say to the Senator, I will do my very best. I indicated that to you and I will do my very best. I make that commitment to you.

Mrs. BOXER. You will do your very best?

Mr. DOMENICI. Yes.

Mrs. BOXER. Meaning you will not drop it in conference, which is what you told me?

Mr. DOMENICI. That is correct.

Mrs. BOXER. And my other friend, my ranking member, has made the same pledge?

Mr. BINGAMAN. Let me respond, to the extent I am persuasive in the conference, I will commit to keeping this provision in the law.

Mrs. BOXER. I see the Democratic leader is on the Senate floor. It would be a wonderful thing if he could speak out on this amendment as well. We have both Senators from New Mexico, and Senator LUGAR. I am trying not to put the Senate through a rollcall vote. If I have these strong commitments, it will make me feel a lot better about it. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, first let me thank the Senator from California for her efforts to improve upon this legislation. I have indicated to her privately that I support the amendment. I would support it if there were a rollcall vote.

The fact that DICK LUGAR, the initial cosponsor of this legislation when we introduced it several years ago, is a proud sponsor of this amendment is some indication of the degree to which the ethanol community and those of us who support this proposal would be supporting her amendment.

As my colleagues from New Mexico, both the chairman and the ranking member, have noted, there is no reason, when we get into conference, this

should not remain intact as part of the Energy bill.

It is a good amendment. It provides even more opportunities to meet the targets set out in this legislation.

So I would do all I could as Democratic leader to ensure that at the end of the day, when this legislation comes back in the form of a conference report, we will continue to see the Boxer amendment integrally a part of the bill itself and a part of this amendment.

Again, let me congratulate her, thank her, and indicate I will be very supportive.

Mrs. BOXER. Mr. President, I thank Senator DASCHLE. I know he is working endless hours to get this amendment finished. I think this enhances the amendment, I really do. I am very grateful.

Before I ask for a voice vote, 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. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. BOXER. How much time remains?

The PRESIDING OFFICER. There are 8 minutes remaining to the Senator from California.

Mrs. BOXER. I yield 6 minutes to my colleague from Washington, Senator CANTWELL.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleague from California for her hard work on this amendment. I am glad to join Senator LUGAR and Senator BOXER as a cosponsor of this amendment. Senator BOXER has spent an invaluable amount of time on the whole ethanol debate, but I think the amendment she offers this morning goes a long way in adding diversity and efficiency to our ethanol plan. It seems my colleagues are enthusiastic about supporting this in the overall energy package.

I rise to support the Boxer-Lugar-Cantwell amendment. As we have heard, this amendment would increase from 1.5 gallons to 2.5 gallons the credit available to refiners who choose to use ethanol derived from certain types of biomass to meet the requirement of our renewable fuels standard. Senator BOXER did an excellent job, giving us all a lesson in biomass 101 as it relates to ethanol and the products that could be used as part of this biomass requirement.

This amendment ensures that as we strive to reduce our reliance on foreign oil, displacing it with home-grown products that provide both environmental benefits and economic stimulus to our nation's rural communities, we also develop the renewable fuels diversity that is the hallmark of what I think is a good energy policy.

My colleagues may have been told this, or they may learn it now for the first time, but it was in 1925 that Henry Ford told the New York Times that ethanol was ''the fuel of the future.'' But while 90 percent of the ethanol produced in this Nation today was derived from corn, Henry Ford's vision was much broader. He said:

> The fuel of the future is going to come from apples, weeds and sawdust—almost anything. There is fuel in every bit of vegetable matter that can be fermented.

That is what he told the Times back in that period.

This amendment attempts to move forward on that vision. I believe it is logical, and I believe Senator BOXER and Senator LUGAR are right on target in providing leadership on this issue.

While today the ethanol that is derived from corn more or less dominates the renewable fuels market, this is not the circumstance for every State in our country. The State of Washington, for example, is much more a producer of wheat, which would hold significant promise as a potential source for the biomass ethanol.

Despite the promise of these alternatives, the technology for producing ethanol from these sources such as wheat and straw and other agricultural products has lagged behind for a number of reasons. Yet by providing appropriate incentives today with this amendment, and promoting research and development, we can move this forward on a cost-competitive basis.

The Boxer-Lugar-Cantwell amendment would increase the renewable fuels standard credit for one specific type of material, the agricultural residues such as wheat or rice or straw, from that 1.5 to 2.5, reflecting what is really a recent DOE analysis on what we should achieve.

So moving forward on these incentives for development of ethanol production is simply a matter of good public policy. I say this for four or five reasons.

We get the environmental benefits from this, we get the potential energy gains, we get the long-term cost impacts of having fuel diversity, and, of course, we get the spread of economic benefits to all of our Nation's agricultural communities.

In our State of Washington, there is much going on in this area. There are many farmers who have come together in a variety of ways to join in thinking about ethanol production. With the construction of one 40-million-gallon plant, the State of Washington could become entirely ethanol self-sufficient. According to a study conducted by our State university, such a plan would have a significant economic impact, particularly in our rural communities in the eastern part of Washington.

A single 40-million-gallon production plant could create 104 direct jobs and about 300 indirect jobs. Local communities could see an economic benefit, according to the study, of about $19 million per year with a statewide benefit of somewhere between $20 million and $30 million per year. With the construction of these various plants, Washington State could reach self-sufficiency and could, under the fuels standard proposal here today, become a supplier to other Western States.

The State of Washington and agricultural communities want to help meet the renewable fuels standard. They want to join with Senators FRIST and DASCHLE in their proposal. But we don't have the corn or the abundance to make that happen. So we want to see this diversity. In fact, a recent Washington State University extension program concluded that we could produce 200 million gallons per year in ethanol if we had improvement in technologies and diversification of resources.

In conclusion, to help this become reality, a broad coalition of Washington agricultural and environmentalist interests have banded together. They helped pass this package in our State legislature with a variety of tax incentives and broad production of biofuels. These bills were signed by our Governor last month and they have our State moving forward on this agenda.

The Boxer-Lugar-Cantwell amendment adds a Federal dimension to these efforts. This provision reflects good public policy from the Federal Government and good energy policy, and helps those States that are further away from ethanol diversity to participate in our national energy goal.

I yield the floor.

The PRESIDING OFFICER (Mr. TALENT). The Senator from California.

Mrs. BOXER. Mr. President, I have a couple of minutes remaining. I know we are going to set our amendment aside.

I wanted to close this debate again by thanking Senator LUGAR for his leadership, Senator CANTWELL for her leadership, and both Senators from New Mexico as well as Senator DASCHLE for their help.

I think any Senator who has corn in their State, wheat in their State, sugarcane in their State, rice, barley, beets, oats, apples, or any fructose-rich product is going to be very happy with this amendment.

In order to use the agricultural residue and make it into ethanol, it is going to require a little incentive. Although the underlying bill has a slight incentive, experts tell us it is not enough to really move forward on this very good way to make ethanol. I think it will really help those States that are far away from the Midwest.

By the way, it does not hurt any State because corn will still be used.

I yield the floor. I thank my colleagues very much.

I ask unanimous consent that the amendment be set aside.

Mr. DOMENICI. We have no objection to setting it aside.

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

AMENDMENT NO. 856 TO AMENDMENT NO. 850

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LAUTENBERG, proposes an amendment numbered 856 to amendment No. 850.

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

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

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

Beginning on page 18, strike line 16 and all that follows through page 19, line 17, and insert the following:

''(p) RENEWABLE FUELS SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.''.

Mrs. BOXER. Mr. President, I think for anyone in this Chamber who cares about the health and safety of people—I know that is every one of us—this amendment is very important.

A waiver of liability is in this underlying bill for renewable fuels. My amendment to the renewable fuels portion of this Energy bill will ensure that all motor vehicle fuels and fuel additives are held to the same liability standards by striking the safe harbor and adding the following language. This is the language of my amendment:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

Is this not a fair idea? As we go into this whole new production of ethanol, be it derived from corn or be it derived from agricultural residues or municipal waste or wherever we wind up getting it, renewable fuel should be subject to the same liability standards as any other motor vehicle fuel.

We have expenses in this area—where we have added MTBE, for example, to fuel. We found out later it was very dangerous. It hurt a lot of our communities. I will get into that later.

The safe harbor language in this underlying bill waives all product liability design defect claims, including the failure to warn the people. Any claim that has not been filed by the date of enactment of this section will be forever barred.

We should not be doing this. We don't know all the impacts of what we are doing today. Why would we give a safe harbor to ethanol or various refiners of ethanol?

I have to say to those who will oppose me—and there will be many, and I know that, and I accept that—if ethanol is so safe—I pray it is; maybe it is, by the way—if it is so safe, why have the companies involved in its production transferred this liability provision in the bill? I think anytime someone says my product is 100 percent safe, but give me a waiver from liability, protect me from a lawsuit if something happens—you have to say who wins and who loses in this situation. Requests for this kind of special interest free pass require a very close look. And I hope we will take a look.

The interests behind this bill have gotten a loophole that eliminates a big chunk of the liability they would have under the law if they damaged the public health or the environment. The exemption language in the bill raises a red flag right away. It begins:

Notwithstanding any other provision of Federal or state law. . . .

Mr. President, you and I have been around here long enough to know that when we start off with ''notwithstanding any other provision of Federal law,'' the public is going to be losing rights.

The bill goes on to say that ''Renewable fuel—ethanol cannot be found to be defectively designed or manufactured.''

Imagine, the bill says ''Renewable fuels cannot be found to be defectively designed or manufactured.''

Compliance with laws and regulations is not necessary for getting the liability waiver. There is only a limited compliance requirement under the Clean Air Act.

Again, we all pray and hope that there will be no danger from widespread use of ethanol. The liability exemption, however, is dangerous because there are many unanswered questions about ethanol. We know there are real benefits to it, such as fewer carbon monoxide and toxic air emissions, but there are questions about adverse effects.

According to EPA's ''1999 Blue Ribbon Panel Report on Oxygenates in Gasoline,'' ethanol is extremely soluble in water and would spread into the environment. It may further spread plumes of benzene, toluene, ethyl benzene, and xylene because ethanol may inhibit the breakdown of these toxic materials.

This isn't Senator BOXER talking. This isn't the people who want this amendment talking. This isn't environmental groups talking. This isn't the American Lung Association talking or anybody else. This is EPA's 1999 Blue Ribbon Panel Report on Oxygenates in Gasoline.

Studies demonstrate that ethanol increases the size and migration of benzene plumes. Researchers say more ground water wells will experience contamination from MTBE and benzene, a known carcinogen, if ethanol leaks into water supplies. There are also questions about the impact of ethanol on sensitive populations, such as children. We already know we have seen in our children more and more problems lately, more and more problems because they are so much more sensitive to pollutants in the environment.

Questions surrounding ethanol's effect on public health and the environment should be answered before Congress grants a broad waiver from liability for its harmful effects. We should err on the side of caution and we should err on the side of protecting the taxpayers.

Supporters of this liability exemption argue that immunity from product liability design defect claims is not so broad. They are going to tell you we keep every other claim in place but we only will limit product liability design defect claims. But this ignores the fact that product defect claims are the clearest way to hold accountable manufacturers whose products cause injury to public health or the environment. Litigation in California involving drinking water contaminated by MTBE rests on claims that MTBE was defective in design. In a landmark case, decided in April 2000, a San Francisco jury found that, based on the theory that MTBE is a defective product, several major oil companies are legally responsible for the environmental harm to Lake Tahoe's ground water. The jury found that many of these same oil companies acted with malice because they were aware of the dangers but withheld information.

So here you go, Mr. President. You can see it, a jury of our peers—not Senators, not people behind a microphone—found out that the product MTBE, which is an additive to gasoline, as is ethanol, was defective in design. The verdict came forward based on the product liability issue.

In that case, the oil companies knew the risks of MTBE. They did not warn anyone and—guess what—Lake Tahoe could have gotten stuck with a $45 million cleanup bill. If it was not able to sue under the defective product claim, that $45 million would have to come from the taxpayers who live in Lake Tahoe. Let's see what the MTBE cleanup cost would be. According to recent estimates, it would cost $29 billion to clean up MTBE. MTBE, an additive to gasoline—when it was added, everyone stood up and said: Oh, it is safe. It is wonderful. It will clean up the air. It did. But it polluted the water. People can't drink the water.

If you ever smelled water that is contaminated by MTBE, you would know no one could drink it. It has a foul odor and it is yellow in color. This is what it is going to cost. If we waive the liability for the companies that make MTBE, guess who gets stuck with the $29 billion bill. The taxpayers, instead of the people who made that product. That is not right.

By the way, in the House version of this bill, they not only give a safe harbor to ethanol, they give it to MTBE, which is a total, complete outrage. I

hope everyone understands that. It is in the House bill. I am happy it isn't in the Senate bill. I hope we can get rid of it in the conference.

Companies are responsible for this, not the taxpayers.

Now, this is the issue. Again, people will stand up and say: Oh, we are only waiving this very small area in liability law. They say: Product liability design defect is all we are waiving.

Well, let's look at what the judge said in the MTBE case. He threw out the negligence claim. He said that did not apply. He threw out the nuisance claim. He said that did not apply. The only thing that applied was defective product liability—and that is what my colleagues are going to waive for the makers of renewable fuels.

My colleagues, please listen to me. I know you want to have an ethanol bill. Bless your heart. Go for it. But do not waive liability for the manufacturers of ethanol because someday it could come back to haunt you.

If ethanol is so safe, you do not need to do this. It makes no sense.

You talk to my colleagues: Ethanol is safe. It has been out there since the 1970s. It is safe, it is safe, it is safe. I guess maybe they have not read the 1999 special EPA Blue Ribbon Report, which says: Danger, maybe there is a problem. But for them to waive defective product liability and to say that is the only thing they are waiving, when it is the only thing the courts have said is an opportunity, makes no sense at all.

I had one of my colleagues come up to me yesterday and say: Well, Senator BOXER, you voted for a safe harbor in the Y2K bill when the computer companies had to do a very quick fix on computers. I say to my friends, I did that. That only happens once in 1,000 years, and there is no direct impact on health and safety. So let's not confuse one safe harbor and another safe harbor.

So, clearly, we know this is kind of a shuck and a jive situation: Oh, we are only going to throw out one little part of liability law. But guess what. It is the only one that works. We do not want communities to be left holding the bag if there is a problem in the future because that is a pretty heavy bag for the local community and the local taxpayers to pick up—its cleanup costs, its possible health problems and its water pollution and possible air pollution.

I am going to get to the issue that the supporters will raise: That this is a mandate and, therefore, the suppliers deserve this liability exemption.

Congress regularly mandates that manufacturers meet a variety of guidelines and requirements, but we do not exempt all manufacturers from State and Federal product liability design defect laws.

When gasoline leaks today, there is no loophole. The polluter pays, despite the fact that Congress regulates gasoline. Congress mandated the installation of airbags in automobiles, made them mandatory. Congress said: You must have airbags. You remember that battle. The automobile companies said: We don't want them. (Of course, now they are saying they are happy to have them.) But, in any case, we mandated them. But if there is a problem with airbags, we did not give a liability waiver to the automobile companies. If that product is defective, the product is defective and people have to be held accountable and responsible.

I thought that was what we stood for in the Senate. We talk about accountability. We talk about responsibility. We talk about people taking responsibility for their actions, and yet we are going to give some of the biggest companies in the world a waiver from liability. Shame on us if we do this. It is not as if we did not have experience before, doing it with MTBE. It is not as if we do not know that the cost to clean up MTBE is in the tens of billions of dollars. If the companies were off the hook, it would be the local taxpayers who have to pay.

Again, supporters of this liability loophole claim ethanol is safe so no one needs to worry about this liability exemption. So, again, I ask a question—a rhetorical question—if you are not worried about any ill-effects from ethanol, why are you fighting me so hard on this? Why not join hands with me and say we are going to treat ethanol like we treat every other product?

I, again, want to read the language I have added in this amendment which I hope will be adopted:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuels, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

That is all I am saying. I am not holding ethanol to a different standard. I just spoke in support of ethanol made from agricultural residues. I think those folks have to meet safety standards, and one way to make sure they do is to not take away their liability. Ethanol should be subject to liability standards as strong as any other fuel additive. No more, no less. We are not making it any harsher. We are not making it any easier on them. We should not shift the burden of cleaning up problems caused by ethanol to our local communities, our mayors, our city council people, our Governors, and the rest.

No public policy is served by immunizing the refiners and chemical companies from responsibility in the future if it turns out that this was a problem and they knew it, and they didn't tell anyone about it.

How much time remains on my side, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes 23 seconds.

Mrs. BOXER. I will take another couple minutes. Then I will reserve the remainder and allow my colleagues to argue this case.

Let me tell you who is on my side. Who is on the side of making sure that we don't give the safe harbor liability waiver for renewable fuels? Many local and State governments, water utilities support my amendment, public health, consumer and environmental organizations. These include the Association of Metropolitan Water Agencies; the American Water Works Association, which together represent water systems serving 180 million Americans across the country. Do you know why they are with me on this? They may be stuck cleaning up the water supply. They can't afford it. This is almost like putting an unfunded mandate on local people if, in fact, there are problems with ethanol. And that is why the American Water Works Association is for my amendment.

Continuing the list of those who oppose the liability waiver: Association of California Water Agencies; National Association of Water Companies; South Tahoe Public Utility District. Do you know why they are for it? Because they know if they didn't have the chance to sue on this, they would have to bear the cleanup responsibility from MTBE contamination. The City of Santa Monica and Orange County Water District likewise know the effect that ground water contamination can have. They are with me.

How about these groups? American Lung Association is for the amendment; American Public Health Association; California Clean Water Action; Citizens for a Future New Hampshire, Cahaba River Society; Citizen's Environmental Coalition; Clean Water Action; the Consumer Federation of America; Environmental Defense; Ecology Center; Environmental Working Group; Friends of the Earth; League of Conservation Voters; Mono Lake Committee; National Sludge Alliance; the Natural Resources Defense Council; the New Jersey Coalition Against Tonics; the New Jersey Environmental Federation; Physicians for Social Responsibility; the Sierra Club; Rivers Unlimited; Spring Lake Park Groundwater Guardians; and U.S. Public Interest Research Group.

That is just a partial list of the folks out there who are saying to Senators: Please, if you are going to move ahead with a new product like this—it is not a new product, but it is certainly going to be a product that is going to now be ubiquitous across the country—if you are going to do this, then make sure you take every caution and every protection not to waive the protections the American people now have from a defective product.

And, once more, just let's be clear on this. There are no other ways for communities to recover costs if this turns out to be a mistake. Negligence, out the window; nuisance, out the window. It is defective product liability the courts have said is the only way people can go.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has about 10 minutes 4 seconds remaining. Who seeks recognition?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, to respond to the question asked by the distinguished Senator from California, why are we fighting it? One of the biggest problems is, you get in this quagmire of lawsuits and nothing ever gets done in terms of cleanup. This is something we have been fighting for a long time.

This is going to be a more brief statement than it was going to be before because right now we have a very significant piece of legislation before the committee I chair on the clear skies legislation, which is the most far-reaching reduction in powerplant pollutions in the history of clean air. So it is very significant, and I do have to get back.

I have stated on many occasions my concern about the fact that this country does not have a comprehensive energy policy. I have also criticized Republicans and Democrats alike. We didn't get a comprehensive energy policy in the Reagan administration or the first Bush administration or the Clinton administration. We are going to get one with this. That is why this is so significant.

As Deputy Defense Secretary Paul Wolfowitz said, it is a serious strategic issue. This is a national security issue.

The amendment we are talking about, the underlying bill, the Frist-Daschle-Inhofe amendment, represents a compromise on a lot of contentious issues. As with all compromises, there are provisions I like and I don't like. I am afraid there is a lot of misinformation being circulated about the safe harbor provision. Time and time again, we hear if the safe harbor provision is enacted into law, first, citizens cannot take refiners to court under our tort system; and, second, any responsible ethanol contamination that happens in the future would not get cleaned up. Nothing could be further from the truth.

First, let me address the statement that any tort claim that has not been filed by the date of enactment of this section will be forever barred. Even with the enactment of the safe harbor provision, if a plaintiff makes a case, here are just a few tort theories that can be used in environmental cases: Trespass, trespass is not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected; breach of implied warranty, not affected by safe harbor; a breach of express warranty, not affected by safe harbor. Safe harbor does not affect any of these tort theories.

In fact, ethanol has been approved by the EPA as a fuel additive. Now Congress is mandating the use of ethanol. So the Federal Government has given ethanol its stamp of approval and now Congress is mandating it. How can we now say that refiners and blenders are open to suits for claims that the ''product has design or manufacturing defects''? Design defect claims actually hamper cleanups by interfering with regulatory agencies. Regulatory agency oversight—Federal, State, and local—is frustrated by the product liability claims because these agencies lose control of the remedy process. These agencies are supposed to be in control of the remedy process. That answers the question asked, Why are we concerned about this? We want to get these things cleaned up.

When product liability claims are permitted, the plaintiff's motive becomes recovery of a large money judgment rather than a judgment mandating a remedy to be performed by the party who released the gasoline. Very often, the only thing getting cleaned up are the trial lawyers' mansions purchased with the spoils of these settlements. In fact, a recent report from the Council of Economic Advisors found that using the tort system in this way ''is extremely inefficient, returning only 20 cents of the tort cost dollar for that purpose.''

Now, I would like to address the rumors that sites will not get cleaned up or that polluters will not pay. The Safe Harbor provisions—in no way—affects liability, and therefore, cleanups under any Federal or State environmental law. Any statement to the contrary is false. Enforcement of these laws is by the authorized Federal agency and States. If there were a spill, here are some examples of environmental laws that offer cleanup and liability provisions:

1. Resource Conservation and Recovery Act (RCRA); 2. Clean Water Act; 3. Oil Pollution Act (OPA); 4. Superfund. Generally speaking, Congress intended that oil spills be cleaned up by the Oil Pollution Act. However, the Inhofe Amendment to last Congress' Brownfields bill signed into law by the President is taking hug strides in cleaning up nearly 250,000 petroleum contaminated sites, such as abandon gas stations.

No. 5, Natural Resource Damages (NRD), under the Oil Pollution Act, Superfund, and the Clean Water Act.

So as you can see, there are enormous protections through the tort system as well as through environmental laws. Again, I ask my colleagues to oppose the Boxer amendment and support the motion to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DORGAN. Will the Senator yield to me for about 1 minute?

Mr. BOND. I am happy to accommodate my colleague.

Mr. DORGAN. Mr. President, I know the Senator is prepared to speak against the Boxer amendment, as his colleague just did. I, too, have come to the floor to speak against the Boxer amendment.

The underlying Frist-Daschle amendment creates a narrow prospective safe harbor from liability for defect in design or manufacture of a renewable fuel. There is no liability protection for MTBE in the underlying amendment. I oppose the Boxer amendment. Many colleagues in the Senate feel strongly in opposition, I believe, and we will be able to defeat this amendment.

And, to qualify for the limited protection that is in the underlying amendment, a renewable fuel must be evaluated by EPA for toxicity, carcinogenicity, air quality impacts, and water quality impacts, and must be used in compliance with any restrictions imposed by EPA.

Further, the burden of cleanup for environmental contamination would not be shifted.

That is, the safe harbor provision that is in the RFS amendment would not affect liability under Federal and state environmental laws, and therefore would not affect response, remediation and clean-up.

Let me make this point clear: the underlying provision would not affect in any way a company's legal responsibility to clean up the contamination of any groundwater by gasoline, regardless of whether it contained oxygenates or additives of any kind.

In addition, the safe harbor provision for renewable fuels does not affect liability under other tort law provisions, including negligence, trespass, and nuisance, and it does not prevent the award of compensatory or punitive damages.

Importantly, defective product liability cases only make up 0.002 percent of all civil cases filed each year according to the National Center for State Courts.

Finally, an amendment to change or strike the safe harbor provision would destroy this long-standing renewable fuels agreement, and result in the status quo and no national phaseout of MTBE, which has contaminated some groundwater supplies.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my colleague for his fine statement. Really, the fact that we are here today in a bipartisan effort reflects the good work that has gone on. After intense negotiations between the ethanol and oil industries, agriculture, the environmental community, consumer groups, and the States, we have a historic agreement that is embodied in the Frist-Daschle bill which will provide for significant growth in the renewable fuels industries, including ethanol and biodiesel.

Industry has been working for months to implement these recommendations that are protective of the environment, provide refiners with increased flexibility, and provide agriculture with certain growth in market opportunities for ethanol and biodiesel. Certainly, the occupant of the chair, who is from Missouri, knows how great the growth of the ethanol and biodiesel industry is in our State, as farmers are

coming together in cooperatives to build facilities to meet the need for this clean, renewable fuel. These are tremendous opportunities for improving our environment, reducing our dependence upon foreign oil, and providing a strong economic base for rural America.

The key provisions of the bipartisan agreement, I think most people know, are:

A Renewable Fuels Standard (RFS) in which part of our nation's fuel supply, growing to 5 billion gallons by 2012, is provided by renewable, domestic fuels; eliminating the Federal reformulated gasoline, RFG, 2.0 wt. percent oxygen requirement; phasing down the use of MTBE in the U.S. gasoline market over 4 years; and protecting the air quality gains of the reformulated gasoline program.

These provisions will increase U.S. fuels supplies, promote more U.S.-sourced energy, protect the environment, and stimulate rural economic development through increased production and use of domestic, renewable fuels such as ethanol and biodiesel.

The historic fuels agreement contained in the Reliable Fuels Act, S. 791, provides for a gradual phase-in of the use of renewable fuels, beginning with 2.6 billion gallons in 2005 and growing to 5 billion gallons in 2012. Some have expressed concerns regarding the bill's renewable fuels ''safe harbor provision,'' arguing it provides ''sweeping liability exemptions for damage to public health or the environment resulting from renewable fuels or their use in conventional gasoline.'' This is a clear misrepresentation of the provision.

The safe harbor provision is intended to offer some protection to refiners that are required to use renewable fuels under this bill. It is aimed at as yet unknown and undeveloped renewable fuels, not ethanol. Ethanol has been used in the U.S. safely and effectively for more than 20 years. But without some limited safe harbor, refiners may be reluctant to commercialize new fuels that may otherwise qualify for this program.

Ethanol has received a clean bill of health. According to a report on ethanol's health and environmental fate completed by Cambridge Environmental, Inc., no health threat is expected from increased ethanol use. The report concludes exposure to ethanol vapors coming from ethanol-blended gasoline is very unlikely to have adverse health consequences. Importantly, after an exhaustive study of ethanol's impact on health, air quality and water resources, the California Environmental Policy Council awarded ethanol a clean bill of health.

Ethanol is rapidly biodegraded in surface water, groundwater and soil. Ethanol is a safe biodegradable and renewable fuel that does not harm drinking water resources. A recent study by Surbec Environmental concluded that ethanol poses no threat to surface water and ground water According to the report, ethanol is a naturally occurring substance produced during the fermentation of organic matter and can be expected to biodegrade rapidly in essentially all environments.

The safe harbor provision is very limited. It applies only to claims that a renewable fuel is defective in design or manufacture. These requirements include both compliance with requests for information about a fuel's public health and environmental effects and compliance with any regulations adopted by the EPA. If these requirements are not met, the safe harbor protection does not apply and liability will be determined under otherwise applicable law. This provision does not affect claims based on the wrongful release of a renewable fuel into the environment. Anyone harmed by a release of that kind would retain all the rights he has under current law.

Safeguards are provided for in the bill. The legislation requires EPA to conduct studies of the long-term health and environmental effects of renewable fuels. Under this bill, the Administrator has the authority to control or even prohibit the sale of renewable fuels that may adversely affect air or water quality or the public health. There is no safe harbor if the Administrator's rules are violated.

A vote for the amendment may disrupt the historic agreement. The bipartisan compromise on fuels issues in S. 791 represents a carefully crafted agreement among the oil industry, ethanol producers, agriculture groups, and environmental and public health interests, including the American Lung Association, the Union of Concerned Scientists and Northeast States for Coordinated Air Use Management, NESCAUM, among others. An amendment to change or strike the safe harbor provision would effectively dissolve the agreement, resulting in the status quo and continued MTBE use.

MTBE use is a problem. MTBE has been shown to be harmful, and MTBE must be phased out and replaced by the other renewable, benign oxygenate—ethanol.

I will just say generally, on all of these amendments designed to attack ethanol, there are tremendous economic benefits of this renewable fuel standard.

Tripling the use of renewable fuels will have a significant positive impact on both the farm and overall economy, while significantly reducing our foreign imports.

According to an economic analysis of the legislation completed by AUS consultants, over the next decade RFS would reduce the Nation's trade deficit by more than $34 billion in 1996 dollars, increase U.S. gross domestic product by $156 billion by 2012, create more than 214,000 new jobs throughout the entire economy, expand household income by an additional $51.7 billion, increase net farm income by nearly $6 billion per year, create $5.3 billion of new investment in renewable fuel production capacity, and displace more than 1.6 billion barrels of imported oil.

One other canard that is often raised against ethanol is that it is not a positive energy balance. Energy balance refers to the energy contact of ethanol minus the fossil energy used to produce it. In 2002, the U.S. Department of Agriculture and Argonne National Laboratories concluded that ethanol contains 34 percent more energy than is used in the production process, including the energy used to grow and harvest the grain, process the grain into ethanol, and to transport the ethanol to gasoline terminals for distribution.

According to the U.S. Department of Energy, ethanol produced from biomass generates 6.8 Btu for every Btu of fossil energy consumed. The production of reformulated gasoline without ethanol generates only .79 Btu for every Btu of fossil energy consumed. Therefore, producing ethanol produces roughly eight times more Btu than using energy-produced reformulated gasoline. And it achieves a net gain in a more desirable form of energy. It provides clean environmental benefits.

With the war we face on terrorism, we have to be more concerned about U.S. energy. We need to reduce imported oil. We can develop and supply that oil from our rich farmlands. It will increase the availability of U.S. fuel supplies while easing an overburdened refining industry. No new oil refineries have been built in the U.S. since 1976, but 68 ethanol production facilities have been built during that time.

As ethanol and biodiesel are blended with gasoline and diesel after the refining process, they directly increase domestic fuel capacity. Blending 10-percent ethanol in a gallon of gas provides an additional 10-percent volume to the transportation fuel market, easing the oil refinery sector that is operating at capacity.

The environmental benefits have already been discussed. It can reduce global warming. In 2002, ethanol use in the U.S. reduced greenhouse gas emissions by 4.3 million tons, the equivalent of removing more than 636,000 vehicles from the road.

There is a long list of organizations that are supporting the fuels agreement. Rather than take the time of my colleagues to read those, I ask unanimous consent that this list of organizations supporting the fuel agreement before us today be printed in the RECORD.

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

American Farm Bureau Federation, American Petroleum Institute, Renewable Fuels Association, National Corn Growers Association, National Farmers Union, Northeast States for Coordinated Air Use Management, U.S. Chamber of Commerce, National Biodiesel Board, American Bioenergy Association, American Coalition for Ethanol, American Corn Growers Association, American Lung Association, American Soybean Association, Bluewater Network, California Farmers Union, California Renewable Fuels

Partnership, Citizens Committee to Complete the Refuge, Clean Energy Now (Greenpeace), Clean Fuels Development Coalition, Climate Solutions, Cook Inlet Keeper, County of Ventura Public Works Department, Earth Island Journal, Environmental and Energy Study Institute, Ethanol Producers and Consumers, General Biomass Company, Governors' Ethanol Coalition, Illinois Student Environmental Network, Institute for Agriculture & Trade Policy, Institute for Local Self-Reliance, International Marine Mammal Project, Kettle Range Conservation Group, Kinergy Resources, Mangrove Action Project, Masada Resource Group, National Grain Sorghum Producers, New River Foundation, New Uses Council, Northwoods Conservation Association, Oceanic Resource Foundation, Oregon Environmental Council, Pacific Biodiversity Institute, Plumas Corporation, Renewable Energy Action Project, Save Our Shores, Soybean Producers of America, The Brower Fund, The Minnesota Project, Tides Foundation, Union of Concerned Scientists, Waste Action Project, Waterkeeper Alliance, West Coast People's Energy Co-op, and Women Involved in Farm Economics.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment and, just for good measure, I urge them to oppose all of the other amendments which seem to be targeted at ethanol. The manager of the bill, Senator DOMENICI, has pointed out that we see many attacks coming on ethanol. I ask my colleagues to continue to support ethanol and reject this and the other amendments.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mrs. BOXER. Mr. President, I am going to yield a couple of minutes to my friend from New Mexico. Before I do, I wish to point out that I consider this an ethanol-friendly amendment because I believe there will be much more confidence in ethanol as an additive to our gasoline if people know there are no special waivers of liability, that this fuel will have to be subjected to the same rigorous standards in a court of law should something go wrong.

I do not envision this as an unfriendly amendment, although I know some of my colleagues feel otherwise.

It is my pleasure to yield 2 minutes to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from California for offering the amendment. I do support the amendment.

The general rule which has served us well in this country is that if you design or manufacture a product that proves to be defective and that product then injures someone, you can be held liable. That has allowed us to protect the health and safety of the American people. It is a substantial protection for all of us.

This safe harbor provision that the Senator from California wants to strike says:

No renewable fuel shall be deemed to be defective in design or in manufacture or no motor vehicle fuel that contains renewable fuel shall be deemed to be defective in design and manufacture.

To my mind, it is unwise public policy for us to be writing into law this kind of exception to the general tort laws that we operate under in the country. We do not know enough, frankly. We do not know what the scientific and health experts are going to find when they fully investigate the impact of tripling the use of ethanol on the air that we breathe and the water we drink.

I certainly hope they will find there is no harmful health effect from it, but to say we are going to prohibit anyone from recovering if they are damaged from the design or manufacture of any of these renewable fuels I think is a big mistake.

I compliment the Senator from California. I support her amendment. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment by my colleague from California to strke the so-called ''safe harbor provision'' in the amendment offered by the majority leader 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'' astounding.

I believe it is egregious public policy to mandate ethanol into our fuel supply in the first place—and even worse to provide complete liability protection to the fuel additive before scientific and health experts can fully investigate the impact of tripling ethanol on the air we breathe and the water we drink.

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 be a human carcinogen.

As exemplified by our Nation's experience with MTBE, there can be severe environmental and health repercussions when we mandate the use of any one fuel additive.

Last fall a California jury found 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 harm they inflict.

How can the Senate favor exempting the ethanol industry from this kind of wrongdoing? I urge my colleagues to take a look at the so-called ''safe harbor'' provision that will give the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause.

Our amendment would strike this ridiculous exemption.

If we do not strike this provision, polluters will receive unprecedented protection from damage to public health or the environment.

If we do not strike this provision, what incentive will there be for ethanol manufacturers and refiners to make their products as safe as possible and thoroughly test their long-term effects?

If we do not strike this provision, how else can we hold manufacturers accountable when fuel additives cause harm?

Mandating ethanol into our fuel supply raises serious health and environmental concerns. What effect will an ethanol mandate have on our environment? What are the health risks?

Although the scientific opinion is not unanimous, evidence suggests that; one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and, two, ethanol enables the toxic chemicals in gasoline to break apart and seep further into groundwater even faster than conventional gasoline.

Ethanol is often made out to be an ideal ''renewable fuel'' giving off fewer emissions. Yet, on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant that affects large segments of the population. It has an especially pernicious effect on the elderly, children, and individuals with existing respiratory problems such as asthma.

Just last week the American Lung Association named California the smoggiest state by listing nine counties and six metropolitan areas in California as having the worst conditions.

A 1999 report from the National Academy of Sciences found, ''the use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving ozone air quality and has some disadvantages. Moreover, some data suggest that oxygenates can lead to higher Nitrogen Oxide ($NO_x$) emissions.'' Nitrogen Oxides are known to cause smog.

The American Lung Association report also noted that half of Americans are living in counties with unhealthy smog levels. Why would we want to take the chance of increasing these unhealthy smog levels by mandating billions of unnecessary gallons of ethanol into our fuel supply?

Thus, ethanol can be both good and bad for air quality. To me it would make sense to maximize the advantages of ethanol, while minimizing the disadvantages. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards, and ethanol should not be mandated—certainly not at this level. And if we are

mandating it, why exempt manufacturers and refiners from their legal responsibility to provide a safe product?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our groundwater supplies. The EPA Blue Ribbon Panel on Oxygenates found ethanol ''may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks.''

And according to a report by the State of California entitled ''Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate,'' there are valid questions about the impact of ethanol on ground and surface water. An analysis in the report found there will be a 20 percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used. Benzene is a known human carcinogen.

At a hearing held on the House side last year, Professor Gordon Rausser of UC Berkeley commented on the potential harm of ethanol on groundwater. Professor Rausser testified:

when gasoline that contains ethanol is released into groundwater, the resulting benzene plumes can be longer and more persistent than plumes resulting from releases of conventional gasoline. Research suggests that the presence of ethanol in gasoline will delay the degradation of benzene and will lengthen the benzene plumes by between 25 percent and 100 percent.

This evidence on the potential harm of ethanol is extraordinarily troubling.

I am at a loss to understand why the Senate would support sweeping liability protection for fuel producers. Taking away the ability of families and communities to seek redress for the harm caused by fuel additives is NOT something I believe this Senate should be doing.

Let me read part of a letter sent by California Attorney General Bill Lockyer opposing the ethanol safe harbor provision. Lockyer writes:

Congress should not enact the current safeharbor provisions, which could be construed as granting oil companies a very broad immunity. As exemplified by MTBE, there can be dire consequences from the use of defective fuel additives.

Lockyer continues:

If there is a defect with a particular fuel, the oil companies should be held accountable under the common law principles for using such a fuel. In addition, by including fuels and not just renewable fuels, this section has a extraordinarily broad reach. There is no reason to add immunity for a fuel just because one drop of renewable fuel is added to that fuel. For as long as automobiles have been used, oil companies have been subject to common law product liability rules. There is no need to change these fundamental principles.

We need to protect the basic rights American families enjoy remain in place to keep our air and water safe.

I urge my colleagues to support this amendment to protect our communities from harm caused by fuel additives.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this debate is winding down and my colleagues are here to offer other amendments. I am going to finish shortly.

At this point in the debate, we ought to get real about what this is. There are certain matters that are right in society and there are certain matters that are wrong. It is not right to give special protection to one particular manufacturing group in this country that no one else gets. In a way, it is a subsidy given to those people because if there is a problem in the future with ethanol, guess who is going to pick up the tab? Guess who is going to pay the bill? Not the people who caused the problem but the taxpayers. That is wrong.

If we had a wonderful history, if we did not have communities in trouble because of MTBE and other additives we thought would be great, it would be different.

I see my friend, the Senator from New Hampshire, is in the Chamber for another amendment. The Citizens for a Future New Hampshire support the Boxer amendment because they do not want to be left holding the bag if something happens.

There is right and there is wrong. This issue, to me, is very clear: It is right to protect the people; it is wrong to give a special interest waiver to a particular manufacturer.

There is private special interest and there is public interest—taxpayers versus those who would pollute.

Finally, when my colleagues say they are only banning one type of option for citizens who are injured, namely effective product liability, that is all they are doing. People can still use the nuisance claim and the negligence claim and all of these other claims.

I hope they know they are forgetting recent history where there was a court case on MTBE, also an additive to gasoline, and what did the court say? The nuisance claim, denied; the negligence claim, denied. The only claim that could hold up, the only claim that could save the taxpayers of Lake Tahoe, who had a mess with MTBE, was defective product liability.

My colleagues stand up and say that is the only thing we are doing. They called it a narrow safe harbor. Well, it is an enormous safe harbor because it is the only place people can go to get recompense if ethanol turns out to be a problem.

My colleague from Missouri says there is a study in this underlying bill. Well, I am glad there is a study, but he is ignoring the fact that there has already been a study in 1999 by EPA's blue ribbon panel, and this is what they said: Ethanol is extremely soluble in water and would spread if leaked into the environment. It may further spread plumes of benzene, toluene, ethylbenzene, xylene, and ethanol may inhibit the breakdown of these toxic materials.

It says it may inhibit. That means it may be a problem. If my colleagues, in their zeal to have ethanol in every single State in this country—and, by the way, it will be—and if they are so sure it is safe, then why on Earth are they saying ethanol should get special treatment, and why do they close down the door on the only area where people have found they have a chance to get cleanup money from the polluters? The answer is, they do not know if it is safe.

We hope it is safe. We hoped MTBE would be safe, and it has poisoned hundreds of wells in this country. Hundreds of water systems have shut down because of MTBE. And if it was not for the product liability claim being open to citizens, who would have to clean up the mess? Not the companies that caused it but the taxpayers in those areas.

So it seems to me, if I might use the word ''disingenuous,'' to say that ethanol is 100 percent safe, but we want a safe harbor so no one can sue if something goes wrong.

I was not born yesterday. That is obvious. I know when somebody says they have the safest product in the world but give me special protection so that no one can ever sue me, my antenna goes up, just as a person with common sense, and I say that is not right.

Researchers say that more ground water wells will experience contamination from MTBE and benzene, which is a carcinogen, if ethanol leaks into water supply, and there are the questions about the impact of ethanol on sensitive populations, our children.

Now, there is not one Senator who does not want to protect kids. Come on. We know that. Most of us are parents. A lot of us are grandparents. We are aunts, we are uncles. We want to protect our children and we want to protect the Nation's children. How can we close our eyes, then, to what we are about to do if we do not agree to this Boxer amendment? What we are doing is saying that the makers of this product do not have to worry about a thing in terms of harming our kids.

Our kids, because of the developmental stage they are in—they are growing, they are changing, their hormones are starting—they are very sensitive to contaminants. We know that. That is why I wrote the Children's Environmental Protection Act, and parts of it have been passed by the Senate. I am so proud of it. Is it not better to say up front to a manufacturer—any manufacturer—if they harm children, we can take them to court and they are going to have to clean up the mess and clean up their product?

Oh, no, not if they are making ethanol. They are going to have special exemption. It breaks my heart to see us do this. I figure I will lose this amendment only because we tried it once before and we did lose it.

The PRESIDING OFFICER. The Chair informs the Senator from California her time has expired.

Mrs. BOXER. I ask unanimous consent for one additional minute, to close.

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

Mrs. BOXER. So there are unanswered questions surrounding ethanol. There are unanswered questions according to the EPA special panel in 1999, and all the Senator from California is saying to her colleagues is this: Just make sure this product, which is going to be a new product in several States, that it does not have special advantages so that if something happens, the makers of the product do not get off scott-free. That is not right. It is un-American. It is not fair. It is an unfunded mandate on our communities.

I was happy to hear Senator BOND say he does not support a waiver for MTBE—good for him—because we need to strip that out of the House bill. But this is a new day. This is a new additive, and we should hold it to the same responsibility as we hold all other additives, all other products. Because if MTBE had this waiver, communities all over this country would be in trouble.

I thank my colleagues very much for listening to me. I feel very strongly about this. I hope we will have a good ''aye'' vote.

I ask for the yeas and nays, and also ask the amendment be set aside for a vote at a later time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Parliamentary inquiry, Mr. President: May I ask the managers of the bill approximately what time they expect to be voting on the Boxer amendment?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. At this point it looks as if we are not going to vote on anything until about 3, and the Boxer amendment would be second or third in line.

Mrs. BOXER. That is fine. I say to my friend, could I have 1 minute at that point, and a minute on the other side, to explain the amendment?

Mr. DOMENICI. Unless the Senator wants to seek that consent at this point, there is no such arrangement.

Mrs. BOXER. I ask unanimous consent at this point.

The PRESIDING OFFICER. The Chair informs the Senator that 2 minutes has already been provided in the unanimous consent agreement, so the Senator will have that 1 minute.

Mrs. BOXER. I yield the floor.

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

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

Mr. DOMENICI. Mr. President, with the consent of the minority, I make the following unanimous consent request. I ask unanimous consent that—I withhold until the minority whip is present, Mr. 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. 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.

Mr. DOMENICI. Mr. President, now I ask unanimous consent that at 3:30 today the Senate proceed to a vote in relation to the Schumer amendment No. 853, to be followed immediately by a vote in relation to the Boxer amendment No. 856, to be followed by a vote in relation to the Boxer amendment No. 854; provided further that following those votes the Senate proceed immediately to a vote on the adoption of amendment No. 850, without further intervening action or debate.

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

The Senator from Nevada.

Mr. REID. Mr. President, also for the information of Senators, I have spoken to the two managers of the bill. There are a number of people who are ready to offer amendments. The Republican manager of the bill has an amendment waiting to go. We also have a very important amendment on which there has been an agreement on the time for that amendment. We would want that set up for early next week. It is one of the most important amendments in this whole bill.

But we are not going to be able to move forward until 3:30 on anything, until the two leaders announce to the floor managers that there has been something worked out on the amendment originally offered by the Senator from Arkansas, Mrs. LINCOLN.

It is my understanding that there has been work done to arrive at a point where that matter can be disposed of, but until that is done, we are not going to move forward on anything other than these.

As I indicated, the two leaders may even be talking as we speak. Until we hear from them, we will be happy to fill in this time, until 3:30, with the amendment of the Senator from New Mexico, or whatever the two managers think is appropriate. But until then, we are not going to agree to set it aside to move to anything else.

So we have no problem talking about the bill or amendments that may be offered. But until the matter involving the child tax credit is worked out with the two leaders, we are not going to move forward on this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. For the information of the Senate, I might indicate that the second of the Boxer amendments, which had been listed in the unanimous consent, is probably not going to require a rollcall vote but will be adopted by voice. Immediately after that, the underlying ethanol amendment will be voted on, and a rollcall vote is being required on that.

The Senator from New Mexico, the manager of the bill, intends when appropriate, when matters have been agreed on between the leadership, that we can proceed to offer an Indian amendment, which I think then would be followed by a second-degree amendment by the Senator from New Mexico, the minority manager of the bill.

We are also pursuing with a degree of vigor an effort to see if we cannot get Senator GREGG and Senator KENNEDY to agree to work out the LIHEAP portion of this bill. There are two amendments there. If they are able to work that out, that will put us in a position where we will dispose of that entire matter sometime this afternoon, hopefully. It seems they are very close to working that out, if the Senator is.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in response, let me indicate my best information is they are still insisting that we not deal with LIHEAP in this legislation, which is of course not my position. I think we should deal with it.

Accordingly, I would not agree to just a sense of the Senate on that subject, which is their preference, as I understand it.

I hope we can persuade them otherwise. If not, then we will have to have a vote.

Mr. DOMENICI. In any event, I am pursuing them so that there will be a vote. Sooner or later we would like to dispose of it. If they insist, they can have a vote on the first part of theirs. If they win or lose, that leaves you in a position of whether you have the amendment on this bill or not, depending upon the disposition of the first, the amendment that precedes it, both of which have been set aside by consent and are pending action by the Senate.

I see my friend Senator WYDEN on the floor. I know we had been talking about a proposed agreement with reference to a matter on nuclear power. Let me suggest to the Senator, we are in accord as to that. We will enter into it but not at this point. We are examining the language carefully. But you have our assurance that at an appropriate time today that agreement will be entered into and then we will be ready to have a very important vote sometime on the day of Tuesday with reference to nuclear power, with you being a proponent of a motion to strike.

Mr. WYDEN. Mr. President, if I could just respond, Senator SUNUNU and I will be in the Chamber talking in a bit more detail. I always appreciate the graciousness of the chairman of the committee in working with me. I think we are going to get an agreement.

There are probably a lot more Senators who will want to speak on this than first estimated.

So the Senate knows, originally Senator SUNUNU and I were prepared to offer an amendment to strike the $16 billion for nuclear subsidies. The amendment is supported strongly by the Taxpayers Union, but at the request of the chairman of the committee, that vote will be put over until next week.

I am very hopeful that we will be able to get a consent agreement before long to have this debate. This is a significant exposure for taxpayers. It is not a question of whether someone is pro-nuclear or anti-nuclear. The Congressional Budget Office has said that there is at least a 50-percent risk of failure with respect to these facilities. The Congressional Research Service has indicated the taxpayers will be on the hook for in the vicinity of $16 billion.

What I worry about is what happened in our part of the country. Four out of five facilities were never built. In this case, if the Congressional Budget Office is right and you have over a 50-percent risk of failure at these facilities, this will be a huge exposure for taxpayers.

I tell Senators there is no other source of energy in this legislation which gets a direct subsidy for building a facility.

I am going to try to find a way to reach a procedural accommodation with the chairman of the committee. I am a personal friend, and I want to accommodate him. I hope we will be able do that.

This is a very significant taxpayer issue for the Senate. It is not a question of whether someone is pro-nuclear or anti-nuclear. In my own inimitable way, I have managed to make both sides mad over my career in public service. But it is a taxpayer issue of enormous importance.

I hope Senators will read what the Congressional Budget Office and the Congressional Research Service have had to say about this. The Congressional Budget Office reports that there is more than a 50-percent risk of failure with respect to these facilities, if subsidized. The Congressional Research Service has talked about a $16 billion subsidy.

I would point out that this is even too rich for the blood of the other body. The other body has not talked about anything like this.

We will work with the chairman of the committee. Senator SUNUNU and I will be coming to the floor before long as well so that we can begin to lay out the bipartisan support we have with Senator BINGAMAN, the ranking minority member, Senator ENSIGN, and others.

I would just tell the chairman of the committee that I think there are probably more Senators who want to discuss this than we thought. We already have some indication that 90 minutes equally divided with an up-or-down vote may not be enough. It is my intention to work with the chairman of the committee, the ranking minority member, and others to try to work out this unanimous consent so we can have that done expeditiously.

I point out that this Senator and the Senator from New Hampshire were asked to come today to have our amendment brought up. We felt pretty good about it. We know there is going to be an awful lot of back and forth with Senators between now and the time we vote Tuesday.

I ask that Senators look at the Congressional Budget Office report and the Congressional Research Service report over the next few days as the discussions go on and off the floor.

I look forward to working this out in terms of procedure with the chairman of the committee probably over the next hour or so.

I yield the floor.

Mr. DOMENICI. Mr. President, we will have a great deal of time to discuss what I believe is the most important issue for America's future; that is, are we going to have an alternate source of energy for electricity, aside and apart from coal and natural gas?

I believe the time has come. We ought to set in motion the authorization—not the approval, not the appropriations, but the authorization—to start down the path that says the United States may be ready to build a nuclear powerplant. The arguments that have just been made in anticipation of the agreement are not exactly as such. This bill says America should have an opportunity to have a variety of energy sources. We have provided subsidies for coal so that coal can be made clean and delivered to our people as clean as possible. That is subsidized. We have an enormous tax subsidy for wind and energy. In fact, it is so big and so current that there will be windmills built all over this country, and the amount is a direct tax credit. It is not something that may happen. Every time one of those windmills is built, the tax credit will apply and money will be used in large quantities.

In addition, we are talking about whether nuclear powerplants are being built today. For instance, General Electric nuclear powerplants are being designed and built in Taiwan right now at a cost—believe it or not, and which we will show here to the Senate—that belies all of the information that is submitted by the Congressional Budget Office, which we believe is speculative. It will be shown that they are constructing these nuclear powerplants at $1,250 a kilowatt. That means they are perilously close today to producing nuclear powerplants that will be competitive with natural gas in the United States.

We are not asking the Senate for any of this to happen. We are saying that, as a matter of policy, we should put in the Energy bill the opportunity for this to happen. We will go into great detail as to the conditions, how it will happen, how it won't happen, and who has to approve and who has to disapprove.

We think before we are finished, we will have convinced a majority of Senators that the time has come to give a rebirth to this alternative source so that if, as a matter of fact, in the next decade or so the need arises, we will be ready, willing, and able to move ahead.

Having said that, I have just indicated nothing else is going to happen in the Senate until sometime around 3 o'clock or 3:30. We will try to get our unanimous consent agreement sometime this afternoon.

I yield the floor.

Mr. WYDEN. Mr. President, I want to be very brief. In fact, we are going to get an agreement with the Senator from New Mexico to work out the process for considering nuclear subsidies.

I just want to make sure Senators are clear with respect to what the subsidy is all about. The Senator from New Mexico, the distinguished chairman of the committee, said wind is going to get vast amounts of subsidies. I wanted to point out to the chairman that if wind farms produce power, they get a tax credit for the energy they produce. But wind farms do not get any subsidy to build a facility.

What is unique about the $16 billion exposure for taxpayers is only one energy source, under this legislation, gets a subsidy to build a facility. That has troubled the National Taxpayers Union. That is why they have been a strong supporter of the Wyden-Sununu amendment. This is not going to be about whether you are pro-nuclear or anti-nuclear. This is about whether Senators want to put at risk the taxpayers of the country for the prospect that the Congressional Budget Office has said has a 50-percent or higher failure with respect to constructing these facilities.

We will have more to say about the bipartisan Wyden-Sununu amendment before long, but I wrap up this part of the discussion by simply saying, again, I hope Senators will look at what the Congressional Budget Office and the Congressional Research Service have had to say about that. Those are reports that lay out, in a frank and objective way, what the risk is for taxpayers. I hope Senators will review it carefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes as in morning business.

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

(The remarks of Mr. AKAKA pertaining to the submission of the resolution are printed in today's RECORD under ''Statements on Submitted Resolutions.'')

Mr. AKAKA. Mr. President, I yield back the remainder of my time 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. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is currently debating S. 14.

Mr. BYRD. What is the pending question before the Senate, Mr. President?

The PRESIDING OFFICER. The pending question is the Frist-Daschle amendment No. 850.

Mr. BYRD. I thank the Chair.

Mr. President, is the Senate operating under any time control at the moment?

The PRESIDING OFFICER. There is no time control. There is no time agreement.

Mr. BYRD. Mr. President, I have one final question. Has the Pastore rule expired?

The PRESIDING OFFICER. The Pastore rule expired 5 seconds ago.

Mr. BYRD. Mr. President, I thank the Chair.

## IRAQ'S WMD INTELLIGENCE: WHERE IS THE OUTRAGE?

Mr. BYRD. Mr. President, with each passing day, the questions concerning and surrounding Iraq's missing weapons of mass destruction take on added urgency. Where are the massive stockpiles of VX, mustard, and other nerve agents that we were told Iraq was hoarding? Where are the thousands of liters of botulinim toxin? Wasn't it the looming threat to America posed by these weapons that propelled the United States into war with Iraq? Isn't this the reason American military personnel were called upon to risk their lives in mortal combat?

On March 17, in his final speech to the American people before ordering the invasion of Iraq, President Bush took one last opportunity to bolster his case for war. The centerpiece of his argument was the same message he brought to the United Nations months before, and the same message he hammered home at every opportunity in the intervening months, namely that Saddam Hussein had failed to destroy Iraq's weapons of mass destruction and thus presented an imminent danger to the American people. ''Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised,'' the President said.

Now, nearly 2 months after the fall of Baghdad, the United States has yet to find any physical evidence of those lethal weapons. Could they be buried underground or are they somehow camouflaged in plain sight? Have they been shipped outside of the country? Do they actually exist? The questions are mounting. What started weeks ago as a restless murmur throughout Iraq has intensified into a worldwide cacophony of confusion.

The fundamental question that is nagging at many is this: How reliable were the claims of this President and key members of his administration that Iraq's weapons of mass destruction posed a clear and imminent threat to the United States, such a grave threat that immediate war was the only recourse?

Lawmakers, who were assured before the war that weapons of mass destruction would be found in Iraq, and many of whom voted—now get this—to give this administration a sweeping grant of authority to wage war based upon those assurances, have now been placed in the uncomfortable position of wondering if they were misled. The media is ratcheting up the demand for answers: Could it be that the intelligence was wrong, or could it be that the facts were manipulated a little here, a little there? These are very serious and grave questions, and they require immediate answers. We cannot—and must not—brush such questions aside. We owe the people of this country an answer. Those people who are listening, who are watching this Chamber, and every Member of this body ought to be demanding answers.

I am encouraged that the Senate Armed Services and Intelligence Committees are planning to investigate the credibility of the intelligence that was used to build the case for war against Iraq. We need a thorough, open, gloves-off investigation of this matter, and we need it quickly. The credibility of the President and his administration hangs in the balance. We must not trifle with the people's trust by foot-dragging.

What amazes me is that the President himself is not clamoring for an investigation. It is his integrity, President Bush's integrity, that is on the line. It is his truthfulness that is being questioned. It is his leadership that has come under scrutiny. And yet he has raised no question that I have heard. He has expressed no curiosity about the strange turn of events in Iraq. He has expressed no anger at the possibility that he might have been misled by people in his own administration. How is it that the President, who was so adamant about the dangers of WMD, has expressed no concern over the whereabouts of weapons of mass destruction in Iraq?

Indeed, instead of leading the charge to uncover the discrepancy between what we were told before the war and what we have found—or failed to find—since the war, the White House is circling the wagons and scoffing at the notion that anyone in the administration exaggerated the threat from Iraq.

In an interview with Polish television last week, President Bush noted that two trailers were found in Iraq that U.S. intelligence officials believe are mobile biological weapons production labs, although no trace of chemical or biological material was found in the trailers. ''We found the weapons of mass destruction,'' the President was quoted as saying. But certainly he cannot be satisfied with such meager evidence.

At the CIA, Director George Tenet released a terse statement the other day defending the intelligence his agency provided on Iraq. ''The integrity of our process was maintained throughout and any suggestion to the contrary is simply wrong,'' he said. How can he be so absolutely sure?

At the Pentagon, Doug Feith, the Undersecretary of Defense for policy, held a rare press conference this week to deny reports that a high-level intelligence cell in the Defense Department doctored data and pressured the CIA to strengthen the case for war. ''I know of no pressure. I can't rule out what other people may have perceived. Who knows what people perceive,'' he said. Is this administration not at all concerned about the perception of deception? The perception is there.

And Secretary of State Powell, who presented the U.S. case against Iraq to the United Nations last February, strenuously defended his presentation in an interview this week and denied any erosion in the administration's credibility. ''Everybody knows that Iraq had weapons of mass destruction,'' he said. Should he not be more concerned than that about U.S. claims before the United Nations?

And yet . . . and yet . . . the questions continue to grow, and the doubts are beginning to drown out the assurances. For every insistence from Washington that the weapons of mass destruction case against Iraq is sound comes a counterpoint from the field—another dry hole, another dead end.

As the top Marine general in Iraq was recently quoted as saying, ''It was a surprise to me then, it remains a surprise to me now, that we have not uncovered weapons, as you say, in some of the forward dispersal sites. Again, believe me, it's not for lack of trying. We've been to virtually every ammunition supply point between the Kuwaiti border and Baghdad, but they're simply not there.''

Who are the American people to believe? What are we to think? Even though I opposed the war against Iraq because I believe that the doctrine of preemption is a flawed and dangerous instrument of foreign policy, I did believe that Saddam Hussein possessed some chemical and biological weapons capability. But I did not believe that he presented an imminent threat to the United States as indeed he did not.

Such weapons may eventually turn up. I said so weeks ago; they may eventually turn up. But my greater fear is that the belligerent stance of the United States may have convinced Saddam Hussein to sell or disperse his weapons to dark forces outside of Iraq. Shouldn't this administration be equally alarmed if they really believed that Saddam had such dangerous capabilities?

The administration took steps to protect the oil facilities in Iraq from being damaged and set on fire. The administration took extraordinary steps

to do that. Why did it not take equally extraordinary steps to protect chemical, biological, radiological, nuclear weapons, possibly, from being looted, from being stolen, from being taken away by those who would sell them, possibly, to terrorists?

Saddam Hussein is missing. Osama bin Laden is missing. Iraq's weapons of mass destruction are missing. And the President's mild claims that we are ''on the look'' do not comfort me. There ought to be an army of UN inspectors combing the countryside in Iraq or searching for evidence of disbursement of these weapons right now. Why are we waiting? Is there fear of the unknown or fear of the truth?

This nation—and, indeed, the world—was led into war with Iraq on the grounds that Iraq possessed weapons of mass destruction and posed an imminent threat to the United States and to the global community. As the President said in his March 17 address to the Nation, ''The danger is clear: using chemical, biological or, one day, nuclear weapons, obtained with the help of Iraq, the terrorists could fulfill their stated ambitions and kill thousands or hundreds of thousands of innocent people in our country, or any other.''

That fear may still be valid, but I wonder how the war with Iraq has really mitigated the threat from terrorists. As the recent attack in Saudi Arabia proved, terrorism is alive and well and unaffected by the situation in Iraq.

Meanwhile, the President seems oblivious to the controversy swirling about the justification for the invasion of Iraq. Our Nation's credibility before the world is at stake. While his administration digs in to defend the status quo, Members of Congress are questioning the credibility of the intelligence and the public case made by this administration on which the war with Iraq was based. Members of the media, Members of the fourth estate, are openly challenging whether America's intelligence agencies were simply wrong or were callously manipulated. Vice President CHENEY's numerous visits to the CIA are being portrayed by some intelligence professionals as ''pressure.'' And the American people are wondering, once again, what is going on in the dark shadows of Washington.

It is time that we had some answers. It is time that the American people were given some answers. It is time that the administration stepped up its acts to reassure the American people that the horrific weapons that the administration told us threatened the world's safety have not fallen into terrorist hands. It is time that the President leveled with the American people. It is time that the President of the United States demanded that we get to the bottom of this matter and to follow every lead, regardless of where that lead goes.

We have waged a costly war against Iraq. American fighting men and women are still dying in Iraq. We have prevailed. But we are still losing, as I said, still losing American lives in that nation. And the troubled situation there is far from settled. American troops will likely be needed there for months, many months—even years. Billions of American tax dollars will continue to be needed to rebuild that country. I only hope that we have not won the war only to lose the peace. Until we have determined the fate of Iraq's weapons of mass destruction, or determined that they, in fact, did not exist, we cannot rest, we cannot claim victory.

Iraq's weapons of mass destruction remain a mystery, an enigma, a conundrum. What are they, where are they, how dangerous are they? Or were they a manufactured excuse by an administration eager to seize a country? It is time these questions were answered. It is time—past time—for the administration to level with the American people, and it is time for the President of the United States to demand an accounting from his own administration as to exactly how our Nation was led down such a twisted path to war. His credibility and the credibility of this Nation is at stake.

I yield the floor.

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

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

Mr. THOMAS. Mr. President, I understand we are on energy.

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. We need to talk a little bit about energy. I think that is what we are on. That is what we are doing this week. I must confess, I am a little disappointed that we seem to get off on other things that are unrelated when it seems to me that doing something with an energy policy to try and look ahead in this country as to where we need to be on energy is among the most important things that we could possibly do.

I understand there are different views about how you do that, and that it is legitimate to talk about those, but I do feel badly when we move off on something that isn't related when we are trying to get this done. I think it is important that we do it. We are obviously ready to move on to health care and Medicare and pharmaceuticals the week after next. But we have been over this now. Last year we worked very hard trying to do something with energy. We passed it here. I think the process that was used was not conducive to a successful finish and, indeed, we didn't have one. But this year we went through the committee. We have already discussed all these issues. We have argued back and forth.

Obviously, not everyone agrees, but I think it is hard not to agree that energy is one of the things that affects most of us more than almost anything else that we can do here. It affects whether we have lights. It affects whether we have heat. It affects whether we have an opportunity to use our automobile. And, more importantly, it has a great deal to do with security for this country. So I really feel strongly that we should get on with it. We should come up with an energy policy out of the Senate. We should go into conference committee with the House.

Remember, one of the first things that the President and the Vice President did when they came into office was to outline an energy policy recognizing how important that is. Since that time, we have, of course, had more and more unrest and more and more war and terrorism in the Middle East. We have allowed ourselves to get into a position where 60 percent of our oil comes in on imports. We are that dependent, which is very risky. We have seen it move up and down and have different effects over the country when different things happen with regard to energy. Yet we seem kind of lackadaisical about trying to deal with it in terms of policy.

Let me emphasize that is what we are talking about here is a policy. In my view, a policy normally indicates that you are trying to look ahead at what you think the situation ought to be in the future with regard to that issue, what it means to your family and to your community and to the country, to try and get a vision of where we want to be in 10 or 15 years with respect to energy. And having established a policy of that kind, obviously, then it becomes much easier and more effective and more useful to measure the things we do in the interim as to how they affect the accomplishment and the realization of that vision and policy that we have seen.

I must confess that I am a little concerned from time to time that vision is not always something that has a very high priority in the Senate, and that really ought to be our major concern—seeing what we can do here to accommodate reaching certain goals in the future.

So we are talking here about an energy policy that has been drafted, a rather general, wide energy policy that I think is very important. We are talking in this policy about conservation, about ways to save on the amount of energy we have and the needs we have. We are talking about finding alternatives so that we can have access to different kinds of energy than we have had in the past. We are talking about research so that we can do things such as have more clean coal, so we have better air quality with respect to generating electricity. We are talking about the possibility of converting some of our fossil fuels to things such as hydrogen so that we are able to move them about easier, able to have a cleaner environment. And we are able to do all of these things.

Of course, very important among all of these is to increase domestic production. We have great opportunities for production in this country. Much of it lies in the West. I happen to be from the West. Our State is 50 percent owned by the Federal Government. Many of these resources are on those Federal lands. Now, we have to do that carefully so that we have a balance between protecting the environment, on the one hand, and using the resources for energy, or whatever, on the other hand. We can do that. It is our responsibility to be particularly careful. We have the largest resource of fossil fuel for this country in the future, which is coal. We have an opportunity to do a great deal with coal. We met this morning in the Environment Committee on finding new ways to set standards for SO2, and for other air quality standards, including mercury. We can do those things.

That is what part of this bill is about—moving us forward in being able to produce energy and, at the same time, protect the environment, which all of us want to do. But we need to move forward to be able to do that. We need to have easier access to public lands and multiple-use lands, and have all the other uses as well for energy extraction. Certainly, we won't want to use some lands for that. We will set them aside as wilderness and special use. We have more wilderness in Wyoming than in any other State in the country—except perhaps Alaska.

In any event, these are the kinds of issues with which we are faced. They are not insurmountable. As a matter of fact, they are problems to which we have the solution, but we seem hesitant to move forward and get this job behind us. So I hope we will.

We have to modernize our infrastructure. Many things have changed. It is not as if energy production remains the same over the years. In years past, in the matter of electricity, you had a distribution area where an electric company generated the electricity for everybody. Now we are finding more and more that we generate electricity one place and the market is somewhere else. So you have to have transmission. We can find more efficient ways for transmission with the kind of research that we do and take the same transmission line and make some changes in it, and it has much more capacity. But you have to move to do that.

We find that almost all the generation plants built in the last several years are oil fueled. The fact is, if you really want to look at the future, there are many more uses for oil than for coal. We ought to be using coal for the generation of electricity and oil and gas for other kinds of functions. That makes a lot of sense. But we fail to set the incentives to cause ourselves to be able to do that.

After all of our needs for electricity, we find that absent hydro, which makes it about 7 percent, the renewables represent only 3 percent of our electric supply. People keep talking about renewables. The fact is that until we do some more research, making them more efficient, they are not going to be able to have a significant impact. But there is a possibility of doing that. That is what this policy is all about. That is what we need to be doing, is moving forward to find some ways for transmission and to do those kinds of things.

We really have a lot of opportunities to move forward, and I think we can do that. As I said, I come from a place where we have probably the richest source of coal. We provide about 14 percent of the coal now of the United States. We are seventh in oil production and fifth in gas production. Those are challenges. And there is really kind of an exciting opportunity to do some more with hydrogen. Take coal and manufacturing hydrogen, which can be used for cars and homes and for many things—probably the cleanest energy we have talked about.

There are some opportunities to do a better job with nuclear power. We have States in which about 30 percent of the energy is produced by nuclear power. We have to be able to do more work and research, particularly on waste—probably the cleanest resource for the production of electricity.

I am simply trying to say that I understand there are different views about how some of these things are done. Obviously, that is legitimate and we ought to talk about that. But we ought to move forward and get the idea that this matter of energy policy is one of the most important things we can do. We have done something on taxes, and we are going to do something on health care. If we can do something on energy as well, we will have one of the most productive periods we have had for a long time. We have a great opportunity to do that.

So I certainly urge that we take a long look at what we are doing and find a way to move forward. Everyone should be given the opportunity to put in their amendments. That is fine. But you cannot keep waiting for days and days to get all the amendments in. We have been talking about this for several weeks, yet we keep hearing, ''We have not drafted our amendment yet.'' If you are serious about an amendment, get it drafted and get it out there. Let's deal with it and move forward in accomplishing the goal we have before us, which is a great opportunity to move forward in this country economically, to create jobs, and to do more for security and make our life better over a period of time, which is something we all seek to do.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SUNUNU. Mr. President, I wish to take a few moments in this debate on the Energy bill to talk about an amendment that my colleague from Oregon, Senator WYDEN and I will offer next week. He is the lead sponsor on the amendment. I certainly hope we can win strong bipartisan support for what will be an effort to make this Energy bill better, to improve it, and improve it in a way that does justice for the taxpayers by eliminating what I think is an inappropriate and unnecessary subsidy for the energy industry in general, and for the nuclear power industry in particular.

Our amendment will strike one small section of the bill. It is a section that provides federally backed loan guarantees for new nuclear powerplant construction.

I strongly believe we should have a diversified energy supply in this country. We should have competitive energy markets, and nuclear power is a very important part of that mix. Nuclear power has proven itself time and again. It has been cost effective and environmentally sound. We have worked through tough, but important, legislation to deal with the nuclear waste issue in the last session of Congress. In my own State of New Hampshire, we have a powerplant at Seabrook that has had an outstanding record, an excellent record for both efficiency and safety, and it continues to generate a very substantial portion of the electricity used not just in New Hampshire but throughout New England.

At the same time, nuclear power, like coal-fired electricity or gas-fired power, wind, solar, or hydroelectric power ought to be competing in the marketplace on a level playing field. However, there is a provision in this Energy bill that provides Federal loan guarantees to pay for up to half the cost of as many as six new nuclear powerplants. That is a pretty significant financial commitment, and a level of support will have to be made by the taxpayers of the United States.

If we look at the estimated cost of six plants—perhaps $3 billion per plant, maybe a little bit less, maybe a little bit more—and take a look at half the cost of the plant in the Federal guarantee, we could conceivably be looking at a long-term cost of $10 billion or $15 billion. That is a cost that American taxpayers should not be asked to bear. That is one of the reasons Senator WYDEN and I are offering our amendment.

A second concern is the simple precedent this would set: providing Federal loan guarantees for any private powerplant construction. Again, my concern is not directed at the fact that the loan guarantees are for nuclear powerplants, or for large powerplants. It is about private plant production. If it were gas-fired plants, coal-fired plants, or new hydroelectric plants for which we were giving Federal guarantees, I would have the same concerns. We are setting a bad precedent in public policy when we offer this kind of tax subsidy.

We have to ask time and again, Are we being fair to the taxpayers? Are we being fair to the marketplace? I do not believe we are. I think this kind of a program, this kind of a tax subsidy would distort our energy markets and would distort the performance of our capital markets where private companies go out to borrow week after week, month after month, and year after year.

We need an energy policy in this country that promotes a strong diverse supply of energy and promotes competition. Sometimes that means making sure the Federal Government treads very lightly in the marketplace. This provision in the bill does not do that by any stretch.

The amendment we will offer is a commonsense amendment, and in the long run, our energy markets and even our nuclear power industry will be better served by striking this unnecessary subsidy. If we are going to have a healthy and strong nuclear power industry, what that really means is we have to have commonsense regulations. We need to work hard to streamline and to extend some of the relicensing capabilities so those plants that have performed well can continue to operate for an extended period of time. And, of course, we need to deal with the issue of nuclear waste, which we have begun to do through our efforts last year, and which I support.

The amendment that will be offered by Senator WYDEN and me is an amendment that has support from the National Taxpayers Union, from Citizens Against Government Waste, and a number of groups that have quite a reputation for looking out for taxpayer interest.

It also has support from a number of environmental groups, including the League of Conservation Voters and USPIRG, groups that have tried to look out for environmental interests that raise concerns for them as well.

It is a broad coalition of groups coming at this from different perspectives, but all recognize this section of the bill is not good public policy, this is not the right kind of approach if we want to have competitive energy markets, and it certainly is not the right kind of approach for taxpayers.

I thank Senator WYDEN for working with me on this amendment. We are working on an agreement that will allow us to bring this amendment forward on Tuesday with at least 2 hours of debate and an up-or-down vote on the amendment.

I thank Chairman DOMENICI for working with us on that agreement and allowing us to get this important amendment to the floor, give us a vote, and see if we can save the taxpayers a lot of money and help improve this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair. Mr. President, the Senator from New Hampshire has said it very well. I will offer just a couple of additional remarks. It is clear there is going to be an effort, as this is discussed in the Senate, to simply make this an ''Are you for nuclear power or are you against nuclear power?'' issue. I think that would be very unfortunate.

I said earlier when we began to discuss this, I have inimitable abilities that over the years have managed to make both sides of the nuclear power debate unhappy with me. In a sense, I hope we can do as Senator SUNUNU has done, which is to keep the focus on the taxpayer question. I urge Senators, in particular, as they make up their minds on this issue to look at two important reports. The Congressional Budget Office report and the report done by the Congressional Research Service are particularly illuminating in that the Congressional Budget Office report talks about how, in their judgment, there is a more than 50-percent probability that these plants will not be successful, that they will fail. And the Congressional Research Service, in their analysis, indicates if that is the case, taxpayers would be on the hook for in the vicinity of $16 billion.

In my part of the world, this is not exactly an abstract issue. In fact, with the WPPSS debacle, which was the largest municipal bond failure in the country's history, four out of the five facilities were not, in fact, even built, and the people in my region and many investors, of course, were on the hook.

If the scenario of the Congressional Budget Office were to come to pass, all of our constituents—all of them—would, in effect, be exposed to these very significant costs.

That is why Senator SUNUNU and I are going to try our best, between now and the Tuesday vote, to make sure that for us this is first and foremost a taxpayers' issue.

To try to drive that point home, we had a discussion about how this affects other aspects of energy development. If this provision stays in the bill, in other words the amendment that the Senator from New Hampshire and I are offering is unsuccessful, nuclear energy would be the only part of this field that would get a direct subsidy for constructing a facility.

For example, the distinguished chairman of the committee, who has been very gracious to the two of us in terms of working on process and all of the issues towards getting this offered, talked at some length about wind and talked about subsidies for wind. Well, in fact, when wind is produced, there are various credits and incentives, which I guess are very appropriate, but there is no subsidy for constructing any other facility under this legislation other than in the nuclear area.

In fact, right now there is nothing preventing any utility from going forward with a nuclear project simply by going to the Nuclear Regulatory Commission and getting a license to build the plant.

Let me repeat that. Anybody who wants to build a nuclear powerplant in this country simply has to go to the Nuclear Regulatory Commission and get the license. They can do that if they satisfy the safety standards.

The issue, as propounded by Senator SUNUNU and myself, is whether or not there should be these very large subsidies; whether or not the taxpayer should be exposed, in the vicinity of $16 billion, with respect to building these plants.

I do not think this is an issue about whether one is for or against nuclear power, and that is why the National Taxpayers Union and a host of other organizations that have been watchdogs for taxpayers have made this a priority item. In their letter to me, they took the position that they are neither for nor against nuclear power. They say that explicitly in the letter. What they and a number of other taxpayer watchdogs are concerned about is the $16 billion exposure for taxpayers that is contained in this provision.

So I am very pleased that before long we will be able to enter into a consent agreement for an up-or-down vote on Tuesday on the Wyden-Sununu legislation. I think the chairman of the Energy Committee will be leading us in that discussion with respect to a UC before too long.

The Senator from New Hampshire is still in the Chamber, and I thank him for all of his involvement in this. He has a long record of being a taxpayer watchdog, and that was, in fact, the special reason why I thought it was so important for the two of us to try to do this together.

I am sure between now and Tuesday, as this is discussed, to some extent some will try to make this into a referendum on whether one is for or against nuclear power. I will be doing my best to try to make sure that it is a taxpayers' issue. That is central and critical to me, and I look forward to the discussion that we will have on Tuesday. We should have a UC ready to go before long. I thank Chairman DOMENICI for his willingness to work out the procedure on it, and I am particularly grateful to my cosponsor, Senator SUNUNU.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am quite sure that before we are finished—if we finish, and I hope we will—the Senate and those who are interested in energy policy will hear a lot about the various kinds of energy that are provided, as a matter of policy, in this Energy bill.

I am having a lot of difficulty understanding the Senate these days. I regret to say that almost every amendment we talk about some Senator is unable to be present. It is either they had to leave early or they had a previous engagement or there is something else they had to do. So it seems as if we cannot get the amendments done. But the Democrats are going to help us try to convince Senators that

they ought to start to list their amendments soon so we will have some idea, sooner rather than later, the extent of amendments we are going to have on this bill.

On the issue of nuclear power, before we are finished with this debate, we will lay before the Senate what the Energy Committee, in its markup of this bill, did so as to make sure the United States had an array of energy sources during the next 10, 20, and 30 years.

We have tax credits for solar energy. We have tax credits for wind energy. The Senator argues that is different. Well, maybe we ought to change and have just plain tax credits for nuclear power. Maybe there would be no objection to it. Perhaps we could convert what we thought was a better way to do this to some kind of a tax credit, which would mean that if they produced, and only if they produced, would they get any credit.

What we did in the instance of nuclear power was to say if the Secretary of Energy, at some time, finds that the United States needs a nuclear powerplant because it needs a diversity of energy or it needs it because there is some clean air problem, then to a creditworthy applicant, a creditworthy builder, of a nuclear powerplant, they may subsidize half the cost with a guaranteed loan.

Now, one can talk about that in terms of how much that is going to cost. The Senator from New Mexico assumes we look at all of these from the standpoint of the benefits, what are the benefits to America?

Twelve years ago, this Senator started looking at nuclear power. With the passage of each year, as I studied it and wrote about it and thought about it, I became more embarrassed and more ashamed of what the United States of America had done with this superb technology that we had invented, that was being used in the world and that we had set on the shelf because a few people frightened us to death.

Do people know that today two nuclear powerplants are being built in Taiwan? They are building a modern, General Electric design. Guess what they tell us the cost is going to be. In fact, I believe we will introduce a letter next week during the argument. The costs will be very close to the equivalent costs of what we are now paying to build natural gas burned, natural gas fed, powerplants. Who would have thought it?

What has happened is, since natural gas is the singular source of energy, the cost is skyrocketing because there is no competition. We intend there to be competition, not only from nuclear but we have ample money in this bill for great research in coal, too. We have over $2 billion in research for clean coal. It does not produce any coal. It just says do the research to try to make technology work.

What we have done overall for the first time in the last 20 years is to say, let us develop a nuclear policy for the greatest nation on Earth and let us show the world that we have not abandoned the safest way to produce energy, electricity for people in the world. Let us show that we are not abandoning that. Let us show that we are going to lead again. And so there is a three-pronged policy. The Price-Anderson Act, which makes it possible for the private sector to be involved, is made permanent.

This bill says, let's build a demonstration project in the State of Idaho, a brandnew concept, so we will build a nuclear powerplant that will be passive. By passive, we mean we will prove it cannot burn. There are people who speculate a nuclear powerplant can burn. They have spoken of its burning its way through the earth. This new powerplant will be physically made so it is passive. It will produce high enough temperatures so you can produce hydrogen for the new hydrogen economy we are looking at.

America is close to being able to build a nuclear powerplant again, like they are being built in Taiwan, like they have been built year after year in France. France produces 80 percent of its electricity from nuclear power. They do not run around frightened to death of technology like the United States. If anyone wants to see France's nuclear waste, they will take you to a gymnasium. You can walk into the gymnasium, like walking into a school, and walk on a glass floor. One might ask, where is the waste? You are walking on it. It is encapsulated for 50 years at least, and nothing can happen to it while they figure out what to do with it.

What does the greatest nation on Earth do? We sit paralyzed, waiting around for something to happen in Nevada. I am sure we will hear that argument before we finish the debate next Tuesday. We know that is an engineering issue that will be solved.

What we do not know: Will the United States continue to remain dependent upon natural gas almost exclusively or will we say it may be time for American companies to build one or two nuclear powerplants? We understand they are very close. They have experienced litigation and other impediments. It is hard to get over the hurdle, over the hump. We have asked, what would it take to start a couple of them? What a day, when America starts a couple new nuclear powerplants. We would be entering an era of cheap electricity, available to everyone, poor countries and rich countries. Guess what. There will be no pollution problem. The ambient air will be affected zero.

We knew it was worth the effort to get America going again regarding its strength and power as the inventor of the safest energy ever produced by mankind to this point. We could have put in tax credits: If you produce something, we will give you a tax credit. Then our friends would not be making the argument; you are giving them something before they produce. We chose what we thought was most simple and least expensive to the Federal Government, saying, if necessary, you can give them half the costs in a loan guarantee, to get us going again.

That is the whole issue. Should we do that or should we not do that? Before we are finished, the Senate will understand, in spite of it having difficulty with this Energy bill—we cannot seem to get people to focus on the Energy bill—but they will understand the significance of this issue. They will understand that the fear regarding nuclear power and nuclear fuel rods is about nothing but a red herring. They are nothing that engineering competence cannot handle.

I close this opening argument on nuclear power and whether or not it is safe by saying to everyone listening or worrying about nuclear power versus the other power in America, there are over 100 American Navy vessels on the high seas of the world with engines that are nuclear powerplants. Nuclear powerplants run battleships, run aircraft carriers. They have fuel rods in them. They carry them everywhere on the seas. They are at every port in the free world, save one in New Zealand because New Zealand has an agreement against it. They are so safe, there are boats and ships all around the world that have nuclear powerplants on board, with nuclear waste sitting right there in the hulls of the ships.

When you add all that, it is the safest way to produce energy for the world in the future. Our package includes the research facility we will build in the State of my good friend who is sitting on my right. We say to our executive branch, in the event you think it is necessary, you can issue a loan agreement for half the cost of a nuclear powerplant to get it going.

I understand there are those who will just add up costs under the worst of circumstances. I would rather add up all the pluses and take a risk that is worthwhile. If ever there was a risk that was worthwhile, it is a plain and simple risk to revive nuclear power in America for America and for the world. That is what is at issue in this bill.

Those who argue not to gamble any money on this will not raise a pinky on spending $1.6 billion to research hydrogen, for a new hydrogen economy. It may not work. It may be thrown away. But it is in this bill to start the idea of engines that are going to use the new fuel. We are spending that money. We are not guaranteeing it. We are spending it. We are not guaranteeing General Motors. We are saying, enter into a partnership. We will spend some money. We hope it works.

This is an issue of risk. When you look at the other kinds of fuels, all of which we promote, none of which we shortchange, will we say America is a coal country, spend money to make the coal clean so that the ambient air of America is, indeed, clean? And spend plenty of it. We say, build windmills

and give huge credits for them to such an extent that there may be too many of them built in the next decade; we have to pass an national ordinance so they will not build them too close to some of our cities because there will be so many of them when this bill is passed with the subsidy included, the tax subsidy that will be attached. Geothermal—there are plenty of subsidies. Every kind of energy you can imagine, we have said: Help it move along. At the same time, we have put into a package that rare opportunity for the United States to face up to the fact that, although we invented nuclear power, we hid from it. Others didn't. It is time we come back and revisit it. It is time that, as a package, coupled with all the other policies, we take a little risk in terms of its future, for the future of the world.

Mr. President, I have a series of remarks that I delivered on the nuclear subject on October 31, 1977, at Harvard University, which summarizes my views to that point. I ask unanimous consent that they be printed in the RECORD.

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

A NEW NUCLEAR PARADIGM

(By Senator Pete V. Domenici)

Earlier this week, I spent substantial time on the subjects of nuclear non-proliferation, the proposed Comprehensive Test Ban Treaty, nuclear waste policies, and nuclear weapons design issues. The forums for these discussions were open and closed hearings of two major sub-committees of the United States Senate, a breakfast where two Cabinet secretaries joined 10 United States Senators, and private discussions with specialists in these fields.

During the week before, I spent time on the question of whether or not a 1,200 foot road should be built in a National Monument, a monument whose enabling legislation I authored almost a decade ago.

Without demeaning any person's sense of perspective, I have to not to you today that for every person who attended the nuclear hearings, 50 attended the road hearings. And, for every inch of newspaper coverage the nuclear matters attracted, the road attracted 50 inches.

Strategic national issues just don't command a large audience. In no area has this been more evident during these last 25 years than in the critical and interrelated public policy questions involving energy, growth, and the role of nuclear technologies. As we leave the 20th Century, arguably the American Century, and head for a new millennium, we truly need to confront these strategic issues with careful logic and sound science.

We live in the dominant economic, military, and cultural entity in the world. Our principles of government and economics are increasingly becoming the principles of the world.

There are no secrets to our success, and there is no guarantee that, in the coming century, we will be the principal beneficiary of the seeds we have sown. There is competition in the world and serious strategic issues facing the United States cannot be overlooked.

The United States—like the rest of the industrialized world—is aging rapidly as our birth rates decline. Between 1995 and the year 2030, the number of people in the United States over age 65 will double from 34 million to 68 million. Just to maintain our standard of living, we need dramatic increases in productivity as a larger fraction of our population drops out of the workforce.

By 2030, 30 percent of the population of the industrialized nations will be over 60. The rest of the world—the countries that today are ''unindustrialized''—will have only 16 percent of their population over age 60 and will be ready to boom.

As those nations build economies modeled after ours, there will be intense competition for the resources that underpin modern economies.

When it comes to energy, we have a serious, strategic problem. The United States currently consumes 25 percent of the world's energy production. However, developing countries are on track to increase their energy consumption by 48 percent between 1992 and 2010.

The United States currently produces and imports raw energy resources worth over $150 billion per year. Approximately $50 billion of that is imported oil or natural gas. We then process that material into energy feedstocks such as gasoline. Those feedstocks, the energy we consume in our cars, factories, and electric plants, are worth $505 billion per year.

So, while we debate defense policy every year, we don't debate energy policy, even though it already costs us twice as much as our defense, other countries' consumption is growing dramatically, and energy shortages are likely to be a prime driver of future military challenges.

When I came to the Senate a quarter of a century ago, we debated our dependence on foreign sources of energy. We discussed energy independence, but we largely decided not to talk about nuclear policy options in public.

At the same time, the anti-nuclear movement conducted their campaign in a way that was tremendously appealing to mass media. Scientists, used to the peer-reviewed ways of scientific discourse, were unprepared to counter. They lost the debate.

Serious discussion about the role of nuclear energy in world stability, energy independence, and national security retreated into academia or classified sessions.

Today, it is extraordinarily difficult to conduct a debate on nuclear issues. Usually, the only thing produced is nasty political fallout.

I am going to bring back to the market place of ideas a more forthright discussion of nuclear policy.

My objective tonight is not to talk about talking about a policy. I am going to make some policy proposals. Tomorrow there are sessions on energy policy and nuclear proliferation. I'll give them something to talk about.

I am going to tell you that we made some bad decisions in the past that we have to change. Then I will tell you about some decisions we need to make now.

First, we need to recognize that the premises underpinning some of our nuclear policy decisions are wrong. In 1977, President Carter halted all U.S. efforts to reprocess spent nuclear fuel and develop mixed-oxide fuel (MOX) for our civilian reactors on the grounds that the plutonium could be diverted and eventually transformed into bombs. He argued that the United States should halt its reprocessing program as an example to other countries in the hope that they would follow suit.

The premise of the decision was wrong. Other countries do not follow the example of the United States if we make a decision that other countries view as economically or technically unsound. France, Great Britain, Japan, and Russia all now have MOX fuel programs.

This failure to address an incorrect premise has harmed our efforts to deal with spent nuclear fuel and the disposition of excess weapons material, as well as our ability to influence international reactor issues.

I'll cite another example. We regulate exposure to low levels of radiation using a so-called ''linear no-threshold'' model, the premise of which is that there is no ''safe'' level of exposure.

Our model forces us to regulate radiation to levels approaching 1 percent of natural background despite the fact that natural background can vary by 50 percent within the United States.

On the other hand, many scientists think that living cells, after millions of years of exposure to naturally occurring radiation, have adapted such that low levels of radiation cause very little if any harm. In fact, there are some studies that suggest exactly the opposite is true—that low doses of radiation may even improve health.

The truth is important. We spend over $5 billion each year to clean contaminated DOE sites to levels below 5 percent of background.

In this year's Energy and Water Appropriations Act, we initiated a ten year program to understands how radiation affects genomes and cells so that we can really understand how radiation affects living organisms. For the first time, we will develop radiation protection standards that are based on actual risk.

Let me cite another bad decision. You may recall that earlier this year, Hudson Foods recalled 25 million pounds of beef, some of which was contaminated by E. Coli. The Administration proposed tougher penalties and mandatory recalls that cost millions.

What you may not know is that the E. Coli bacteria can be killed by irradiating beef products. The irradiation has no effect on the beef. The FDA does not allow the process to be used on beef, even though it is allowed for poultry, pork, fruit and vegetables, largely because of opposition from some consumer groups that question its safety.

But there is no scientific evidence of danger. In fact, when the decision is left up to scientists, they opt for irradiation—the food that goes into space with our astronauts is irradiated.

I've talked about bad past decisions that haunt us today. Now I want to talk about decisions we need to make today.

The President has outlined a program to stabilize the U.S. production of carbon dioxide and other greenhouse gases at 1990 levels by some time between 2008 and 2012. Unfortunately, the President's goals are not achievable without seriously impacting our economy.

Our national laboratories have studied the issue. Their report indicates that to get to the President's goals we would have to impose a $50/ton carbon tax. That would result in an increase of 12.5 cents/gallon for gas and 1.5 cents/kilowatt-hour for electricity—almost a doubling of the current cost of coal or natural gas-generated electricity.

What the President should have said is that *we need nuclear energy to meet his goal*. After all, in 1996, nuclear power plants prevented the emission of 147 million metric tons of carbon, 2.5 million tons of nitrogen oxides, and 5 million tons of sulfur dioxide. Our electric utilities' emissions of those greenhouse gases were 25 percent lower than they would have been if fossil fuels had been used instead of nuclear energy.

Ironically, the technology we are relying on to achieve these results is over twenty years old. We have developed the next generation of nuclear power plants—which have

been certified by the NRC and are now being sold overseas. They are even safer than our current models. Better yet, we have technologies under development like passively safe reactors, lead-bismuth reactors, and advanced liquid metal reactors that generate less waste and are proliferation resistant.

An excellent report by Dr. John Holdren for the President's Committee of Advisors on Science and Technology, calls for a sharply enhanced national effort. It urges a ''properly focused R&D effort to see if the problems plaguing fission energy can be overcome—economics, safety, waste, and proliferation.'' I have long urged the conclusion of this report—that we dramatically increase spending in these areas for reasons ranging from reactor safety to non-proliferation.

I have not overlooked that nuclear waste issues loom as a roadblock to increased nuclear utilization. I will return to that subject.

For now, let me turn from nuclear power to nuclear weapons issues.

Our current stockpile is set by bilateral agreements with Russia. Bilateral agreements make sense if we are certain who our future nuclear adversary will be and are useful to force a transparent build-down within Russia. But I will warn you that our next nuclear adversary may not be Russia—we do not want to find ourselves limited by a treaty with Russia in a conflict with another entity.

We need to decide what stockpile levels we really need for our own best interests to deal with any future adversary.

For that reason, I suggest that, within the limits imposed by START II, the United States move away from further treaty imposed limitations and move to what I call a ''threat-based stockpile.''

Based upon the threat I perceive right now, I think our stockpile could be reduced. We need to challenge our military planners to identify the minimum necessary stockpile size.

At the same time, as our stockpile is reduced and we are precluded from testing, we have to increase our confidence in the integrity of the remaining stockpile and our ability to reconstitute if the threat changes. Programs like science-based stockpile stewardship must be nurtured and supported carefully.

As we seriously review stockpile size, we should also consider stepping back from the nuclear cliff by de-alerting and carefully re-examining the necessity of the ground-based log of the nuclear triad.

Costs certainly aren't the primary driver for our stockpile size, but if some of the actions I've discussed were taken, I'b bet that as a bonus we'd see major budget savings. Now we spend about $30 billion each year supporting the triad.

Earlier I discussed the need to revisit some incorrect premises that caused us to make bad decisions in the past. I said that one of them, regarding reprocessing and MOX fuel, is ham-stringing our efforts to permanently dismantle nuclear weapons.

The dismantlement of tens of thousands of nuclear weapons in Russia and the United States has left both countries with large inventories of perfectly machined classified components that could allow each country to rapidly rebuild its nuclear arsenals.

Both countries should set a goal of converting those excess inventories into non-weapon shapes as quickly as possible. The more permanent those transformations and the more verification that can accompany the conversion of that material, the better.

Technical solutions exist. Pits can be transformed into non-weapons shapes and weapon material can be burned in reactors as MOX fuel, which by the way is what the National Academy of Sciences has recommended. However, the proposal to dispose of weapons plutonium as MOX runs into that old premise that MOX is bad despite its widespread use by our allies.

MOX *is* the best technical solution. I challenge you to develop a proposal that brings the economics of the MOX fuel cycle together with the need to dispose of weapons grade plutonium. Ideally, incentives can be developed to speed Russians materials conversion while reducing the cost of the U.S. effort. The idea for the U.S. Russian HEU Agreement originated at MIT, and I know that Harvard does not like to be upstaged.

I said earlier that I would not advocate increased use of nuclear and ignore the nuclear waste problem. The path we've been following on Yucca Mountain sure isn't leading anywhere very fast. I'm about ready to reexamine the whole premise for Yucca Mountain.

We're on a course to bury all our spent nuclear fuel, despite the fact that a spent nuclear fuel rod still has 60–75% of its energy content—and despite the fact that Nevadeans need to be convinced that the material will not create a hazard for over 100,000 years.

Our decision to ban reprocessing forced us to a repository solution. Meanwhile, many other nations think it is dumb to just bury the energy-rich spent fuel and are reprocessing.

I propose we go somewhere between reprocessing and permanent disposal by using interim storage to keep our options open. Incidentally, 65 Senators agreed with the important of interim storage, but the Administration has only threatened to veto any such progress and has shown no willingness to discuss alternatives.

Let me highlight one attractive option. A group from several of our largest companies, using technologies developed at three of our national laboratories and from Russian institutes and their nuclear navy, discussed with me an approach to use that waste for electrical generation. They use an accelerator, not a reactor, so there is never any critical assembly. There is minimal processing, but carefully done so that weapons-grade materials are never separated out and so that international verification can be used. And when they get done, only a little material goes into a repository—but now the half lives are changed so that it's a hazard for perhaps 300 years a far cry from 100,000 years. It sure would be easier to get acceptance of a 300 year, rather than a 100,000 year, hazard, especially when the 300 year case is also providing a source of clean electricity. This approach, called Accelerator Transmutation of Waste, is an area I want to see investigated aggressively.

I still haven't touched on all the issues imbedded in maximizing our nation's benefit from nuclear technologies, and I can't do that without a much longer speech.

For example, I haven't discussed the increasingly desperate need in the country for low level waste facilities like Ward Valley in California. In California, important medical and research procedures are at risk because the Administration continues to block the State government from fulfilling their responsibilities to care for low level waste.

And I haven't touched on the tremendous window of opportunity that we now have in the Former Soviet Union to expand programs that protect fissile material from moving onto the black market or to shift the activities of former Soviet weapons scientists onto commercial projects. Along with Senators Nunn and Lugar, I've led the charge for these programs. Those are programs a foreign aid, I believe they are sadly mistaken.

We are realizing some of the benefits of nuclear technologies today, but only a fraction of what we could realize—

Nuclear weapons, for all their horror, brought to an end 50 years of world-wide wars in which 60 million people died.

Nuclear power is providing about 20% of our electricity needs now and many of our citizens enjoy healthier longer lives through improved medical procedures that depend on nuclear process.

But we aren't tapping the full potential of the nucleus for additional benefits. In the process, we are short-changing our citizens.

I hope in these remarks that I have succeeded in raising your awareness of the opportunities that our nation should be seizing to secure a better future for our citizens through careful reevaluation of many ill-conceived fears, policies and decisions that have seriously constrained our use of nuclear technologies.

Today I announce my intention to lead a new dialogue with serious discussion about the full range of nuclear technologies. I intend to provide national leadership to overcome barriers.

While some may continue to lament that the nuclear genie is out of his proverbial bottle, I'm ready to focus on harnessing that genie as effectively and fully as possible, for the largest set of benefits for our citizens.

I challenge all of you to join me in this dialogue to help secure these benefits.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the two managers and the two sponsors of the amendment, the Wyden-Sununu amendment, agreed that I ask for this unanimous consent, and I will do so: That on Tuesday, when the Senate considers the Wyden-Sununu amendment relating to commercial nuclear plants, there be 120 minutes equally divided in the usual form; provided further that no amendments to the amendment or the language proposed to be stricken be in order prior to the vote in relation to the amendment; and if the amendment is not disposed of, the amendment remain debatable and amendable.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. There is no objection.

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

Mr. REID. We are also very close to working something out on the matter that has been holding up the Energy bill today, and that is the child tax credit. We are within minutes of being able to enter into an agreement on that.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have arrived at a time and a defined period for debate on the Wyden amendment to subtitle B of this act. I think it is critical that we bring this issue to the forefront and make a decision on it.

The Senator from New Mexico, the chairman of the Energy Committee, has done an excellent job in the last 20 minutes outlining the dynamics of this major piece of legislation for our country and the kinds of issues embodied in it that are so critical to all of us as we debate the general issue of energy and this particular subtitle that relates to

the development of new technology but, more importantly, the deployment of the concept of new reactor design into actual producing reactors in the United States. The Senator from New Mexico is so accurate in his overall review of where we are as a nation with energy or the absence thereof.

My colleague from Oregon and I live in the Pacific Northwest, where hydro is dominant as a part of our energy-producing capability. Even that marvelous, clean resource today is under attack. Why? Because it impounds rivers to produce hydro, and by impounding rivers, it changes the character of those rivers. Certain interest groups want those rivers, in large part, by some estimation, to be freed. So they wanted to reshape hydro. In all instances, it has reduced the overall productive capability of hydro facilities.

We have frustration in a variety of other areas. The Senator from New Mexico outlined our problem with burning coal under the Clean Air Act, and the ambient air as a result of that, and the cost now being driven against retrofitting and new coal-burning designs to produce energy.

That is in part—not in total but in part—what has developed a willingness on the part of our country, I believe, to renew our nuclear option and possibly to renew it under a new design concept, under a passive reactor design concept that the Senator from New Mexico has talked about.

Passive reactor design means, simply, one that reacts on its own when certain conditions arise. The human factor doesn't necessarily have to be there to start throwing switches and making adjustments because those kinds of things happen automatically. We believe our engineering talent in this country is now capable of that kind of design development. In doing that design, we would couple with it an electrolysis process that would make the reactor itself so much more efficient that it would run at peak load at all times, as reactors should in performing best.

But power demand isn't always constant. When you can switch that load to development of hydrogen fuels, through the electrolysis process, and then convert it back to use within a power grid, you make for phenomenal efficiencies and the cost of production goes down dramatically.

In doing that, in bringing back to this country an abundant source of electrical energy and a reliable supply to our grid system—a system we are working to improve today through the development of regional transmission authorities and a variety of other things that tie us together—we found out a few years ago in the Pacific Northwest that it has certain liabilities. If the energy in the system itself in other parts of the grid isn't abundant, and it starts pulling power from us and forcing our power rates up, it can be a problem. Where it is produced with an abundance in the system and the system is fully interrelated and interconnected all can generally benefit.

As a result of bringing some of these new concepts on line, where we are actively subsidizing other areas of production, we thought it was reasonable to bring to the floor of the Senate a similar concept, to take some of the risk out of new design development for the commercial side, and to do so in a way that our country has always done—to use public resources to advance certain technological causes and, out of those causes and their development, to generate phenomenal consumer benefits.

There is no greater consumer benefit in this country today than reliable, high-quality electrical energy at reasonable prices. Our world runs on it. Our world's wealth depends on it. This country's workforce depends on it.

What we have brought to the floor in this Energy bill is not a hunt and a pick. It is not a political decision versus another political decision. That is not the case. It is not green versus nongreen. That is not the case.

What the chairman of the Energy Committee has said in this bill, and what the committee itself has said, is that all energy is good energy as long as it meets certain standards, and as long as it fits within our environmental context, we ought to promote it and we ought to advance it.

That is exactly what this bill does. As the Senator from New Mexico characterized it a few moments ago, we have enough credit in this bill to put windmills about anywhere they want to go, or are allowed to go, to produce energy.

Some would say that is great, we don't need anything else.

Oh, yes, we do. The reason we do is you can put a windmill everywhere you can in the air sheds that can produce wind energy, and you can only get up to about 2 percent of total demand. That is about it.

But we ought to do it because it is clean and it is renewable and it is the right thing to do. But what we are already finding out in my State of Idaho that has a couple of wind sheds that fit, if this bill passes, interest groups are stepping up and saying: Oh, I don't think we want that windmill there; that is a spike-tail grouse habitat; there are some Indian artifacts there and we certainly don't want them damaged. And we don't.

What I am suggesting is in these most desirable of wind sheds for windmills, there is going to be somebody stepping up and saying ''not here.'' And they are right. They probably won't go there.

That is public land, by the way, not private land. On some private land, the same argument will occur. Simply, they don't want in their backyard a machine that goes whomp, whomp, whomp and produces electricity. Something about the sound disturbs their sleep. As a result, my guess is some city ordinance will soon suggest, ''not in my backyard.''

But there are some backyards where we can put wind machines and we will and we already have and we ought to promote it and we ought not to be selective, and we are subsidizing them by a tax credit. You bet we are.

We are going to pass that provision. That is the right and the appropriate thing to do.

We have subsidized in most instances, in one form or another, through a tax credit or through an easing of regulation or through the ability to site on Federal lands, energy projects, historically, because our country, our Government, this Senate for well over 100 years has said: The best thing we can do for this country to make it grow, to make it prosper, and to make it abundant to the working men and women of America is a reasonable and available energy supply in whatever form the marketplace takes.

We also know we can shape the market a bit by a subsidy, by a tax credit, and we also do that.

We are going to do some wind. We are going to do some solar in here. We hope we do clean coal technology. Certainly the coal-producing States of our country want to keep producing coal, and they should. We should use it, and we will.

There is a provision in here on which Senator BINGAMAN and I disagree a little; that is, on the relicensing of hydro. We think it ought to be relicensed and environmentally positive. When we can retrofit it and shape it, we ought to do so as we relicense it into the next century. But hydro produces a nice chunk of power in this country today. We are going to relicense over 200 facilities in the next decade. That represents about 15 million American homes and 30 million megawatts of power. Any reduction in that productive capability means we have to produce that power somewhere else.

Some of those old plants, when relicensed and retrofitted, may lose some of their productive capability in the licensing process. We ought to have new supplies coming on line.

Several years ago, this Senate became involved in a very serious debate over an issue that we call climate change. We became involved as a nation internationally in this debate because we thought it was the right thing to do. We knew our global environment was heating, or appeared to be heating, faster than it had in the past, and we didn't know why. Some argued it was the emission of greenhouse gases which created a greenhouse effect around our globe which was largely a product of the burning of hydrocarbons and that we ought to do something about it.

Many of us were very concerned that if we didn't have the right modeling and the right measurement and the right facts to make those decisions, we would shape public policy and head it in a direction that was not appropriate and would allocate billions of dollars of

new resources that might put tens of thousands of people out of work if we did it wrong. At the same time, there has been and there remains a nagging concern as to the reality of this particular situation globally, environmentally. Or is it simply the natural characteristic of the changing world and evolving changing world?

We have known down through geologic time that this world has heated and cooled and heated and cooled. Is it the natural cycle? We didn't know that. But out of all of it, we generally grew to believe that the less emission into the atmosphere the better off we would be.

This bill embodies that general philosophy—that clean energy and clean fuels are better, that we ought to advance them, that we ought to subsidize them where necessary, and that we ought to plot them through the public policy which we debate here on the floor today. Out of all of that, we knew one thing: Energy generated by nuclear-fueled generating systems was clean with no emissions. It is the cleanest source in the country other than hydro with no emissions.

As a result of that, there was no question that the popularity of that consensus began to grow. Other nations around the world were using it. The senior Senator from New Mexico spoke of France and their use of it. Japan, a nation once very fearful of the atom, now builds almost a reactor a year coming on line to produce—what? Power for its citizens, power for its economy, and power for its workforce. We once led the world in that technology. But we fell dramatically behind over the last three decades because there was a public perception fueled by some and feared by some that the nuclear-generating facilities of our country were not safe. Yet they have this phenomenal history of safe operation.

Through the course of all of this, and as the facilities aged, as they were relicensed and retrofitted, guess what happened over the course of the last few years. As we spiked in our power demands at the peak of the economy in the late 1990s and as electrical prices went through the roof, the cost of operating reactors was stable; it was constant. They became the least cost producers of electricity of any generating capacity in the country other than existing hydro. The world began to react in a favorable way to that.

All of that became a part of the production of the legislation before us now—to once again get this great country back into the business of the research and development of new reactor systems that not only are in every way perceived to be safer and cleaner in the sense of waste production at end of the game, but would do something else for our country in a way that we think is the right direction; that is, the development of hydrogen to fuel the next generation of surface transportation and to start growing our economy into an age of hydrogen-fueled systems, fuel cells, generating electricity, turning the wheels of automobiles, trucks, and other forms of transportation; and, on a case-by-case basis, the potential of a fuel cell to light a home, to fuel and light a given industry by having one of those on location. We believe all of those things are possible.

What I hope is that the Senate will agree with us that it is now time to lead in all aspects of energy production in this country instead of nibbling around the edges selectively and politically determining what ought to be and what ought not to be because one individual thinks this way is better than another.

I have dealt with the energy issue all of my political life. While at one time I will honestly admit I was selective, I am no longer that. I support it all. I am voting for wind. I am voting for clean coal. I want to develop a responsible relicensing system for hydro. I am supporting nuclear development and nuclear growth. I am supporting oil production. Why? I don't want future generations of this country to be fuel-starved and victim to the politics of a region of the world which is unstable because this Senate didn't have the wisdom to produce when it could have and create incentives and maximum energy production for our country.

That is what this bill is about. The Senator from Oregon chooses to be selective for a moment in time. I wish he wouldn't be. I understand why he is. I think he is wrong.

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

Mr. CRAIG. I would be happy to yield in just a moment.

I think the Senator from Oregon is wrong on this issue. I think it is a form of selectivity as it relates to our willingness as a country to use public resources in the advancement of all forms of energy resources as the kind that is offered by the committee to, once a new reactor design is developed, allow for loan guarantees to guarantee up to about 8,400 megawatts of electrical development through nuclear reactor construction.

I would be happy to yield to my colleague from Oregon.

Mr. WYDEN. I thank my good friend for yielding. I listened patiently to him and to the chairman of the committee raising the concern that in some way the opponents of the subsidies are engaging in scare tactics, red herrings, and the like. This is not a red herring. This is a dollar and cents issue.

I was curious whether the distinguished senior Senator from Idaho was aware that the Congressional Budget Office ''considers the risk of default on such a loan guarantee to be very high, well over 50 percent.''

Is the distinguished senior Senator from Idaho aware of that? I would be curious about his reaction because to me—and as the Senator from New Mexico said—this is about risk. The Congressional Budget Office has given us an objective, nonpartisan assessment of risk here. They consider ''the risk of default on such a loan guarantee to be very high, well over 50 percent''—coupled with the Congressional Research Service memo indicating the exposure is $16 billion. Is the distinguished Senator from Idaho aware of that? I would be curious what the distinguished Senator's reaction to that is.

Mr. CRAIG. Mr. President, I thank my colleague for bringing up that issue. There are red herrings. Maybe some of them are blue and some of them are green, as we debate these issues. I don't know what a red herring really is here.

I do know that when you sit a group of economists or accountants down and say, project backwards over the last 20 years or 30 years as it relates to the cost of developing nuclear reactors, and/or their failure—and out in the Pacific Northwest we had some that were funded and then brought down because the economy and the politics would not accept them—if you do that, you might get to a 50-percent risk factor.

If you project forward to a new concept design that is under a new Nuclear Regulatory Commission licensing process that meets the demand of the electrical systems, that is a cleaner process, that drives down the cost—and my colleague, the senior Senator from New Mexico talked about the new concepts in Taiwan; one of them may well be built here—my guess is they did not factor that in. Because those are all things you and I, as Senators, will insist upon and do over the next decade, and that when we do that, the risk factors come down dramatically.

But this is what the Senator from Oregon and I need to look at. You came to the Congress how many years ago?

Mr. WYDEN. We were both young; in 1980.

Mr. CRAIG. In 1980. In 1980, the United States was about 35-percent dependent on foreign hydrocarbons, foreign oil. Now, there were some folks out there saying: Boy, if we don't get busy here, we could someday be 40-percent dependent.

Well, they were right. We did not get busy. In fact, we increasingly restricted the ability to refine and the ability to discover and the ability to produce, and by 1984 or 1985, we were at 45 percent. And that kept going on.

What is the risk factor there? We know what the risk factor is. The risk factor is, we did not do anything and we are now over 50-percent dependent, and in some instances as high as 65 percent, give or take, dependent on foreign oil sources.

You see what has happened at the pump. I don't know what you or I were paying for gas in 1980 but it was well under $1 a gallon. Now we are paying $1.55, $1.60 a gallon for regular fuel. The average household is spending a great deal more on energy today than it did in 1980. We did not develop a policy. We did quite the opposite. We began to restrict the ability to produce, whether or not it was hydrocarbons.

We have not brought on line a nuclear reactor, fire-generating system for the purpose of electrical production in the last 10 or 12 years. One got started under construction, and, of course, as we know in the Pacific Northwest, we actually stopped construction on some.

Are there risks? You bet. There is no zero-sum game here. There isn't anything you or I could possibly legislate. But there is a reality; the reality is that energy prices in Oregon shot through the roof in the last 3 years and the energy prices in Idaho went up dramatically. The cost of living in the State of Oregon and the economy of the State of Oregon reeled under the hit, as is true of the State of Idaho. I am not, anymore, going to stand here and be selective on the production of and the future opportunity to produce energy for this country because I want to get your State's economy moving and my State's economy moving.

(Mr. CRAPO assumed the Chair.)

Mr. WYDEN. Will the Senator yield for yet another question?

Mr. CRAIG. I am happy to yield.

Mr. WYDEN. I thank my colleague.

Again, the Senator from Idaho has been critical of the Congressional Budget Office report, saying that perhaps they did not look forward; they just looked backward. I would urge my colleagues to look at the report because the report does, in fact, look to 2011 and the future, and that is what the Congressional Budget Office did make their judgment on, where they said there was a risk of default that was well over 50 percent.

But my question to my colleague is whether my colleague thinks it is relevant about who assumes risk with respect to energy production. Because he is absolutely right, there are no foolproof guarantees in life. There is no question there is risk. Here, however, I see the taxpayer being at risk. The taxpayer is on the hook for $16 billion.

I thought it was interesting that the distinguished chairman of the committee talked about the credits for production.

Well, the fact is, when you get a credit for production, the producer is largely at risk because in order to get the break, you have to produce something. There is no tax credit, I say to my colleagues, for failing to produce a successful wind venture. You get the credit if your wind venture is successful.

My understanding is that here, with the subsidy, the person who assumes the risk is the taxpayer, not the producer. I was wondering if the distinguished Senator from Idaho thinks it is relevant with respect to who takes the risk. This Senator does because the taxpayer is on the hook rather than those who produce. I am curious of the reaction of the distinguished Senator from Idaho.

Mr. CRAIG. I am pleased the Senator brought this issue forward because you and I live in an environment in the Pacific Northwest that was substantially subsidized by American taxpayers to produce a massive electrical system known as the Bonneville Power Administration—direct appropriations of hundreds of millions of dollars to build a hydro system in the Snake and Columbia watersheds and in other places. These were not loan guarantees. They were just outright expenditures to be paid back. They have been paid back over a long period of time, and we are continuing to pay them back.

So the American taxpayer, to our benefit, has always been on the hook in the Pacific Northwest for the production of energy. In fact, you and I worked to just get some borrowing capability for Bonneville to expand its transmission system—a big chunk of money. We fought for that, and we should have. Why? Because it will generally benefit the Pacific Northwest. It is not a loan guarantee. It is an outright appropriation to be paid back.

Mr. DOMENICI. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. DOMENICI. I would like to comment on what the distinguished Senator, Mr. WYDEN, just raised, and say to my good friend, the Congressional Budget Office is wrong almost every way it turns.

First, it uses forecast figures on plant costs of $2,300 per kilowatt. The right number is $1,250 per kilowatt. How do I know? There are two being built in Taiwan right now that General Electric designed—brand spanking new. They came to our office. I don't know if they had time to come and see you, I say to the Senator, but they brought with them their experts and told us those plants will cost not $2,300 per kilowatt but, rather, $1,250 per kilowatt. That is about half, as this Senator sees it.

Mr. CRAIG. Yes.

Mr. DOMENICI. So they are half wrong right up front in terms of their assessment.

Furthermore, the bill itself says that if this section that is being debated is ever used, the Secretary will evaluate the creditworthiness of any new project under this program. So they are already wrong by half on the cost.

Then I would ask, Does the Congressional Budget Office really believe the Secretary will approve a significant risk? If he approves a significant risk, he would be in violation—direct conflict—of the law that we are discussing that he would be acting on that the CBO assumes will cost this extraordinary amount and impose this extraordinary risk.

I thank the Senator for his comments and his responses. I am quite sure the Congressional Budget Office, as this Senator knows—I have only worked with it for the sum total of 26 years on all kinds of issues—I believe there is no subject they are more wrong on than their estimates of the cost of matters nuclear. First of all, they assume that everything that has gone wrong in the past is going to go wrong again, while the world is out there proving that such is not the case, while we are saying only under very limited circumstances would you ever use these sections to begin with, which would eliminate part of their reasoning, which would just leave the scene and would not even be applicable as they attempt to make the risk estimate.

I thank the Senator.

Mr. CRAIG. Mr. President, I thank the chairman of the full Energy Committee and the primary author of this legislation for making what are extremely important clarifying points in relation to the Wyden amendment that would strike this provision of subtitle (b) as it relates to the deployment of new nuclear plants.

In another life, I once studied real estate and had a real estate license. I know when you try to assess the value of a piece of property, you do what is called a comparable appraisal. You find other properties that are comparable in size, productive capability, if it is a house in square footage, in age, in all of those features. You say that in the marketplace, this house is worth about so much because the comparables, one that has recently sold that is like it or near like it, cost about this much.

When it comes to our ability to project the cost of a nuclear powerplant in construction in 2011, there are no U.S. comparables. We are talking about all kinds of new things. We are talking about a new design, a GEN-IV passive reactor design. What size are we talking about, 600-, 800-, 1,000-megawatt plant? Under what kind of regulatory authority? Has the license been developed and what are the peculiarities, the particulars, the specifications within the license? We don't know that. You cannot effectively project.

What you can do is exactly what this subtitle does. It gives the Secretary of Energy authority to examine, to make a determination based on fixed criteria that we have placed in the law to protect the public resource. We are going to make the assumption in 2011 that the Secretary of Energy and his or her staff are bright, talented, clear-thinking people who will have to operate under the law. The reason they will have to operate under the law? Because if this is a loan guarantee, it becomes a part of their budget, it becomes scored, and the Congress of the United States has to appropriate the money or at least offset it because it is a guarantee in the market.

That is how it works. I am not going to be here then, more than likely, and others of my colleagues will not. But we will have written into law the right kind of public policy to protect the citizens' resource, his or her tax money. So the ultimate question is, Does this portion of the title as it relates to nuclear energy fit for the future? Is it the way we get this industry started again, obviously dealing with the provision in the law that creates a liability shield as it relates to Price

Anderson, as a new design concept that we think is the right design, the safer design, the cleaner design, the more efficient design, and the reality of a future energy source? And have we created the right incentive to move us into the production of electricity from nuclear-fueled powerplants of the future?

That is what this subtitle is all about. That is why it is important. I don't know that the detail of it has been written, or I should say read or understood specifically. It is very clear. It is very short. The requirements are particularly important. Let me read them:

Subsection (b), Requirements:

Approved criteria for financial assistance shall include the creditworthiness of the project—

that is, the responsibility of the Secretary and his or her team to make those determinations—

the extent to which financial assistance would encourage public-private partnerships and attract private sector investment, the likelihood that financial assistance would hasten commencement of the project, and any other criteria the Secretary deems necessary or appropriate.

That is a totally open-ended clause that says the Secretary can, in fact, develop more findings if necessary to protect the safety and the security of this kind of loan guarantee.

The Secretary, under the confidentiality provision, shall protect the confidentiality of any information that is certified by the project developer to be commercially sensitive. The full faith and credit of all financial assistance provided by the Secretary under this subtitle shall be a guaranteed obligation of the United States backed by its full faith and credit.

That is fairly boilerplate language. What that says is very clear. If the Secretary makes that determination, that becomes a part of a decision that the Appropriations Committee and the Budget Committee in the Senate then deal with. This is not locking in the money. This is simply authorizing the ability of the Secretary in the future to move in a direction that the Congress can make a decision on. That is what this provision is all about.

I believe, we believe, and that is why the Energy Committee in a bipartisan way brought this to the floor for the whole Senate's consideration, because we think it is the right thing to do. It is the right thing to look forward, not just a year from now or 2 but 30 and 40 and 50 years from now and say that we have developed a public policy that will produce the kind of energy that a growing, expanding U.S. economy needs, that it is of high quality, and that it fuels our factories, lights our homes, cools our homes, and in the new age of technology it keeps the Internet humming, by then probably such a wireless communication system that it keeps, if you will, cyberspace vibrating.

A couple of years ago I had the opportunity to visit China, a huge nation, a nation that is expanding by leaps and bounds, a nation that is pushing all sides of development and technology. My wife and I had the opportunity to stay in a beautiful hotel in Shanghai, a state-of-the-art hotel. In this city of Washington, DC, it would probably be called at least a four-star hotel, absolutely a marvelous facility. When we got to our room, the finest of facilities, there were all kinds of places to plug in your computer. It was wired for the state of the art. But it had a problem. The power kept going out. The lights kept blinking. The air-conditioning kept shutting off and turning on.

The problem that beautiful, new, state-of-the-art hotel had that made it nearly impossible to plug your computer in and go online and, with your e-mail, talk to the United States is that China doesn't have a power grid.

China doesn't have adequate electrical power. China has developed its electrical resources on a city-by-city, county-by-county basis. They are now striving ahead at a phenomenal cost to create a national power grid to tie themselves together because they know that to compete with us, to put their people to work, and to hopefully some day generate a lifestyle comparable to ours, and an economy comparable to ours, they have to have a power system that is reliable, stable, productive, and that is connected.

No matter how beautiful the building, no matter how high-tech the facility, if it is not turned on, if it is not wired in, if it is not lit up, it doesn't work. Boy, have we learned that in this country. California has learned that in the last couple of years.

If all goes well, I am going to be in the heart of the Silicon Valley on Saturday. I will tell you what the conversation is going to be about with some of the high-tech producers down there: Is the Energy bill going to pass? Are you going to get us back into the business of producing energy? We are large consumers of it and we need a high-quality, stable supply of energy that doesn't blink, shut off, or put our production at risk. If you are building chips in a high-tech factory today, known as a FAB, and the power blinks, you lose the whole production. You may lose millions of dollars in a blink of the power connection. So high-quality, stable power is extremely valuable, and if it is not priced right, if it is not competitive, and somewhere else in the world they can provide that high-quality power that is priced differently and in the competitive market, the great tragedy of our economy today in a world environment is that the chips will go elsewhere.

That is one of many examples that can be used. That is why, finally, when President George W. Bush was elected and came to town, his first priority, among so many, was to assign the Vice President to assemble as many bright thinkers in the energy field as he could and to produce for us, the Congress, a challenge—a national energy policy and a list of criteria that we ought to develop in the form of public policy for this country. There were well over a hundred points in that proposal. Two-thirds of them have already been implemented by rule and regulation by the Secretary of Energy and other agencies of our Government to get this country back on line and producing energy. But about 30 percent of them, or 30-plus, are not. They have to be legislated. It requires new public policy to fully implement what our President envisions as a national priority, what America envisions as a national priority, and what I trust the Senate of the United States clearly understands to be a national priority.

We tried mightily in the last year or so. The politics, for a variety of reasons, would not allow us to get there. There are factors not in this bill today that were in the bill of a year ago that are highly controversial. There are some changes in this bill. But it was crafted in the committee of authorization. It was voted on piece by piece. It does have a new bipartisan base of support, and we believe it is the kind of energy policy on which we can work out our differences with the House and put on the President's desk and two decades from now look back and say we did the right thing for our country, the right thing for young people today who will be in that labor force 10, 15 years from now, who will demand and require an abundant supply of high-quality energy that is environmentally sound and at a reasonable price for their homes, for their recreation, but, most importantly, for their work site, for the job they are going to seek. That is why this legislation is so important.

We may differ and we are going to have more amendments to come, but I hope our leader and the minority leader recognize the high priority we have here and give us the time to debate this thoroughly and responsibly and deal with all of the amendments that are necessary to get us to that point where we can vote up or down and let the American people clearly understand that the Senate of the United States does support a national energy policy, and that the one we have, in the form of S. 14, is a quantum leap forward into America's future of an abundant energy and a robust economy.

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

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

VOTE ON AMENDMENT NO. 853

The PRESIDING OFFICER. Under the previous unanimous consent order, the hour of 3:30 p.m. having arrived, the question is on agreeing to the Schumer amendment No. 853.

Mr. CRAIG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 853. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''yea''.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 26, nays 69, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—26

| | | |
|---|---|---|
| Akaka | Feinstein | Reed |
| Allen | Gregg | Santorum |
| Bennett | Hollings | Schumer |
| Bingaman | Kennedy | Specter |
| Boxer | Kyl | Sununu |
| Clinton | Lautenberg | Thomas |
| Collins | Leahy | Warner |
| Corzine | McCain | Wyden |
| Enzi | Murray | |

NAYS—69

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

NOT VOTING—5

| | | |
|---|---|---|
| Ensign | Inouye | Murkowski |
| Graham (FL) | Lieberman | |

The amendment (No. 853) was rejected.

Mr. REID. 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. 856

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I have cleared this with the Republican manager of the bill. I ask unanimous consent that the Senator from California have 90 seconds to speak on the next amendment and the opposition have 90 seconds, an extra 30 seconds on each side.

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

The Senate will be in order. The Senator from California.

Mrs. BOXER. Mr. President, the Senate is still not in order. It is a complicated amendment. I would like to be able to explain it.

The PRESIDING OFFICER. The Senate will please be in order.

The Senator from California.

Mrs. BOXER. Mr. President, in 90 seconds I want to tell you why this amendment is so important. I offer it on behalf of myself and Senator DURBIN, a strong supporter of ethanol, Senators LEAHY, FEINSTEIN, CLINTON, JEFFORDS, and LAUTENBERG.

My amendment simply removes the safe harbor provision in the bill, which treats ethanol like no other fuel, giving consumers and communities no legal recourse if it turns out that the water is polluted or the air is polluted or people get sick from this increased amount of ethanol. Believe me, I hope ethanol is totally safe. But no one is sure. Just read the 1999 blue ribbon EPA panel. They raise some serious questions. Of course, the ethanol manufacturers say ethanol is 100 percent completely safe. Then I ask why they demand this safe harbor provision. Look at what happened to the last gasoline additive we promoted, MTBE. This is the cost to our people because of MTBE pollution: $29 billion. My friends, if we had had the same safe harbor for MTBE as some of us are seeking for ethanol, this would not have fallen completely on your taxpayers and your communities. I call this an unfunded mandate.

People who oppose this say they only are putting forward a very narrow safe harbor. They say everyone will have a lot of ways to go. But the truth is that defective product liability is the only remedy. The courts have said no to negligence and no to nuisance. The only claim they have is defective product liability.

All we do is say treat ethanol as we do any other additive.

I urge an aye vote.

The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what we are doing here is not giving our stamp of approval on ethanol. We are not mandating. The vast majority of Members here feel more strongly about this than I do.

I know the Senator from California would not deliberately mislead you. What she is saying is just flat wrong.

I keep hearing it over and over again: If a safe harbor provision is enacted into law, No. 1, citizens will not be able to take refiners to court under our court system; and, No. 2, any possible ethanol contamination that happens in the future wouldn't get cleaned up.

It just isn't true. Even with the enactment of the safe harbor provisions, if a plaintiff makes his case—that is a very significant part of this—there are just a few court theories that could be used in environmental cases: Trespass, not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected by safe harbor; breach of implied warrant, not affected by safe harbor; breach of express warranty, not affected by safe harbor.

As far as cleanups are concerned, if there were a spill, here are some examples of environmental laws that are on the books right now that would take care of the problem and are not affected by safe harbor: No. 1, Resource Conservation Recovery; No. 2, Clean Water Act; No. 3, Oil Pollution Act; No. 4, Superfund; and it goes on and on.

Neither of these assertions is true. They would be able to have their day in court, and at the same time we have adequate laws in the court system and environmental laws to accommodate any cleanup that would take place.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment. The yeas and nays were previously ordered on the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''Yea''.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—38

| | | |
|---|---|---|
| Akaka | Durbin | Murray |
| Biden | Feingold | Nelson (FL) |
| Bingaman | Feinstein | Reed |
| Boxer | Gregg | Reid |
| Byrd | Hollings | Sarbanes |
| Cantwell | Jeffords | Schumer |
| Carper | Kennedy | Smith |
| Chafee | Kerry | Snowe |
| Clinton | Lautenberg | Specter |
| Collins | Leahy | Sununu |
| Corzine | Levin | Warner |
| Dayton | McCain | Wyden |
| Dodd | Mikulski | |

NAYS—57

| | | |
|---|---|---|
| Alexander | Craig | Inhofe |
| Allard | Crapo | Johnson |
| Allen | Daschle | Kohl |
| Baucus | DeWine | Kyl |
| Bayh | Dole | Landrieu |
| Bennett | Domenici | Lincoln |
| Bond | Dorgan | Lott |
| Breaux | Edwards | Lugar |
| Brownback | Enzi | McConnell |
| Bunning | Fitzgerald | Miller |
| Burns | Frist | Nelson (NE) |
| Campbell | Graham (SC) | Nickles |
| Chambliss | Grassley | Pryor |
| Cochran | Hagel | Roberts |
| Coleman | Harkin | Rockefeller |
| Conrad | Hatch | Santorum |
| Cornyn | Hutchison | Sessions |

| | | |
|---|---|---|
| Shelby | Stevens | Thomas |
| Stabenow | Talent | Voinovich |

NOT VOTING—5

| | | |
|---|---|---|
| Ensign | Inouye | Murkowski |
| Graham (FL) | Lieberman | |

The amendment (No. 856) was rejected.

Mr. DOMENICI. Mr. President, how long did that last vote take?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. DOMENICI. I thank the Chair.

AMENDMENT NO. 854

The PRESIDING OFFICER. There are now 2 minutes evenly divided before a vote on the second Boxer amendment.

The Senator from California.

Mrs. BOXER. Mr. President, I am pleased to say that the Boxer-Lugar-Cantwell amendment, which encourages production of agricultural residue ethanol, is going to be accepted by a voice vote with a promise to fight for it in conference.

Our amendment says that if you produce ethanol from the residue of agricultural crops, you get a special incentive. So if your State grows corn, rice, sugar, apples, wheat, oats, barley, and other crops high in fructose, this amendment would help your farmers, your rural communities, and your States meet the ethanol mandate. Again, it simply gives an incentive to produce ethanol from agricultural residue.

I am grateful to my colleagues on both sides of the aisle for accepting the amendment. I am happy to take it by voice vote.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 854) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, I rise to support the amendment offered by the majority and minority leaders, Mr. FRIST and Mr. DASCHLE, on renewable motor fuels. Others may support this amendment for different reasons, but I support the amendment because of its potential to increase motor fuels supply, especially in the Federal reformulated fuels, or RFG, program. This amendment includes provisions that I, and my Wisconsin House colleagues, Congressman Paul Ryan and Mark Green, have long advocated to address supply shortages that the Midwest has experienced in recent years.

This amendment makes significant changes to the Clean Air Act motor fuels programs that will increase the supply of cleaner fuels nationwide. It bans methyl tertiary butyl ether, or MTBE, which is no longer used in my home State of Wisconsin. MTBE, as others will likely discuss in detail, is a reformulated gasoline additive that has contaminated drinking water supplies nationwide.

The amendment also contains a mandate to increase the supply of ethanol to 5 billion barrels by 2012 both to replace MTBE as an oxygenate in reformulated gasoline and to reduce our dependence upon foreign oil. It also would allow Governors the ability to increase reformulated gasoline supply by opting their entire State into the reformulated fuels program, and increasing the market demand for RFG in their State.

The amendment also has a provision to increase the amount of reformulated gasoline by reducing the number of boutique fuel blends. The bill reduces the number of Federal reformulated fuel blends by creating a single set of standards. This would broaden the supply from which Wisconsin could draw in times of tight supply.

If enacted, this amendment would improve fungibility of RFG nationwide, by standardizing volatile organic compound, VOC, reduction requirements. In practice, when combined with the renewable fuels mandate, this would enable States like Wisconsin that use Federal RFG to draw on supplies of Federal RFG from other areas, such as St. Louis and Detroit, if necessary. The ability to rely on other sources of RFG is especially important when sudden supply shortages arise due to unexpected events such as refinery fires or breakdowns which the Midwest has also experienced in recent years.

This amendment is important because, at present, southeastern Wisconsin cannot draw on RFG from other areas because the Chicago/Wisconsin RFG formula is not used elsewhere in the country. This amendment would help address this boutique fuel problem by bringing other areas that use Federal RFG in line and standardizing VOC reduction requirements and requirements for the production of renewable fuels such as ethanol—the Chicago/Wisconsin area is the only part of the country that uses solely ethanol in its blend of RFG.

As the use of ethanol blended RFG becomes more widespread, supply problems will become easier to address. This benefits Wisconsin drivers because easing supply shortages will help put an end to severe price spikes, and drivers nationwide by continuing to supply them with RFG that meets Federal Clean Air Act standards in light of State bans on MTBE.

So far, Mr. President, in light of military conflict in the Middle East, we have been lucky that we have avoided significant increases in gas prices so far this year. But, for folks in Wisconsin, the thought of another approaching summer unfortunately dredges up memories of the high gas prices that have plagued our families in recent years. The Senate must take preventative action today to make sure gas prices stay under control, and our this amendment will help do that. By scrapping the multiple Federal fuel blend requirements and replacing them with a more simplified, streamlined system, this measure will work to make gas supplies more stable and keep prices at the pump within reason. This is a good amendment, and it deserves the support of the Senate.

Mrs. CLINTON. Mr. President, I would like to take a few minutes to address the Frist-Daschle amendment and the Energy bill in general.

Now, do I think there is a way to soundly and responsibly increase our use of alternative fuels? Sure. Do I think that we should increase our use of alternative fuels? You bet. I am just not convinced that the provision we are considering today is the best way to make that happen. And I am not convinced that it is the best way to make that happen for a State such as New York.

I think that an Energy bill has the potential to be a win for us not just on energy and the environment but also on economic development and job creation. An Energy bill could truly be an engine for developing new technologies, manufacturing new products, building new facilities, and with all of that—creating new jobs, while at the same time increasing our energy security and improving the quality of our environment.

I commend my colleagues Senators DOMENICI and BINGAMAN, for their efforts in bringing this bill to the floor. They have worked arduously to tackle many complicated and controversial issues.

But with all due respect to my colleagues, in many cases, I am afraid that this bill unfortunately still falls far short—in terms of energy policy, environmental policy, and economic policy. We need a comprehensive and balanced energy policy that strengthens our energy security, safeguards consumers, protects the environment, spurs economic development, and create jobs.

Yet this bill does not truly harness our potential for greater energy efficiency and for newer, cleaner sources of energy. It too often looks to the past to try to solve the energy challenges of the present and turns a blind eye to all that our energy future could be.

For example, it looks to possible oil and gas resources on the Outer Continental Shelf—areas of the ocean that have been under drilling moratoria for years in an effort to preserve precious ocean and coastal resources and the coastal tourism economies of a number of our States.

It also apparently requires an inventory of oil and gas resources on Federal lands, as well as an inventory of restrictions or impediments to development of those resources. Now my colleagues in New York and I have been fighting for years to protect the Finger Lakes National Forest from drilling, and so I have a difficult time with provisions like this.

The bill permanently extends the authority of the Nuclear Regulatory

Commission to indemnify nuclear powerplants against liability for nuclear accidents under the Price-Anderson Act, and provides other substantial subsidies to the nuclear power industry. Yet the bill does not do enough to increase the diversity of our energy supply, which would also create new business and economic growth opportunities.

I am pleased that the bill contains provisions related to the increased use of fuel cells and hydrogen fuel because this is a key example of how we can be working to increase our energy security, while also improving the environment and creating jobs. And it is places like Upstate New York, where we have many companies and universities doing exciting work in this area, which will emerge as world leaders in his technology. That is why I have joined with Senator DORGAN, Senator LIEBERMAN, and others in supporting legislation that would go even further than the bill we are currently debating in supporting fuel cells. And that is in part why, when we debated the renewable fuel provisions in the Senate Environmental and Public Works Committee, Senator BOXER and I fought to include provisions that would provide Federal support for the construction of waste-to-ethanol plants and other cellulosic biomass ethanol production facilities.

Because these projects would help States such as ours produce more renewable fuel—produce fuel from waste products, which would therefore also help the environment—and at the same time produce more jobs as well.

We are grateful for the committee's support for our amendments, and we are pleased that these provisions remain in the amendment that is before us today.

But many of my colleagues and I still have reservations with respect to this amendment. That is why some have pushed to have their States exempted entirely from the renewable fuels requirements in this amendment, while many others have voted to require States to proactively opt-in to the renewable fuels program.

Despite the many outstanding questions regarding the renewable fuels requirements in this amendment—whether it is transportation or storage or other infrastructure issues, market concentration concerns, impacts on gasoline prices for consumers at the pump, air quality impacts, you name it—there is a seeming unwillingness to consider even the slightest changes to the provisions before us—at least for some States.

While certain States are exempted all together, other States that have special considerations, such as my State of New York which has a State ban of MTBE that goes into effect in just a few months, which has certain air quality issues, and very little existing ability to produce significant quantities of renewable fuel—our special needs go unmet.

With all of the concerns I have regarding the amendment before us, I have even more concerns about the provisions passed by the House, which I believe in many respects are greatly inferior to the provisions we are considering here today. So that gives me even further pause in taking up this issue.

For example, whereas the amendment before us contains a welcome and long-awaited Federal phase-out of the use of MTBE over the next 4 years, the House bill does not phase out MTBE at all. Even more disturbing, it includes a liability safe harbor for MTBE.

Now, there is no question that the time has come to take action at the Federal level on MTBE. New York is on the front lines of this battle. We have banned MTBE use in the State as of January 1, 2004.

There are a number of other States that have taken action to phase out or limit the use of MTBE as well, including: California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Washington. Now, those are the States that have actually passed State laws. But here are a number of other States that have tried to pass laws and are still trying to pass laws to phase out or ban MTBE.

In the absence of any Federal action, States have been forced to take action on their own to limit MTBE use in motor vehicle fuel because it has wreaked havoc on the environment—in particular, on drinking water sources. Unfortunately, those State actions are now being challenged in court.

Yet the States are acting for good reason. New York has experienced first-hand the impact of MTBE contamination on our drinking water—particularly on Long Island.

According to testimony before the Senate Environment and Public Works Committee offered recently by Mr. Paul Granger, superintendent of the Plainview Water District on Long Island, ''New York has identified some 1970 MTBE spill sites with 430 of them on Long Island alone.''

That is why New York, once again out in front on the issue of MTBE, has probably the toughest standard in the Nation for the amount of MTBE allowed in surface and ground water—10 parts per billion.

But according to Mr. Granger's testimony, ''At least 21 states have reported well closures due to MTBE groundwater contamination.'' It is estimated that more than 500 public drinking water wells and 45,000 private wells throughout the country are contaminated by MTBE.

According to testimony recently offered by the American Lung Association before the Environment and Public Works Committee, millions of Americans are being served by drinking water sources contaminated by MTBE.

As we are far too familiar now, the cost of cleaning up this MTBE contamination are significant. According to the testimony of Mr. Craig Perkins, director of Environment and Public Works for the city of Santa Monica, CA, ''Current estimates for the total cost of nationwide MTBE clean-up are $30 billion and counting.'' That is why we have lawsuits pending in New York regarding MTBE contamination of ground water, because these communities, these water suppliers, and ultimately their customers, cannot meet the financial burden of these cleanups.

So while having clean air to breathe is important, so is having clean water to drink. We should not have to trade one for the other.

Phasing out the use of MTBE as a fuel additive is the right thing to do from a drinking water perspective, from an overall environmental and public health perspective, and from a fuels perspective. That is why such a phase-out of MTBE was recommended over 3 years ago by the EPA Blue Ribbon Panel on Oxygenates in Gasoline.

The State-by-State approach to MTBE that we are currently operating under does not work. It does not work for the markets, the refiners, or the distributors to have this patchwork of States that do or do not allow the addition of MTBE to gasoline.

I am very pleased that the Frist-Daschle amendment includes such a phase-out but I am concerned about other provisions of this amendment pertaining to renewable fuels, including the safe harbor provisions. I am deeply concerned that the House bill does not include a phase-out of MTBE but does provide a liability safe harbor for MTBE.

The reality is that we can phase out MTBE and repeal the existing 2 percent oxygenate requirement under the Clean Air Act while still ensuring that we meet current clean air standards. And I support legislation that will do these three things.

After banning MTBE and removing the oxygenate requirement, there would still be an increase in the use of ethanol in this country—with or without the mandate we are contemplating here today.

Mr. VOINOVICH. Mr. President, I rise today in support of Senate amendment 850, an amendment to add a renewable fuels package to the energy bill.

This language establishes a nationwide renewable fuels standard of 5 billion gallons by 2012, repeals the Clean Air Act's oxygenate requirement for reformulated gasoline and phases down the use of MTBE over 4 years.

This language has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, the National Corn Growers Association, the Farm Bureau Federation, the American Petroleum Institute, the Northeast states for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Passage of this ethanol language will protect our national security, economy, and environment.

The amendment that the majority leader has introduced—a compromise that will triple the amount of domestically-produced ethanol used in America—is one essential tool in reducing our dependence on imported oil.

President Bush has stated repeatedly that energy security is a cornerstone for national security. I agree. It is crucial that we become less dependent on foreign sources of oil and look more to domestic sources to meet our energy needs. Ethanol is an excellent domestic source—it is a clean burning, homegrown renewable fuel that we can rely on for generations to come.

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;

Increase U.S. GDP by $156 billion by 2012;

Create more than 214,000 new jobs;

Expand household income by an additional $51.7 billion;

Save taxpayers $3 billion annually in reduced government subsidies due to the creation of new markets for corn.

The benefits for the farm economy are even more pronounced. Ohio is 6th in the Nation in terms of corn production and is among the highest in the nation in putting ethanol into gas tanks, over 40 percent of all gasoline sold in Ohio contains ethanol. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State:

Currently, ethanol production provides 192,000 jobs and $4.5 billion to net farm income nationwide;

Passage of this amendment will increase net farm income by nearly $6 billion annually;

Passage of this amendment will create $5.3 billion of new investment in renewable fuel 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 have been built in the last 25 years—the effects of various State responses to the threat of MTBE contamination—including bans and phase-outs on different schedules—will add a significant burden to existing refineries. The MTBE phase-out 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 by 40 percent;

Use of ethanol RFG helped move Chicago into attainment of the federal ozone standard, the only RFG area to see such improvement;

In 2002, ethanol use in the United States reduced greenhouse gas emissions by 4.3 million tons—the equivalent of removing more than 630,000 vehicles from the road.

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 FRS begins at 2.6 billion gallons 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 ten ethanol plants under construction, which when completed will bring the total capacity to more than 3.3 billion gallons.

California has been cited as a major problem area; however, all but two small refiners 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. 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.''

Individual States are banning the use of MTBE, but they cannot change the federal RFG oxygen content requirement. The collision of these two elements under current law will likely lead to higher costs.

Under current law, California's required ethanol use in 2005 would be 895 million gallons. Under this amendment, fuel providers supplying California will be required to use far less ethanol in 2005—291 million gallons. And more importantly, they will benefit from the bill's credit banking and trading provisions.

With the State MTBE ban set for January 2004, New York faces a similar situation. Under the status quo, fuel providers will be required to use 197 million gallons of ethanol in New York in 2005. However, if this amendment is enacted, refiners, blenders and importers would be required to use or purchase credits for even less—111 million gallons of ethanol in 2005.

A study conducted by Mathpro, a prominent economic analysis firm, found that, compared to a situation where States are banning MTBE and the federal RFG oxygen content requirement is left in place, this amendment will lower the average gasoline production cost: by about two-tenths of a cent per gallon.

In addition, this language provide safeguards. In the event that the RFS would severely harm the economy or the environment or would lead to potential supply and distribution problems, the RFS requirement could be reduced or eliminated.

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

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 to 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 2005–2013.

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.

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

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

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

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

increases the benefits from the Federal RFG program on air toxic reductions,

provides states in the Ozone Transport Region and enhanced opportunity to participate in the RFG program because of unique air quality problems,

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 12–19 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.

I also want to point out that the California Environmental Policy Council recently gave ethanol a clean bill of health and approved its use as a replacement for MTBE in California gasoline.

A similar provision has already passed the House of Representatives this year. Virtually the same agreement passed the Senate in April 2002 with 69 votes.

The fuels agreement is supported by the American Petroleum Institute; the

Renewable Fuels Association; the Northeast States for Coordinated Air Use Management (NESCAUM); U.S. Chamber of Commerce; US Action; the Union of Concerned Scientists; the Environmental and Energy Studies Institute; the Governor's Ethanol Coalition; General Motors; the Governors of California and New York; and all of the major agricultural organizations in the United States.

It is time to pass an ethanol bill, and I urge my colleagues to vote yes for America's farmers and this amendment.

Mr. INHOFE. Mr. President, it is important that Congress make available all possible options for refiners to ensure compliance with the renewable fuels standard and decrease chances for gasoline price and supply volatility. One such option for meeting the renewable fuels standard that has shown promise is ethyl tertiary butyl ether ETBE.

ETBE is a High-octane, low-vapor pressure, gasoline-blending component produced from a combination of ethanol and butane. Because both of these raw materials are produced in abundance domestically, ETBE will help expand US gasoline supplies, moderating possible gasoline price volatility.

ETBE is fully fungible with gasoline. This allows ETBE to be blended into gasoline at any point in the gasoline logistical chain and transported in gasoline pipelines to regions of the country where it is more costly to transport and blend ethanol into gasoline. Moreover, ETBE does not have a negative impact on gasoline vapor pressure, making it easier and more cost-effective to blend ETBE into gasoline—especially during the summertime ozone control season when gasoline vapor pressure is restricted.

ETBE reduces more gasoline evaporative and tailpipe emissions, lowers air toxics and carbon monoxide, and provides 20-percent more carbon dioxide emission reduction than other gasoline-blending components.

ETBE is 75 percent less water soluble than MTBE. This means use of ETBE substantially reduces the risks to ground water resources should gasoline leak from an underground storage tank. ETBE also has other physical properties which make it migrate slower and shorter distances—and easier to remediate—should a gasoline spill or leak occur.

I support the development of ETBE because of the benefits it provides for cleaner air, enhanced gasoline supply, and the ability to transport the fuel in the current infrastructure. Congress, in enacting a RFS, should not do anything to preclude its use. The marketplace should be allowed to determine how it will meet the requirements of the RFS.

VOTE ON AMENDMENT NO. 850

The PRESIDING OFFICER. The question is on agreeing to amendment No. 850 as amended. There are to be 2 minutes evenly divided on the amendment.

Mr. REID. Mr. President, we yield back our time.

Mr. DOMENICI. Yes.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote ''no''.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr.INOUYE) are necessarily absent.

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

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—68

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

NAYS—28

| | | |
|---|---|---|
| Allard | Gregg | Santorum |
| Allen | Hollings | Schumer |
| Bennett | Hutchison | Sessions |
| Boxer | Kennedy | Specter |
| Clinton | Kyl | Sununu |
| Cornyn | Lautenberg | Thomas |
| Corzine | Leahy | Warner |
| Enzi | McCain | Wyden |
| Feinstein | Nickles | |
| Graham (SC) | Reed | |

NOT VOTING—4

| | |
|---|---|
| Ensign | Inouye |
| Graham (FL) | Murkowski |

The amendment (No. 850) was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

CHANGE OF VOTE

Mr. CHAMBLISS. Mr. President, on rollcall vote No. 209, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—H.R. 1308

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 52, H.R. 1308; that immediately upon the reporting of the bill, Senator GRASSLEY be recognized to offer a substitute amendment on behalf of himself, Senators LINCOLN, SNOWE, BAUCUS, and VOINOVICH; provided further that there be 30 minutes for debate equally divided between Senators GRASSLEY and BAUCUS or their designees prior to a vote in relation to the amendment, and that no other amendments be in order; provided further that if the amendment is agreed to, the bill be read a third time, and the Senate proceed to a vote on final passage of the bill as amended.

Further, I ask that if the amendment is not agreed to, then H.R. 1308 be placed back on the calendar and that no points of order be waived by this agreement. I further ask consent that following that vote, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 3 to 2.

Finally, I ask unanimous consent that following passage of the bill, the amendment to the title be agreed to.

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

Mr. FRIST. Mr. President, for the benefit of my colleagues, we will have further announcements later in this evening. We would expect to have a final rollcall vote for the week approximately 30 or 40 minutes from now. Although we will have no more rollcall votes after that, we will stay and be available to debate amendments tonight, and we will be in session tomorrow. We expect not to have rollcall votes tomorrow. We will have further announcements later tonight with regard to the schedule tomorrow, as well as Monday.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, first let me compliment the distinguished majority leader for the effort he has made to bring us to this point. Were it not for his effort, we would not have accomplished what we have with this unanimous consent agreement. I appreciate his efforts.

Let me also single out in particular the distinguished Senator from Arkansas. Without her persistence and her effort, now weeks long, we would not be here. She has spoken out with courage and conviction and empathy on behalf of 12 million children, 8 million families who otherwise would be left out of tax relief. The argument that she has made from the beginning has been without this legislation those millions of children and those working families would get no tax relief on July 1. The passage of this legislation today will accommodate that concern, that need.

This will give us an opportunity to send the recommendation to the House. It will send a clear message to working families that we are serious about providing the kind of tax relief that is so necessary for these families if we are going to provide it to others; that it will be available. The refundable child credit assistance can be made available in time for tax relief provided to others as well.

I commend the Senator. I commend the majority leader. I thank my colleagues for this agreement.

I yield the floor.

Mr. DOMENICI. I ask the majority leader, would it be appropriate to dispose of the pending LIHEAP amendment to clear the record for the evening in spite of the unanimous consent request?

Mr. DASCHLE. Mr. President, I assume it has been cleared by the distinguished leader. I have no objection.

Mr. FRIST. We will proceed with that. It makes the most efficient use of everyone's time.

Mr. DOMENICI. We have a Senator who still wants to speak on the pending bill. I assume after the time just provided has expired, we will be back for the distinguished Senator from Colorado to speak to an amendment; is that correct?

Mr. FRIST. Yes.

AMENDMENT NO. 841 WITHDRAWN

Mr. DOMENICI. For the record, under the bill, I withdraw amendment No. 841.

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

The amendment (No. 841) was withdrawn.

AMENDMENT NO. 860 TO AMENDMENT NO. 840

Mr. DOMENICI. I send a new second-degree amendment to the desk on behalf of Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BINGAMAN, proposes an amendment numbered 860 to amendment No. 840.

Mr. DOMENICI. 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 reauthorize LIHEAP, Weatherization assistance, and State Energy Programs)

In lieu of the matter proposed to be inserted, insert the following:

TITLE XII—STATE ENERGY PROGRAMS

**SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.**

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''each of fiscal years 2002 through 2004'' and inserting ''fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006''.

**SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.**

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking ''125'' and inserting ''150'', and

(1) in paragraph (7)(C), by striking ''125'' and inserting ''150''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting '', $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.''.

**SEC. 1203. STATE ENERGY PLANS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

STATE ENERGY EFFICIENCY GOALS

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting '', $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.''.

LIHEAP

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the distinguished Chairman and Ranking Member of the Health, Education, Labor and Pensions Committee. I am pleased, colleagues, that we have been able to reach consensus on the need to include in this bill an increase in the authorization level for the Low-Income Home Energy Assistance (LIHEAP) program from $2 billion to $3.4 billion. With power costs on the rise around this nation, it is imperative that the Senate act now to respond to the needs of the 85 percent of eligible families that today do not receive the help they so desperately need, due to the perennially under-funded nature of the LIHEAP program.

There is another issue relevant to the LIHEAP program, however, that I hope the Senate will soon consider. I believe that we must address the manner in which the Department of Health and Human Services—and, of course, the Office of Management and Budget—have traditionally administered the ''contingency'' portion of the LIHEAP program. While the bulk of LIHEAP dollars are distributed to states via block grants and in accordance with a statutory formula, Congress has also authorized—and appropriated funds to—a contingency fund, designed to ''meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency.'' This money is not released according to formula—but solely at the discretion of the HHS Secretary.

Unfortunately, recent history suggests that there are problems with the way the ''contingency'' portion of LIHEAP is administered. In essence, there seem to be widely varying eligibility rules applied to the release of these contingency funds—leading to instances in which HHS has overlooked very real energy emergencies, including the recent power crisis in my home state of Washington.

I believe that clear rules for the release of these dollars will ensure that, in the unfortunate event of an energy emergency, low-income families will receive much-needed assistance in keeping the lights and the heat turned on—which is precisely what Congress intends when it appropriates money to the LIHEAP contingency fund. During mark-up on this bill in the Energy and Natural Resources Committee, Sen. SMITH and I added language—adopted unanimously-seeking to put guidelines around the release of these emergency LIHEAP funds.

However, I understand that the distinguished Chairman, Senator GREGG, and Ranking Member, Senator KENNEDY, intend to reauthorize the LIHEAP program in their Committee this year and examine very closely the administration of these contingency funds. I believe the language that Senator SMITH and I authored would go a long way toward adding clarity to the process, and I would be exceptionally pleased to work with the Chairman on this and other proposals to reform the LIHEAP emergency program to ensure it is as responsive as possible to the very real needs of low-income Americans.

Mr. GREGG. I thank the Senator from Washington for her comments. I agree that the manner in which LIHEAP contingency funds are distributed should be examined. I would be happy to work with the Senator on this important matter as the H.E.L.P. Committee works towards reauthorization of this program in the coming months.

Mr. KENNEDY. I also believe the Senator from Washington makes a very good point about the administration of LIHEAP emergency funds. I too would be happy to work with the Senator on including language to address her concerns when the Committee debates LIHEAP reauthorization later this year.

Mr. DOMENICI. I ask unanimous consent that the second-degree amendment be adopted and the underlying first-degree amendment No. 840, as amended, be agreed to.

Mr. REID. Mr. President, I ask consent following the disposition of the unanimous consent agreement dealing with the child tax credit, the Senator from Louisiana, Ms. LANDRIEU, be recognized to speak on LIHEAP. She

wanted to speak before the vote but this would be fine.

Mr. DOMENICI. Five minutes?

Mr. REID. Probably 10 minutes. I am sure she can complete a statement in 10 minutes.

Mr. DOMENICI. Senator CAMPBELL has been waiting for a long time. He has an amendment on the underlying bill.

Mr. REID. She can speak after he offers his amendment. He will not speak that long.

Mr. CAMPBELL. That is all right.

Mr. REID. How long will you speak?

Mr. CAMPBELL. I am going to speak for 15 or 18 minutes.

Mr. REID. She has waited around here all day to speak on LIHEAP. Why not limit her time to 5 minutes; that should be adequate.

Mr. DOMENICI. I yield the floor.

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

The amendment (No. 860) was agreed to.

The amendment (No. 841), as amended, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

## TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1308.

The legislative clerk read as follows:

A bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

AMENDMENT NO. 862

(Purpose: In the nature of a substitute)

Mr. GRASSLEY. 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 Ohio [Mr. GRASSLEY], for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, and Ms. LANDRIEU, proposes an amendment numbered 862.

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

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

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

Mr. GRASSLEY. I am pleased to join my distinguished ranking member, Senator BAUCUS, in the agreement we have reached on the child tax credit. I wish to take a minute to fill in my colleagues on how we are at this place at this time on another tax bill.

In the Finance Committee in the year 2001, Senator SNOWE and Senator LINCOLN added a refundable formula to enhance the child tax credit. This provision lasted through conference. The formula was increased to 15 percent in 2005. President Bush proposed to accelerate the $1,000 tax credit amount but did not accelerate the refundability formula.

In the Finance Committee, we accelerated the refundability formula. Unfortunately, that provision was dropped in conference. At that disappointing moment and at times since, I have indicated that I would like to revive that formula. I was joined by several Finance Committee members and both leaders in attempting to resolve this problem.

I am pleased to say this agreement moves the ball on the marriage penalty and the child tax credit. The relief is small but a start in addressing yet another marriage penalty.

I applaud Senator KAY BAILEY HUTCHISON for her steadfast interest in resolving this other marriage penalty provision.

Finally, our agreement is offset with an extension of customs fees, user fees. I urge the House to respond on our action today.

I would like to get the bill to the President. This will ensure that low-income families get the checks we expect to get out in the next few months that are related to the tax bill that the President signed last week. Without this additional provision we are working on now, we would have families who get an increase in the child credit of $400 per child get a check this summer, but we would not get checks to people who are entitled to the usual refundability because it was not extended.

I would like to do a lot more on the child tax credit. Families should be able to rely on permanent tax relief. That is what the bill I introduced did—not this compromise before the Senate. That is close to what the Senate growth bill did. That is what we should do in the upcoming process on this legislation.

I hope we resolve the refundability formula. We address the marriage penalty and the child tax credit and we make progress on the longer term child tax credit. We simplify the definition of a child. This last measure is the principal recommended simplification of the Tax Code for individuals. This recommendation comes from the Joint Committee on Taxation and the Treasury Department and is something that should have been done a long time ago.

Today we make some major progress on simplifying the Tax Code. Of course, we need to do a lot more. This is what we do as we try to move forward on various pieces of legislation from the Finance Committee.

In this bill we are also going to help those serving in the Armed Forces overseas. Because some of their remuneration is not considered income, they would not benefit from the child tax refund the same way as other people who are not in a war zone. We ought to change that and do change it so everybody is treated fairly.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, is it correct that the order provides for 30 minutes equally divided?

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. I yield 10 minutes to the Senator from Arkansas. I might add, she is the prime mover of this bill. She is the one who made that happen. We are deeply indebted to her.

Mrs. LINCOLN. Mr. President, I give special thanks to my colleague from Montana. There are many people to thank today for moving forward in the right direction, recognizing the working families of this country. I thank Chairman GRASSLEY, who worked tirelessly with us, as well as the ranking member, Senator BAUCUS; certainly the leadership on both sides, Senator FRIST and Senator DASCHLE, who have both been willing to work with all of us to come together on this agreement.

I would also like to say a very special thanks to my colleague, Senator OLYMPIA SNOWE from Maine, who has been a wonderful colleague and certainly someone who has worked equally as hard as I have on this issue. I am very pleased to have worked with her, both now as well as in the past.

If people can go back as far as 2001, they will remember in that 2001 tax bill Senator SNOWE and I worked hard to bring about the refundability of the child tax credit, recognizing and understanding working Americans all across this country, trying to raise their families, were in need of the kind of assistance that refundable child tax credit would bring to them. I am very pleased and honored to have worked with her in the great work she has done in this effort.

I am certainly pleased that we have reached this agreement to restore the advanced refundability for the child credit, for the hard work Senator GRASSLEY has done in bringing about the uniform definition of a ''child'' in the Tax Code. To bring about those kinds of reforms are not easy steps. I think it is one of our first monumental moves in the right direction in which Senator GRASSLEY will lead us in other reforms in the Tax Code.

Certainly this agreement is the culmination of years of effort. I would like to recognize, however, and emphasize particularly the fact that we are helping working parents and working families. I know there are some critics out there who have referred to these provisions as welfare. I just find that description so disheartening, since we are talking about 200,000 military families, hundreds of firefighters, and teachers, and other hard-working Americans. I don't think of them, or view them, as welfare recipients. I don't think they think of themselves that way.

These are taxpayers. They are hard-working families who pay sales tax, both State and local. They have payroll taxes that come out of their checks. They pay excise tax, and in

many of our rural States that is an awful lot when they travel for miles to get from their homes to their jobs.

It is so important for all of us to recognize that these taxes these individuals are paying are in equal proportion, many times, to many of the other people in different income and tax brackets, but these are taxes that never see cuts. Rarely do we see a cut in a sales tax or in the payroll tax, certainly, or in the State and local sales tax. In the excise taxes? We don't see cuts in these areas.

Therefore, it is so important that we provide the kind of assistance we can for these working families, to make sure they are going to be able to help stimulate this economy and certainly to help strengthen our country.

The news reports that followed the passage of the tax bill noted that families do receive a check of $400 in July. But they did neglect to mention those 12 million children who would not get those checks. I am so pleased that today we are recognizing it is not only an important issue to deal with, providing these 12 million children the kind of resources they need in their families to grow strong, to learn the values we want them to learn, to become good citizens and leaders and workers in this great Nation, but we are also recognizing the fairness of this issue in a timely way.

I encourage my colleagues in the House in that they have that same opportunity to recognize this is a timely issue. If we want these working families to have that same benefit, to be able to receive that tax credit, that child benefit credit in the same timely way that other individuals will receive that tax relief, then we have to do it immediately. We do have to move forward quickly.

I encourage my colleagues in the House to really take to heart the immediacy of this issue and help us move it forward quickly. The passage of this provision today is the first step in ensuring those 12 million children will also get that $400 check, or whatever check they are entitled to—and it might be more—in July, at the same time others do. Time is definitely of the essence. I call on the Members of the other body to act quickly on this bill and ensure that all of our working families will benefit.

The uniform definition of the child, as I mentioned, through Chairman GRASSLEY's efforts and certainly those of many others, Senator HATCH and Senator BAUCUS, is a great inclusion in this measure.

In short, this is a targeted tax provision to help working families. It is what I have argued since we began this round of tax discussions in January, and I hope we can continue in that vein.

People ask, why is it so important? For me, that question is a very easy one to answer. Nearly half of the taxpayers in Arkansas have adjusted gross incomes of less than $20,000. Arkansas families were among some of the hardest hit when the refundable portion of the child credit was stripped from the bill. That is why it is important to me. It was important enough to bring up this issue and certainly to readdress something that did not happen in that original tax bill.

Mr. President, 76,000 Arkansas families, 132,000 Arkansas children, were left behind in that final tax bill when it was signed. If that is not reason enough for me to cause a ruckus or to be persistent, I don't know what is. I appreciate the accolades from my colleagues, but really what is more important—I think it is essential that we recognize, when we take actions such as the recent tax bill, there is a lot of importance in the details. We have to recognize that when we do not pay attention to the details, there are many individuals who get left behind, who are not going to receive those benefits. This is one of those cases.

I say to my colleagues, this is not about trying to create more debt for these children who will also inherit that debt later on; this is about taking something we could have done and we didn't, taking something we could do better, acknowledging it, and moving forward with the actions that will create that better circumstance for working families.

That is why I have been working so hard these past few weeks—and for the last 3 years—recognizing what it means to the families in Arkansas.

It is also important for all of us in the Senate, and in the Congress, as we move forward on very important legislation, such as the tax bill that was just signed into law, to put ourselves in the shoes of these families. We talk about raising our families. We talk about raising our children. We talk about what it takes to create a family atmosphere that is focused on values, that is focused on good manners, is focused on compassion and being part of a community, reaching out to one another. It means, too, that each of us has to recognize all of our families are faced with different circumstances, whether it is military personnel stationed in Iraq and leaving a wife and two children at home; whether it is a schoolteacher or a firefighter; whether it is a police officer, many of whom fall into this category that was left out—these who make $10,500 to $26,625. That doesn't seem to be a category that would include that many, but it does. These are essential people in our communities, those who are protecting us from fire and from criminal activity, those who are teaching our children, those who are stationed abroad and protecting our very freedoms. So it is so critical we put ourselves in their shoes and better understand what it is they are doing for their families.

I have to say I have a good opportunity because when I take care of my family, I try to stop and think: Are there other mothers out there doing the same thing I am? Is it any different for a mother who is in the Senate than it is for a mother who is making $20,000, when you go to the store and you have to spend that week's paycheck on blue jeans and tennis shoes, a set of tires to make your automobile safe to get your children to and from school or yourself to and from work? There is not a lot of difference, regardless of who you are. Giving these individuals the ability to take care of those family needs is critical.

We have not even talked about the aspect of how this can be a stimulative partner in what this overall tax bill was meant to do. It was meant to stimulate the economy. Why do we want to stimulate the economy anyway? We want to stimulate the economy because we want to strengthen our country, because we believe in this country and we believe in what makes up this country. There is no better place to look, in order to do that, than the American family.

So I praise my colleagues today for recognizing that there are a world of families out there we can help today—mothers and fathers, working hard, playing by the rules at their jobs. They are not eligible for these credits unless they are working, unless they are bringing home earnings, and unless they have children.

There is a whole group of individuals we could help here by giving them the opportunity to give something back to their country in strengthening this economy. Who else is going to be there to purchase the majority of items that will spur our economy and spur those companies that need to be driven?

In conclusion, I applaud all of my colleagues. This has been a unified effort among many people to try to do the right thing. I think, after all, that is what we are here in the Senate to do—the right thing on behalf of the working families of this great Nation.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield the Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am going to vote against this amendment.

I want to state a few things. I would like to correct the RECORD and state a few facts. I have heard some people say this provision was stripped out of a provision in the tax bill and it therefore left low-income people without any benefits from President Bush's tax cut. That is factually inaccurate. The fact is that in the year 2001 we passed a tax bill, and many of the people who complained mostly about this provision voted against the 2001 bill and the 2003 bill. Now they come back and say: You didn't do enough in this one category.

We did a lot for low-income people. We reduced the tax rate from 15 percent to 10 percent. And we did it retroactively, well after we passed the bill.

We reduced that rate by a third—15 percent to 10 percent—and did it retroactively. We reduced every other rate on the books by 1 percentage point. I just mention that. We did a lot.

We increased the standard deduction by 20 percent. We increased the child tax credit from $500 to $1,000. It was $600. In the 2003 bill which the President just signed, we made it $1,000. That benefits families. It disproportionally benefits low-income people. We took millions of people off the tax rolls. They didn't have to pay taxes as a result of the fact that we reduced rates. And we passed tax credits. After we passed tax credits, millions of people who were taxpayers were no longer taxpayers.

Then we get into the issue of refundability. We already have an unearned income tax credit, which is one of the most plagued, inaccurate programs we have in the Federal Government. It is about a $30 billion-a-year program. Its error rate is in the 20-some-odd percent range. About a fourth of it is in error. There is a lot of fraud. There are a lot of inaccuracies. People claim children they don't have so they can get a bigger refund. Maybe some of it was inaccurate and maybe some if it was on purpose.

Some people say the Bush tax cut didn't benefit low-income families. That is factually incorrect. Let me give you an example. Before the Bush tax cut, if you had a low-income couple and both made minimum wage with a combined income of $21,000, they had personal exemptions—talking about, let us say, a family of four—$12,200; a standard deduction of $7,900; their taxable income is $850 at 15 percent tax; their income tax was $128; and for their earned income credit, we would write a check for $2,888. They received a net income tax refund of $2,761. Somebody said they pay payroll taxes. Yes, they could. That is a total of $1,607. So they received $1,154 after they paid income taxes and payroll taxes.

That was before President Bush's 2001 or 2003 tax bill passed. After the bills we just passed, they will receive a net refund in excess of income taxes and Social Security taxes of $2,332. That is a 102-percent increase. That is what the Government is writing them a check for. That is the amount left over after they paid income taxes and payroll taxes.

The question we are now really debating is, Do we want to have the Federal Government write bigger checks, and have bigger negative income taxes? Do we want to try to make the Income Tax Code more progressive? Usually when they say that, they mean lower income people pay a greater percentage.

Under present law, the upper 5 percent of the income tax bracket pay 50 percent of the tax; the lower 50 percent of the income tax bracket pay 5 percent of the tax. Yet some people say that is not progressive enough; that we need to have Uncle Sam write bigger checks to people even in multiples of their payroll taxes and income taxes combined—not equal to, not balancing out payroll taxes, but we want to write them in multiples.

Part of this amendment says let us increase the refundability far in excess of payroll and income taxes. I don't support that theory. That was in fact in the 2001 bill. Part of the tax bill we agreed to said we would have a percentage. The child tax credit would be refundable—10 percent. And, oh yes, in the year 2005, we would make that 15 percent.

The amendment on which we are going to vote would accelerate that reduction to 15 percent immediately. That would probably happen. It could have happened. It actually passed the Finance Committee and passed the floor of the Senate. Had we had greater support for the bill, it could have been in the conference report.

I hope before final passage, we can make the child credit permanent. I hope when the bill comes back from conference, we will make permanent a $1,000 tax credit for all individuals. Then we can make this change in addition.

I ask unanimous consent that the information titled ''Family of Four With Two Minimum Wage Workers'' be printed in the RECORD, along with the ''Child Credit/EIC Effect on Tax Burden'' information.

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

FAMILY OF FOUR WITH TWO MINIMUM WAGE WORKERS

| | |
|---|---|
| PRE-2001 BUSH TAX CUT | |
| Wages | $21,000 |
| Personal exemptions | (12,200) |
| Standard deduction | (7,950) |
| Taxable Income | 850 |
| Tax rate | [1]15 |
| Income Tax Before Credits | (128) |
| Earned income credit | 2,888 |
| Refundable child tax credit | ..... |
| Net Income Tax | 2,761 |
| Payroll taxes | (1,607) |
| Net Refund in Excess of All Taxes | 1,154 |
| UNDER 2001 BUSH TAX CUT | |
| Wages | $21,000 |
| Personal exemptions | (12,200) |
| Standard deduction | (9,500) |
| Taxable Income | ..... |
| Tax rate | [1]10 |
| Income Tax Before Credits | ..... |
| Earned income credit | 2,888 |
| Refundable child tax credit | 1,050 |
| Net Income Tax | 3,938 |
| Payroll taxes | (1,607) |
| Net Refund in Excess of All Taxes | 2,332 |
| Increase | [1]102 |

[1] Percent.
Staff estimates based on 2003 tax parameters, June 4, 2003.

CHILD CREDIT/EIC EFFECT ON TAX BURDEN

| Wage income | Tax before credits | EIC | Child credit | Net income tax | Payroll tax | Net taxes |
|---|---|---|---|---|---|---|
| HEAD OF HOUSEHOLD—TWO KIDS | | | | | | |
| 2,000 | ..... | (800) | ..... | (800) | 153 | (647) |
| 4,000 | ..... | (1,600) | ..... | (1,600) | 306 | (1,294) |
| 6,000 | ..... | (2,400) | ..... | (2,400) | 459 | (1,941) |
| 8,000 | ..... | (3,200) | ..... | (3,200) | 612 | (2,588) |
| 10,000 | ..... | (4,000) | ..... | (4,000) | 765 | (3,235) |
| 12,000 | ..... | (4,204) | (150) | (4,354) | 918 | (3,436) |
| 14,000 | ..... | (4,204) | (350) | (4,554) | 1,071 | (3,483) |
| 16,000 | ..... | (3,942) | (550) | (4,492) | 1,224 | (3,268) |
| 18,000 | 185 | (3,522) | (750) | (4,087) | 1,377 | (2,710) |
| 20,000 | 385 | (3,102) | (950) | (3,667) | 1,530 | (2,137) |
| 22,000 | 585 | (2,682) | (1,150) | (3,247) | 1,683 | (1,564) |
| 24,000 | 785 | (2,262) | (1,350) | (2,827) | 1,836 | (991) |
| 26,000 | 985 | (1,842) | (1,550) | (2,407) | 1,989 | (418) |
| 28,000 | 1,278 | (1,422) | (1,750) | (1,894) | 2,142 | 248 |
| 30,000 | 1,578 | (1,002) | (1,950) | (1,374) | 2,295 | 921 |
| 32,000 | 1,878 | (582) | (2,000) | (704) | 2,448 | 1,744 |
| 34,000 | 2,178 | (162) | (2,000) | 16 | 2,601 | 2,617 |
| 36,000 | 2,478 | ..... | (2,000) | 478 | 2,754 | 3,232 |
| 38,000 | 2,778 | ..... | (2,000) | 778 | 2,907 | 3,685 |
| 40,000 | 3,078 | ..... | (2,000) | 1,078 | 3,060 | 4,138 |
| 42,000 | 3,378 | ..... | (2,000) | 1,378 | 3,213 | 4,591 |
| 44,000 | 3,678 | ..... | (2,000) | 1,678 | 3,366 | 5,044 |
| 46,000 | 3,978 | ..... | (2,000) | 1,978 | 3,519 | 5,497 |
| 48,000 | 4,278 | ..... | (2,000) | 2,278 | 3,672 | 5,950 |
| 50,000 | 4,578 | ..... | (2,000) | 2,578 | 3,825 | 6,403 |
| MARRIED—TWO KIDS | | | | | | |
| 2,000 | ..... | (800) | ..... | (800) | 153 | (647) |
| 4,000 | ..... | (1,600) | ..... | (1,600) | 306 | (1,294) |
| 6,000 | ..... | (2,400) | ..... | (2,400) | 459 | (1,941) |
| 8,000 | ..... | (3,200) | ..... | (3,200) | 612 | (2,588) |
| 10,000 | ..... | (4,000) | ..... | (4,000) | 765 | (3,235) |
| 12,000 | ..... | (4,204) | (150) | (4,354) | 918 | (3,436) |
| 14,000 | ..... | (4,204) | (350) | (4,554) | 1,071 | (3,483) |
| 16,000 | ..... | (3,942) | (550) | (4,492) | 1,224 | (3,268) |
| 18,000 | ..... | (3,522) | (750) | (4,272) | 1,377 | (2,895) |
| 20,000 | ..... | (3,102) | (950) | (4,052) | 1,530 | (2,522) |

CHILD CREDIT/EIC EFFECT ON TAX BURDEN—Continued

| Wage income | Tax before credits | EIC | Child credit | Net income tax | Payroll tax | Net taxes |
|---|---|---|---|---|---|---|
| 22,000 | 30 | (2,682) | (1,150) | (3,802) | 1,683 | (2,119) |
| 24,000 | 230 | (2,262) | (1,350) | (3,382) | 1,836 | (1,546) |
| 26,000 | 430 | (1,842) | (1,550) | (2,962) | 1,989 | (973) |
| 28,000 | 630 | (1,422) | (1,750) | (2,542) | 2,142 | (400) |
| 30,000 | 830 | (1,002) | (1,950) | (2,122) | 2,295 | 174 |
| 32,000 | 1,030 | (582) | (2,000) | (1,552) | 2,448 | 897 |
| 34,000 | 1,230 | (162) | (2,000) | (932) | 2,601 | 1,670 |
| 36,000 | 1,445 | ..... | (2,000) | (555) | 2,754 | 2,199 |
| 38,000 | 1,745 | ..... | (2,000) | (255) | 2,907 | 2,652 |
| 40,000 | 2,045 | ..... | (2,000) | 45 | 3,060 | 3,105 |
| 42,000 | 2,345 | ..... | (2,000) | 345 | 3,213 | 3,558 |
| 44,000 | 2,645 | ..... | (2,000) | 645 | 3,366 | 4,011 |
| 46,000 | 2,945 | ..... | (2,000) | 945 | 3,519 | 4,464 |
| 48,000 | 3,245 | ..... | (2,000) | 1,245 | 3,672 | 4,917 |
| 50,000 | 3,545 | ..... | (2,000) | 1,545 | 3,825 | 5,370 |

Staff estimates based on 2003 tax parameters, provided by Senator Don Nickles, June 4, 2003.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. I yield the Senator from Texas 2 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am certainly going to support this bill and this vehicle. But I did hold it up for a few hours because I am concerned that we are not able to put marriage penalty relief in a permanent position on this bill. However, I have an agreement with the majority leader that he will bring it up this year. Working with the distinguished chairman of the committee, and hopefully with the ranking member, we must fix the marriage penalty.

What we have today is a situation in which we relieve the marriage penalty for 2 years, then for 4 years it comes back, then 2 years later it goes away, and then it comes back for good. This is outrageous. Our married couples do not need a rubber band; they need a Band-Aid. They need to be able to know that when they get married, it is not going to cost them $1,200 a year.

Two Navy lieutenants will lose more than $1,500 a year if the marriage penalty goes away in 2 years; two Army warrant officers will lose $852 a year. This is not right. I have the commitment from leadership that we will take up a bill this year that fixes this inequity, and I hope there will be a bipartisan effort. We cannot let people be unsure about their marriage penalty relief.

I thank the distinguished chairman of the Finance Committee and ask him if he will work with me to ensure that we take this up this year so we can get on and fix the child tax credit. Next on the agenda I hope will be marriage penalty relief.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I was a party to the conversation with the majority leader and the Senator from Texas. She has accurately stated what was discussed at that meeting. I will try my darnedest to fulfill it.

Mrs. HUTCHISON. Thank you, Mr. President. I appreciate it very much. We will have marriage penalty relief permanent this year. And we will have child tax credit relief permanent, I hope, in the very near future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield the Senator from Maine 2 minutes.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I thank Chairman GRASSLEY for all of his efforts and endeavors to move quickly to address this omission in the growth package that passed the U.S. Congress recently. I appreciate the fact that he has worked hard to assist us in reaching an agreement on this vital issue.

I also express my appreciation to the Senator from Montana, Mr. BAUCUS, in making the difference in bridging all of the efforts to reach this decision today in passing this legislation.

I especially thank my colleague, Senator LINCOLN, who has been a champion in this fight, both in the Senate Finance Committee on this issue and also on the refundability issue back in the 2001 tax cut, in which we included a refundable provision for the child tax credit. She certainly has been a strong ally and supporter, and I appreciate all of the efforts she has been involved in to make sure this accelerated refundability is a reality.

I am pleased to have worked with all of my colleagues on this issue. I know it was not easy. There are differences on both sides with respect to some of these issues. But I think in the final analysis we are addressing an inequity that existed in the tax package that we passed in the Congress a few weeks ago. I think this agreement ultimately closes the fairness gap in economic relief for working American families. It ensures that 6.5 million families who were left out of the jobs and growth package enacted this year will now benefit from the child tax credit. And by acting so quickly, it will also ensure that these families will share in the rebate checks that qualifying families will receive in August under the growth package as well.

This means 12 million children in low-income families will have the benefit of tax relief under the growth package. I think this is vitally important in redressing this wrong, in making sure we provide the kind of tax relief they deserve.

Now, I heard here that working families don't shoulder the burden in the Federal Tax Code, but that isn't true. They do pay taxes. They pay payroll taxes. In fact, payroll taxes have become an inordinate burden on working families.

The agreement ensures that 6.5 million low-income families who would have been left out of the jobs and growth packages enacted this month will now benefit from the child tax credit. And by acting quickly, it ensures these families will also share in the rebate checks qualifying families will receive in August under the growth package.

This agreement would not have been possible without the tenacious leadership of Senate Majority Leader FRIST, and Minority Leader DASCHLE, who kept negotiations on track so the Senate could complete work this week. So I deeply appreciate their efforts.

I thank my colleague, Senator LINCOLN, who has been a tireless champion in this fight. From the time I first offered the refundable child tax credit to the 2001 tax bill, Sentor LINCOLN has been a strong ally and supporter, and we worked together again this year to include refundability in the Finance Committee-passed growth package. Over the past week I have been proud to work with her once again to ensure families omitted from the child credit would receive the refundable credit they deserve.

I thank Finance Chairman GRASSLEY, who quickly stepped forward last week to address this omission from the jobs and growth package, and has worked so graciously with Senator LINCOLN and me to achieve this agreement. He and Ranking Member BAUCUS have made the difference in bridging differences over this legislation, and we appreciate their sincere efforts.

Today we join to finish the job that Senator LINCOLN and I started in 2001. At the signing of the Economic Growth and Tax Relief Reconciliation Act of 2001, which included the newly created partially refundable child tax credit, I wholeheartedly agreed with the President when he remarked that:

> Tax relief is a great achievement for the American people . . . tax relief is an achievement for families struggling to enter the middle class . . . (and) tax relief is compassionate and it is now on the way.

Those are the same reasons we introduced a bill along with Senators JOHN WARNER, JACK REED, JIM JEFFORDS, and others to ensure that we are as

compassionate today about our tax relief as we were then. This bill is responsible because it is fully offset, and it makes sense because it brings relief to working families while helping our economy.

The Lincoln-Snowe bill incorporated in this package makes the child tax credit refundable for families earing between $10,500 and $26,625, helping 12 million children—6.5 million families—and almost 73,000 children in my home State of Maine from nearly 44,000 families, who would not have received the full benefit under the original bill.

But that is not all—in addition to helping working families we are also talking about military families, and this legislation will treat members of the military and their families more fairly as well. I know that as chair of the Senate Armed Services Committee, Senator WARNER was deeply concerned about omitting the one million children living in active duty military and military veteran families. With this legislation, those families—including 900 in Maine—will now benefit from refundability. The bottom line is, these men and women have sacrificed for us, they deserve the credit—the child tax credit.

Our legislation would accelerate the refundable portion of the child tax credit under law from 10 to 15 percent retroactive beginning January 1 of this year. This would ensure the hard-working mothers and fathers of America, including members of the Armed Forces who earn less than $26,000 per year, will be able to benefit from the increase in the child tax credit that has just become law. It will also ensure the provision of the 2001 law that directly benefits them will also be accelerated as the law enacted last week accelerates all of the other child tax credit provisions.

I know some have said, this is tax relief for people who don't pay taxes. To that argument, I would point out two factors. First, the Federal income tax—while a large share of the tax burden facing Americans, are not the only taxes people pay. In fact, a larger tax burden on low-income workers is the payroll tax. The extent of this burden is exacerbated when one realizes that fully 33 percent of all jobs in my home State, for example, do not pay a livable wage.

Secondly, while I believe that all families could use a helping hand when it comes to paying for the rising costs of raising a family, once again, the children who would benefit from the enactment of this bill are children in working families—families that do pay taxes and, just like everyone else in these trying economic times, these people are struggling to get by.

Consider that, in order to be eligible for the partially refundable credit, a parent needs to surpass an income threshold that is currently at $10,500 per year. That means that a parent needs to work more than just a full-time minimum wage job. However, this provision benefits more than just minimum wage workers. This provision assists some of our younger families. For instance, the base pay for a first-year soldier is $16,000 and it affects workers in our health care and social service sectors, where, for instance, in Maine paramedics in 2001 were only making an average of $22,000, or where our home health aides were making only an average of $18,500 per year. These people are a critical part of our infrastructure and they deserve tax relief too.

That is why I was disappointed the conferees chose to remove this provision from the jobs and growth package—a provision which was included in the bill both as it passed the Finance Committee, and when it was passed by the Senate. Today, we have the opportunity to take a step to correct this inequity.

This bill also addresses provisions included in Chairman GRASSLEY's proposal addressing the definition of a child in the Tax Code, and in addressing a marriage penalty under the original bill. The ''uniform definition of a child'' consolidates five separate definitions of a child in the Federal Tax Code, simplifying and clarifying the law. As a result, more families will more easily qualify for the benefits they need and deserve.

Finally, the agreement will provide relief for married couples with children by addressing a marriage penalty under the existing child credit. Our agreement increases the threshold of the child tax credit for couples with children to $150,000.

Importantly—and in keeping with the principles that have guided me throughout the budget and tax process this year—our bill pays for this tax relief by extending customs user fees that will expire this year and would need to be extended anyway. And in doing so we are not growing our already ballooning national deficit. This is critical in ensuring we do not add the debt burden on the very children that will benefit from this bill.

Mr. President, Senate action today sends the message that relief for hard-working families won't take a back seat in America's tax code. It represents sound policy that Congress has already considered and adopted. It has the support of the White House, and I hope our colleagues in the House of Representatives will take up and pass this agreement promptly so it can be signed into law.

Mr. LAUTENBERG. Mr. President, I rise to express my strong support for the Lincoln-Snowe amendment to H.R. 1308 to reinstate the child tax credit for low-income working Americans.

The House and the Senate went to conference on the reconciliation bill. For the public at large, when we talk about a reconciliation bill, it is kind of arcane. The House and the Senate confer to get a bill together, with each side presenting the views of its Members. I am not sure I am making it more clear, but I want to make sure this is understood. When those conferees got together, they stripped out this tax credit for low-income working people. I thought that was a most outrageous act.

The Bush tax cut bill was already a handout to wealthy elites. It threw token benefits to some others and virtually nothing to working people. Taking out the tax credit for families earning between $10,500 a year and $26,625 a year added outrage to an insult.

When the President was forced, as a result of the agreements in the Congress, to reduce the tax cut to $350 billion, he and the House Republicans had to search for about $30 billion in ''fat'' to cut out of the bill to meet that target. Why didn't they slow down the reduction in the top rate? It is a pretty easy thing to do. What did they do instead? They went after low-income working families.

These are people who are working at or just above minimum wage. These are Americans who are feeding their families by laboring in cafeterias, cleaning offices, working late at night, working in the factories packing food or making clothing, working in retail chains and small stores across the country—jobs that are traditionally at the low end of the pay scale. These people work hard and are a significant part of our labor force.

I know there are those in the administration who do not have any idea what it is like to work for low wages and try to raise a family on them. I learned what it was like from my parents, who were brought here as child immigrants. They knew what it was like and I knew what it was like because my parents were poor. They worked hard and tried to give their children an example of respect for hard work, and to hold out ideals, even though there was little money.

The Lincoln-Snowe amendment is about restoring the American dream. It is about knowing that this country is a fair and honest place, where someone willing to work can still make a living. It is about knowing that this Government and this Congress respect hard work and loyalty to families. The Bush tax bill telegraphed a terrible shift in the message our Government is sending to the country. Despite the once revered view that hard work pays off and breeds respect, President Bush and the House Republicans failed to support that contention to millions of hard-working Americans.

Why did they do it? Why did they drop a tax benefit that would have helped almost 12 million children who have low-income working parents? Why? The tax credit for hard-working minimum wage families was thrown overboard to make room for even more tax cuts for the highest income earners in our country. The cost of the tax credit to low-income families was $3.5 billion—not an insignificant sum by any means. But we could have found

more than that by nicking the reduction to the top income tax rate by just a little bit.

This is the rate the people at the top of the income scale will pay. We are talking about people who make over $1 million a year. We are talking about the top 1 percent of the country, households with average incomes over $350,000 or so. These are the people who are going to profit most from the President's tax cut. We are going to reduce the rate, the income tax rate that they will have to pay.

If we only reduced that top rate to 35.3 percent instead of a flat 35 percent for the years 2003 through 2005, we would have saved $3.9 billion, and the cost of the tax credit for low-income families is $3.5 billion. That is a lot of money. But not in the context of a $350 billion tax cut package; it is only 1 percent. There would have been more than enough to save the child tax credit.

White House spokesmen repeatedly claimed that President Bush's tax bill would provide a tax cut for every American taxpayer. But that was not true. The final bill left out 8 million working Americans and almost 12 million children. The wealthy certainly got their tax cut. It was approximately $90 billion in tax cuts over 10 years that will go to 200,000 households nationwide with annual incomes of $1 million or more. That is about $450,000 per household.

President Kennedy said, ''To govern is to choose.'' To give massive tax cuts to people who are already well off, and then tell hard-working, low-income families, ''Sorry, there is nothing left for you,'' is awful. That is not a choice I want America to make.

Fortunately, after some gentle pressure from the media and outraged constituents, the Republican majority has seen how egregious that plan was and they now support the Lincoln-Snowe amendment. It is about time we did something to help families who are struggling, and not just the fortunate few who are coasting. We have the opportunity to repair some of the harm caused by the President's unfair tax plan with this amendment. I urge its adoption.

Mr. President, I yield the floor.

Ms. COLLINS. Mr. President, I am pleased to be a cosponsor of this amendment offered today by Chairman GRASSLEY, and to add my voice to those of my colleagues who have risen today in support of it. I have long been a supporter of the refundable child credit. I was a leading proponent of the increase in the child tax credit for low-income families that was enacted as part of the 2001 tax bill, and I strongly supported this provision when it was added to the Senate version of the Tax Act passed last month.

The economic growth package the President signed into law last week gives tax relief to all working Americans, including low-income families, many of whom will see a substantial reduction in their taxes. But some low-income families could not receive the benefit of the increased child tax credit that the package provides because the 10 percent earned-income threshold was not accelerated to 15 percent as the Senate version of the package provided. This amendment restores the acceleration of that threshold as this Chamber originally provided.

More than 119,000 Mainers will benefit from the increase in the child tax credit that we approved as part of economic growth package. The action we take today expands the reach of this assistance to thousands more hard-working Maine families. As a member of the Senate Armed Services Committee, I was keenly aware that nearly 200,000 enlisted men and women could claim this credit for their children if we expanded the guidelines. Doing so sends exactly the right message of appreciation as many of them return home from fighting for the cause of freedom in Iraq.

Mr. ROCKEFELLER. Mr. President, I am very pleased to support Senator LINCOLN's legislation to make the recent increase in the child tax credit available to more families. I thank the Senator from Arkansas for her tenacious fight on behalf of America's working families. I was disappointed that the tax cuts passed by this Congress last month left out eight million children whose parents are working everyday and struggling to make ends meet. Today we will begin to correct that injustice.

In West Virginia, there are about 57,000 children whose parents earn between $10,500 and $26,625. While these parents currently receive some benefit from the child tax credit, they do not stand to get any additional benefit based on last month's tax cut. For average families, who don't make money from dividends or capital gains, the child tax credit was the most valuable provision included in the recent tax cut package. The families of 57,000 West Virginia children should not be left out. Let's be clear that these families pay taxes. Payroll tax, sales tax, excise tax, property tax—these families are struggling to make ends meet, and they are paying their fair share in tax.

It seems to me that families who are working hard but earning low wages are just the sort of families we ought to be seeking to help. These parents play by the rules, but struggle to provide the same things that all parents want to provide: enough food, a good home, schoolbooks, new shoes, perhaps a soccer uniform. In addition, we know that providing additional tax relief to these families will stimulate the economy, because these families are likely to immediately spend any additional cash.

During the recent tax cut debate, the Senate was right to increase the amount of the child tax credit that low-income working families could receive. But during partisan negotiations to finalize that tax bill, these families were abandoned in order to provide more tax cuts to wealthy investors. One of the reasons that I opposed the recent tax cut package was that I could not condone a deal that provided $150 billion in tax cuts to wealthy investors but dropped a provision to help our neediest working families that would cost just $3.5 billion. There are a lot of pieces of that deal that I wish we would undo. I realize that we won't. But at least today, by passing Senator LINCOLN's legislation, we will take one important step toward making those tax cuts more fair for America's working families.

The legislation before us today has a number of other important provisions. It will ensure that two single parents would not lose their child tax credit if they got married. The bill also simplifies the tax code, something we should seek to do with every new tax law. I am especially pleased that the bill includes a provision to offset the cost of these new tax cuts. I have serious concerns about the record deficits we face, especially in light of the enormous tax cuts recently enacted. This bill will not add a penny to our national debt.

In short, this is a balanced, responsible, and fair piece of legislation. While this bill does not do everything that I would like to do to improve the child tax credit and truly make it available to all low-income working families, it is still a major improvement on the tax cuts enacted last month. I hope that all of my colleagues will support this bill and send the message to hard working families that are struggling to make ends meet that we are on their side. And I ask all of my colleagues to encourage the House of Representatives to act quickly on this bill so that the President can sign it into law as soon as possible. Refund checks for the child tax credit increase are scheduled to be mailed this summer. If we act quickly we can ensure that an additional 8 million families will receive checks.

Mr. WARNER. Mr. President, I am pleased to join Senator BLANCHE LINCOLN, D–AR, and Senator OLYMPIA SNOWE, R–ME, in proposing important bipartisan legislation to accelerate the refundable portion of the child tax credit to low-income families. As chairman of the Senate Armed Services Committee, I have a special obligation to look after the welfare of the young men and women of the U.S. Armed Forces, up to 200,000 of whom could be eligible for and deserve this tax credit.

Over the past few weeks, we in Congress, have worked hard to pass the economic stimulus package to promote long-term economic stability, and to stimulate investment and new job creation. While these provisions will provide substantial relief to America's families, our work is not yet complete.

Included in the tax package were provisions to immediately increase the Child Tax Credit from $600 to $1,000 an important tax reform that we all support. However, the new law did not

make the necessary technical changes in the refundability component which is necessary for certain low-income individuals to take advantage of the increase. I believe in providing fair and equitable tax relief to all Americans, especially to those raising children, our Nation's future.

Providing tax relief is an important bipartisan achievement. Now we must build on this accomplishment by correcting this oversight and ensure that these hard working families are not ineligible for this needed benefit. The legislation I am cosponsoring will correct the inequity and provide low-income families, those who need it the most, the full tax credit.

The bill accelerates the refundable part of the new $1,000 child tax credit provision from 10 to 15 percent, so American families in the $10,500 to $26,625 income bracket, who were not included in the new tax law, would receive the same benefits as those families with children in other brackets.

The costs attributed to accelerating the child tax credit would be offset by closing corporate tax shelters. However, the important task before the Senate is to correct this oversight and provide these low-income families with fairness and the ability to take advantage of the increase in the child tax credit.

I am also cosponsoring related legislation introduced in the Senate by Finance Chairman GRASSLEY to correct this issue and also to make the child tax credit and the refundable portion of the tax credit permanent law.

It is my hope that we can pass either of these legislative proposals, or any other similar approach, to correct this inequity. We have a responsibility to American families trying to care for their children, using their resources as best they can, to provide fair and equal treatment under the Tax Code.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. Three minutes 42 seconds credited to the Senator from Montana; 28 seconds to the Senator from Iowa.

Mr. BAUCUS. Mr. President, I rise to support the bill offered by my good friend, the senior Senator from Arkansas, Mrs. LINCOLN, and my good friend from Maine, Senator SNOWE. Their legislation ensures that our military and low- and middle-income parents will receive a check from the child tax credit.

The legislation repairs the damage done by the majority in the tax bill conference. Senator LINCOLN was successful in getting this provision included in the $350 billion tax bill that passed the Finance Committee and the Senate. But the provision was specifically stripped out before passage of the final version of the $350 billion tax bill.

Let me give you some examples of who does not benefit from the tax bill that was signed into law by President Bush last week.

First, a 24-year-old single mom with one child. She works hard every day to put food on the table, buy clothes for her daughter, and ensure adequate childcare for her daughter while she is at work.

She makes $15,000 a year. She pays $1,150 per year in payroll taxes. She pays $1,150 in Federal taxes yet gets zero benefit from the recently enacted tax bill. She will not see any check this summer.

Taxes are taxes. I would like to see someone tell her that her payroll taxes are less of a burden to her than an equal amount of income taxes paid by Bill gates.

Senators LINCOLN and SNOWE fixed that problem. The fix means $225 in her pocket this summer.

She sees a big chunk of her paycheck every week getting paid to the Government. She also pays a lot of other taxes—including sales taxes, excise taxes, and property taxes. She deserves equal treatment.

My second example illustrates the impact for military families. The Department of Defense has estimated that there are approximately 192,000 military families who earn between $10,000 and $25,000. And most of those 192,000 military families will not receive any tax relief from the $350 billion tax bill.

To make matters worse, the families of military personnel who are stationed in combat zones are really left out of the big tax cut.

In my second example, a Marine gunnery sergeant with 8 years service is stationed in Afghanistan for the last 6 months of 2002, and in Iraq from January through March of 2003. She has two children.

She receives an annual salary of $32,015 and hazardous duty pay of $150 per month. Because the income earned by our military while they are stationed in a combat zone is not included in taxable income, only $24,000 of her income is subject to tax. Under the bill that was passed last week, the check she gets this summer will only be $150.

I am pleased that at least she will see something. But if the Lincoln child tax credit had been preserved in the $350 billion tax bill, this Marine gunnery sergeant and her family would receive a check for $800 this summer just like the President has promised to other middle-income families. Unless we fix the problem, she will not see a dime of this.

The Lincoln/Snowe legislation ensures that we count a soldier's combat zone compensation for purposes of the child tax credit, even though that income is excluded for purposes of the income tax.

These examples illustrate just how unfair the tax bill was.

The big tax bill was not fair to working Americans or our military personnel. Clearly, the benefits were skewed heavily to the elites of this country.

One of the beauties of America is that we work to treat people equally. But the $350 billion tax bill did not come close to treating all Americans equally. Simply put, it was not fair.

Instead, the choice was made to lower the tax for dividend and capital gain income, rather than extend the child tax credit to hard-working, low-income taxpayers.

The bill that returned from conference—the one that was signed into law—also stripped out other provisions to provide tax relief to those serving our country in the armed services—those serving in Iraq, in Afghanistan, and all across the globe.

It is disturbing that we can pass this tax bill with all these benefits for the elite of our country. But the conferees specifically stripped out a provision that would exempt $6,000 of death benefit payments from income for our military families.

And, they specifically stripped out the child tax credit provision that put money into the hands of our military and lower and middle-income families.

There is no way around it. The big tax bill was simply unfair.

Senators LINCOLN and SNOWE are giving us the chance to right one of the wrongs—without increasing the deficit. Enactment of their legislation ensures that 12 million children are helped.

Without their legislation, the families of 8 million children will see absolutely no benefit from the increased child credit that was signed into law last week. These families will not receive any check this summer.

And, millions more families will see a check much smaller than the $400 promised.

In Montana, 54,000 kids—fully one-quarter of the children in Montana—will not benefit from the $350 billion tax bill. But the Lincoln/Snowe legislation would get a check out—this summer—to the working parents of thousands of Montana children.

Their legislation gets the child tax credit to millions of parents—without saddling their children with huge Government deficits—and without robbing the Social Security trust fund. They fix a $3.5 billion problem, and pay for it.

Unfortunately, some in the Republican leadership considered using this as an opportunity to spend another $130 billion in tax cuts. That was their idea of a ''fix.''

Moreover, they did not intend to pay for these extra tax cuts. Instead they wanted our children and grandchildren and our Nation's seniors to shoulder more of the burden.

In the past couple of days, we have been able to reach an agreement to correct the wrong created with the passage of the recent tax bill. I strongly support the Lincoln/Snowe child tax credit legislation. I urge my colleagues to stand united to get this legislation enacted into law this week. These families should not be asked to wait any longer.

They deserve to get their check this summer—just like all of the parents who were taken care of under the $350 billion tax bill.

This is the right thing to do. This is the fair thing to do. This is the moral thing to do.

Again, I thank the Senator from Arkansas, Mrs. LINCOLN. She has done a terrific job highlighting this issue and the need for this child tax credit provision.

Second, Senator SNOWE, as I have mentioned several times, has been tremendous in championing this cause. And I might say, with regard to the 2001 tax bill, she deserves the lion's share of the credit for the child tax credit provisions that are in that bill.

The chairman of the committee, Senator GRASSLEY, has been, as usual, just his terrific self in working with the various Senators to try to find an accommodation that makes sense.

I also thank Senator WARNER who focused on the impact of this bill on military families. In that respect, the bill will permit thousands of military families, especially those serving in combat zones, to benefit from the child credit. Without this provision in this pending measure, those military families would not get the benefit of the credit.

Finally—I know time is of the essence here—it is imperative that the House act on this matter within 2 weeks so that the checks can get to the millions of families covered by this bill. Otherwise, two sets of checks would have to be sent out, and I think that would be the height of inefficiency and a waste on the part of Uncle Sam. That would be the consequence of the failure of the other body to act within 2 weeks. So I call on the House to act.

I see the Senator from Virginia, the chairman of the Armed Services Committee. I yield the rest of any time I have to him.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the distinguished Senator.

Mr. President, I am not here to in any way suggest what went right, what went wrong. My understanding is there is a reconciliation of viewpoints now. We have before us the opportunity to provide for this child tax credit for a category of individuals who, for reasons that I am certain the record explains, were preempted from the legislation.

Upon learning this, as others did—largely through press accounts—I immediately called my distinguished chairman, Mr. GRASSLEY; I called my distinguished friend from Oklahoma, Senator NICKLES; I called Mrs. LINCOLN and could not get a phone through to Montana, but I made an effort to try to reach you.

Mr. BAUCUS. I beg your pardon.

Mr. WARNER. Rural electrification.

But anyway, Mr. President, I feel very strongly that the men and women of the Armed Forces—some 200,000-plus families—very much need this benefit. They are the ones who have fought in Iraq and Afghanistan and who are all throughout the world taking risks, basically, the enlisted ranks.

I feel strongly that this great institution—the Senate—wants to be on record that one of the reasons to go forward, hopefully, and adopt the measure now pending before us is on behalf of the men and women of the Armed Forces of the United States.

I thank the Chair and I yield back such time as I might have.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Iowa yield back his remaining time?

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield back the remaining amount of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 862.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

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

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—94

| | | |
|---|---|---|
| Akaka | Crapo | Landrieu |
| Alexander | Daschle | Lautenberg |
| Allard | Dayton | Leahy |
| Allen | DeWine | Levin |
| Baucus | Dodd | Lieberman |
| Bayh | Dole | Lincoln |
| Bennett | Domenici | Lott |
| Biden | Dorgan | Lugar |
| Bingaman | Durbin | McCain |
| Bond | Edwards | McConnell |
| Boxer | Enzi | Mikulski |
| Breaux | Feingold | Miller |
| Brownback | Feinstein | Murray |
| Bunning | Fitzgerald | Nelson (FL) |
| Burns | Frist | Nelson (NE) |
| Byrd | Graham (SC) | Pryor |
| Campbell | Grassley | Reed |
| Cantwell | Gregg | Reid |
| Carper | Hagel | Roberts |
| Chafee | Harkin | Rockefeller |
| Chambliss | Hatch | Santorum |
| Clinton | Hollings | Sarbanes |
| Cochran | Hutchison | Schumer |
| Coleman | Jeffords | Sessions |
| Collins | Johnson | Shelby |
| Conrad | Kennedy | Smith |
| Cornyn | Kerry | Snowe |
| Corzine | Kohl | Specter |
| Craig | Kyl | Stabenow |
| Stevens | Thomas | Wyden |
| Sununu | Voinovich | |
| Talent | Warner | |

NAYS—2

| | |
|---|---|
| Inhofe | Nickles |

NOT VOTING—4

| | |
|---|---|
| Ensign | Inouye |
| Graham (FL) | Murkowski |

The amendment (No. 862) was agreed to.

Mrs. LINCOLN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill, as amended, having been read the third time, the question is, Shall it pass?

The bill (H. R. 1308), as amended, was passed, as follows:

*Resolved,* That the bill from the House of Representatives (H.R. 1308) entitled ''An Act to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Relief for Working Families Tax Act of 2003''.*

***TITLE I—CHILD TAX CREDIT***

***SEC. 101. 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) ADVANCE PAYMENT.—Subsection (b) of section 6429 of such Code (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 first parenthetical therein.''.*

*(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.*

*(b) EFFECTIVE DATES.—*

*(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.*

*(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) 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. 102. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.***

*(a) IN GENERAL.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—*

(1) by inserting ''($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)'' after ''$110,000'', and

(2) by striking ''$55,000'' in subparagraph (C) and inserting ''½ of the amount in effect under subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 103. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.**

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

## TITLE II—UNIFORM DEFINITION OF CHILD

**SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.**

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

**''SEC. 152. DEPENDENT DEFINED.**

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

''(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

''(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

''(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(6) CROSS REFERENCES.—

***''For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).''.***

***SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.***

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

***SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.***

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

***SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.***

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

***SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.***

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) of such Code is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

***SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.***

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

***SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.***

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

*(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and*

*(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.*

*(3) Section 21(e)(6)(B) of such Code is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.*

*(4) Section 25B(c)(2)(B) of such Code is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.*

*(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.*

*(B) Section 51(i)(1)(C) of such Code is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.*

*(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.*

*(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(10) Section 120(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.*

*(11) Section 125(e)(1)(D) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(12) Section 129(c)(2) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.*

*(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.*

*(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.*

*(15) Section 170(g)(1) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.*

*(16) Section 170(g)(3) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.*

*(17) Section 213(a) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(18) The second sentence of section 213(d)(11) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.*

*(19) Section 220(d)(2)(A) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(20) Section 221(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.*

*(21) Section 529(e)(2)(B) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.*

*(22) Section 2032A(c)(7)(D) of such Code is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.*

*(23) Section 2057(d)(2)(B) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.*

*(24) Section 7701(a)(17) of such Code is amended by striking ''152(b)(4), 682,'' and inserting ''682''.*

*(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.*

*(26) Section 7703(b)(1) of such Code is amended—*

*(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and*

*(B) by striking ''paragraph (2) or (4) of''.*

***SEC. 208. EFFECTIVE DATE.***

*The amendments made by this title shall apply to taxable years beginning after December 31, 2003.*

***TITLE III—CUSTOMS USER FEES***

***SEC. 301. EXTENSION OF CUSTOMS USER FEES.***

*Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2010''.*

Amend the title so as to read: ''An Act to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.''.

The PRESIDING OFFICER. Under the previous order, the amendment to the title is agreed to.

The title was amended so as to read:

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.

## ENERGY POLICY ACT OF 2003—CONTINUED

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Colorado.

AMENDMENT NO. 864

(Purpose: To replace ''tribal consortia'' with ''tribal energy resource development organizations,'' and for other purposes)

Mr. CAMPBELL. Mr. President, 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 Colorado [Mr. CAMPBELL], for himself and Mr. DOMENICI, proposes an amendment numbered 864.

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

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

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

Mr. CAMPBELL. Mr. President, it is an indisputable fact that Indian country contains some of the richest energy resources in the America.

Indian lands comprise approximately 5 percent of the land area of the United States, but contains an estimated 10 percent of all energy reserves in the United States, including: 30 percent of known coal deposits located in the western portion of the United States; 5 percent of known onshore oil deposits of the United States; and 10 percent of known onshore natural gas deposits of the United States.

Coal, oil, natural gas, and other energy minerals produced from Indian land represent more than 10 percent of total nationwide onshore production of energy minerals.

Even though in one year alone over 9.3 million barrels of oil, 299 billion cubic feet of natural gas, and 21 million tons of coal were produced from Indian land, representing $700 million in Indian energy revenue, the Department of the Interior estimates that only 25 percent of the oil and less than 20 percent of all natural gas reserves on Indian land have been fully developed.

It is ironic that many Indian people were forced on to the most arid, barren, and least productive lands in the 1800s and now they find themselves resource rich.

Despite what we may read in the Washington Post or the New York Times about the so-called rich Indians and Indian gambling, it is also indisputable that Indians are the most economically deprived ethnic group in the United States. Unemployment levels are far above the national average, in some cases as high as 70 percent. Per capita incomes are well below the national average. They have substandard housing, poor health, alcohol and drug abuse, diabetes, amputations, and a general malaise and hopelessness, even suicide among Indian youngsters.

In fact, in some reservations it is not uncommon to find one out of every two teenage girls and one out of every three boys who attempt suicide driven by despair and a dead end future. In that context, this amendment I am offering today tries to give them some help.

Given the extent of the economic deprivation in Indian country and the vast potential wealth residing in energy resources which could ameliorate this deprivation, it has long been a puzzle why these resources have not been more fully developed.

The answer lies partly in the fact that energy resource development is by its very nature capital intensive. Most tribes do not have the financial resources to fund extensive energy projects on their own and so must partner with private industry, or other outside entities, by leasing out their energy resources for development in return for royalty payments.

The unique legal and political relationship between the United States and Indian tribes sometimes makes this leasing process cumbersome.

As with most Indian law and policy, history plays an important part. Towards the end of the 19th Century, Indian tribes were forcibly removed to isolated areas and reservations where it was believed they would not hinder the westward expansion of a new and growing country.

The natural resources contained on these lands were taken into trust by the Federal Government to be administered for the benefit of Indian tribes. The ostensible reason for the trust was the belief that Indians were incapable and incompetent of administering such resources, and would be susceptible to land and resource predators.

By the way, that belief was prevalent with a lot of people in American Government and led the Surgeon General at the time to issue a request to the U.S. Army that Indian skulls be sent to DC to study and find out if Indians had the intelligence to own their own land. That, in turn, gave rise to the saying among modern Indian people that there are more dead Indians in Washington, DC, than live ones, because until the last couple of years there were over 16,000 remains, primarily skulls and upper body bones, warehoused in the Smithsonian. Just a few years ago, we passed a Museum of the American Indian bill, and one provision of that required that the Smithsonian and other Federal agencies start returning those bones.

A legal and bureaucratic apparatus was formed to administer this trust, and over a century later this apparatus remains in place in the Interior Department.

In her capacity as trustee of Indian resources, the Secretary of the Interior is required to examine all leases of Indian trust resources, to ensure that the terms of the lease benefit the tribe, and to ensure that the trust asset is not wasted.

The Committee on Indian Affairs has been informed over the year that the Secretarial approval process is often so lengthy that outside parties, who otherwise would like to partner with Indian tribes to develop their energy resources, are reluctant to become entangled in the bureaucratic red tape that inevitably accompanies the leasing of Tribal resources.

Hence, the framework that was originally designed to protect tribes has become an obstacle to development of Tribal resources, in that the bureaucratic impediments of trust administration are now a disincentive to outside investors.

To help remedy these problems, earlier this year I, along with Senator DOMENICI, introduced the Indian Tribal Energy Development and Self Determination Act of 2003 to provide assistance and encouragement to Indian tribes to develop their energy resources.

This was based really on last year's amendment to the Energy conference report, much of the same language. That report, of course, did not emerge from the conference committee and died with the end of the last Congress.

This assistance included:

The establishment of an Indian Energy Office; grants, loans, and technical assistance; capacity building; and regulatory changes to the rules governing the leasing of Indian lands for energy purposes.

At the same time, the Senator from New Mexico, Mr. BINGAMAN, introduced his own Indian energy bill that somewhat mirrored ours.

After the hearing and much debate the best of these two bills were melded together into a composite bill that made up title III of the bill before us now.

The amendment I am offering today contains refinements but not major changes of title III and I would like to walk through these provisions for the benefit of the Members who will be reviewing the RECORD tomorrow.

Section 2601 contains definitions. Its standard definitions section provides definitions for a number of terms including the following:

Director of the Office of Indian Energy Policy; Indian Tribe; and Vertical Integration.

Section 2602, the Indian Tribal Energy Resource Development, authorizes the Interior Secretary to provide assistance to Indian tribes in the form of development grants and grants for obtaining or developing managerial capacity needed for energy purposes.

It provides low-interest loans to Indian tribes and tribal energy development organizations to promote Indian energy development.

Section 2602 also provides assistance to Indian Tribes for purposes of energy efficiency and energy conservation; as well as planning, construction, operation, maintenance of electrical generation facilities on tribal lands.

Section 2603, the Indian Tribal Energy Resource Regulation authorizes the Secretary of Interior to make grants to Indian tribes and tribal energy development organizations to use, develop, administer, and enforce tribal laws governing the development and management of energy resources on their own lands.

This section helps tribes build the capacity, if they do not already have it, to develop their resources in an effective and safe way.

For instance, a tribe could use these funds to develop a tribal energy resource inventory; to carry out feasibility studies necessary to the development of energy resources; to develop and implement tribal laws and technical infrastructure to protect the environment; to train employees engaged in energy development and environmental protection; and other functions related to scientific and technical data development and collection.

Section 2604 establishes a voluntary process for those tribes that choose it to help develop their energy resources.

Under the process, an Indian tribe must first demonstrate to the Secretary of Interior that it has the technical and financial capacity to develop and manage its own resources.

Once it meets this burden, the tribe can negotiate energy resource development leases, agreements and rights-of-way with third parties without first obtaining the Secretary's approval. This will provide streamlining to the leasing process that is now burdened by an extensive Federal regulation I mentioned earlier.

Whether a tribe decides to avail itself of the new procedure in the section or continue under the current system will be entirely at the option and discretion of each tribe. None is required to do so. It is totally voluntary, tribe by tribe.

Under current law, in order to be valid, all leases, business agreements, and rights-of-way involving restricted land must be submitted to and approved by the Secretary of the Interior. Section 2604 of the Campbell amendment provides tribes with the obligation of submitting to the Secretary a proposed government-to-government agreement, a tribal energy resources agreement, sometimes called a TERA—and I will continue using that word for simplicity—that will set forth mandatory provisions for future leases, business agreements, and rights-of-way involving energy development on tribal lands.

Along with the proposed TERA, the tribe will have to make a demonstration to the Secretary that it has the experience and managerial and financial capacity to regulate and develop its own energy resources. If the Secretary approves the TERA, that TERA will govern future development of the tribe's energy resources. The TERA, by virtue of this section, will require tribal leases and agreements to have certain terms, require compliance with all applicable environmental laws, notice to the public, and consultation with the States as to potential off-reservation impacts. The TERA will provide for an environmental review process that will identify all significant impacts, inform the public, and allow the public to comment on the potential environmental impacts before any lease agreement or right-of-way is approved.

The Secretary will be required to review any direct effects of an approval of the TERA itself under NEPA. The subsequent tribal approval of leases, business agreements, and rights-of-way under TERA will not be subject to another review under NEPA. In other words, tribes will not be exempt from NEPA. It will be front-loaded so that the requirements are at the secretarial level, but if that agreement goes through, they will not have to go through the NEPA process two times.

The TERA will also require the Secretary to do an annual trust asset evaluation to modernize the tribe's energy development activities and allow her to reassume the responsibility over those activities if she finds an imminent jeopardy of trust assets. This section gives third parties who have or may sustain a significant adverse environmental impact as a result of the tribe's failure to comply with its TERA the standing to petition the Secretary to review the tribe's activities. This process both protects the tribe's status and certainly does not allow them to circumvent NEPA. If she finds the tribe in violation of TERA, she may suspend the leases or rights-of-way or suspend TERA altogether.

Section 2604 also discusses the Secretary's trust responsibility. It expressly states that the section does not absolve the United States from that responsibility and expressly states that the Secretary will continue to have a trust obligation to protect a tribe when another party to a lease agreement or right-of-way is in breach. It does not affect trust responsibility at all.

Section 2604 provides that the United States will not be liable to any party, including a tribe, for losses resulting in the terms of any lease agreements or right-of-way executed by the tribe pursuant to the approved TERA, which makes sense; Liability follows responsibility. If a tribe makes the leasing decisions, it should certainly be held responsible. If the United States continues to make the leasing decisions, it will continue to be held responsible. If Indian self-determination means anything, it means the right of tribes to make their own decisions and their responsibility to the tribes to live with those decisions.

Section 2605 deals with the Federal Power Marketing Administration. This section authorizes the Bonneville Power Administration and the Western Area Power Administration to encourage Indian energy development through a variety of means. It authorizes the power administrations to purchase power from Indian tribal generators to meet their own needs or energy needs on Indian lands, and it requires that any such power purchase must not cost more than the prevailing market price.

This section also authorizes the Energy Secretary to undertake a power allocation study with a report due within 2 years of the enactment of the title.

Section 2606 deals with Indian mineral development review. This section authorizes the Interior Secretary to undertake a review of all activities conducted under the Indian Mineral Development Act of 1982 and to report the results of that review to Congress. Included in the study would be recommendations for overcoming the barriers to greater mineral development on Indian lands, such as legal barriers, physical barriers, market barriers, and others.

Section 2607 authorizes the Energy Secretary, in tandem with the Interior Secretary and the Army Corps of Engineers, to undertake a feasibility study of developing a demonstration project that uses wind energy generated by tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply area to the Western Area Power Administration. A report of this study is due within 1 year of enactment.

That is the substance of this amendment. It is very important that the choice of the tribes is upheld, and it certainly is whether you want to participate or not.

For the record, I ask unanimous consent to have letters of support printed in the RECORD, including from the National Congress of American Indians which has over 300 tribal members, and the Council of Energy Resource Tribes with over 50 Members, and several letters from individual tribes, including the Chickasaw and the Cherokee.

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

NATIONAL CONGRESS OF AMERICAN INDIANS,
*June 2, 2003.*

Senator BEN NIGHTHORSE CAMPBELL,
*Chairman,*
U.S. Senate, Committee on Indian Affairs, Hart Office Building, Washington, DC.

DEAR SENATOR CAMPBELL: This letter is to offer general support for the Indian Tribal Energy Development and Self-Determination Act of 2003 (Title III). Since the release of your mark in April, NCAI has been working feverishly to offer a solution to the concerns expressed by tribal representatives. NCAI engaged in this effort so that we could provide general support for this significant piece of legislation once these concerns were addressed. Through this collaborative process, we believe this legislation has the potential to enhance economic development initiatives and will be of great benefit to economic development in Indian country.

As you may be aware, concerns were raised by a number of tribes and tribal advocates regarding some provisions of the Chairman's mark for this measure. We shared in their concern regarding provisions that significantly limit the United State's liability and release the Secretary of Interior from any accountability to Indian tribes for actions that she is required to undertake pursuant to the legislation. Additionally, we were concerned about the definition of ''tribal consortium'' which differed greatly from the definition that is traditionally employed in legislation affecting Indian tribes and offers federal money to non-tribal entities that should be going to Indian tribes. In addition to these two central concerns, we were not satisfied with provisions pertaining to environmental review and we had some general drafting-related issues.

Given these concerns, NCAI has convened several conference calls with tribal representatives including the Navajo Nation. Council of Energy Resources Tribes, and the International Council on Utility Policy, and developed a series of tribal recommendations for modifying Title III. We also convened with your staff and Senate Energy and Natural Resources Committee staff to discuss the tribal recommendations. Thereafter, your staff held a conference call for those same representatives and staffers from the Senate Energy and Natural Resource Committee. Although we are pleased that we were able to craft better language for the trust responsibility provisions, we are still concerned with some of the limitations.

Nonetheless, we realize that in this political climate, the language as currently revised is likely the best compromise that can be reached. We appreciate the effort of your staff and other committee staffers to negotiate language that attempts to address the tribal concerns in light of the current political environment. Again, I want to underscore that the tribal support comes from working with a group of tribal representatives and organizations from diverse perspectives, but not all perspectives. Because of this, our revised version of your mark may not reflect the needs and desires of all tribes who wish to utilize this legislation to develop their energy resources.

We would like to thank you and your staff for all of their hard work on this very important issue. I cannot stress enough how grateful we are to your commitment to developing legislative solutions to age-old problems in Indian country. Title III is just one more example of how Indian tribes benefit from your championship.

Sincerely,

JACQUELINE JOHNSON,
*Executive Director.*

COUNCIL OF ENERGY RESOURCE TRIBES,
*Denver, CO, June 3, 2003.*

Hon. PETE V. DOMENICI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DOMENICI: On behalf of the 53 CERT member Tribes, I am writing to express CERT's support for the Title III Indian Energy provisions of S. 14.

As you know, there are some provisions in section 2604 of the Title III of the bill as reported that has caused concern among CERT member Tribes. Fortunately, we believe those concerns have largely been addressed by language agreed to between Committee staff and representatives of CERT and several member Tribes. At this time, we believe we have reached agreement that addresses the concerns of CERT and the Southern Ute Indian Tribe, the Navajo Nation and the Jicarilla Apache Nation. We expect you will hear from each of those tribes as well.

CERT has agreed to language that insures that the Tribal Energy Resource Agreements (TERA) process is a voluntary, opt-in program for development of Tribal energy resources. We have also agreed to language to be certain that the public comment opportunities go to the environmental and other impacts of the development and not to the terms of the business agreements themselves. CERT accepts the revised language that better describes the Secretary's trust duties under this section. Finally, the scope of the Secretary's NEPA review of the TERA is settled.

While drafting final language for this section has been somewhat difficult, we compliment the staff of both the Senate Energy Comittee and the Senate Indian Affairs Committee for their dedication to resolving the remaining differences between us on language relating to trust protections and envirointmental issues.

Again, we are pleased to support Title III with these changes to section 2604 and appreciate your steadfast support of the right of Indian Tribes to gain a better measure of control over the development of energy resources on their own lands.

Sincerely,

A. DAVID LESTER,
*Executive Director.*

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SOUTHERN UTE INDIAN TRIBAL COUNCIL,
*Ignacio, CO, May 27, 2003.*

Re: Indian Tribal Energy Development and Self-Determination Act of 2003; S. 14, Title III

Chairman PETE V. DOMENICI,
*Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN DOMENICI: Approximately one month ago, the Southern Ute Indian Tribe submitted a statement of conceptual, but qualified, support for the Indian Tribal Energy Development and Self-Determination Act of 2003. Our Tribe's activities have shown that tribal energy development can provide tremendous economic development opportunities for tribes while simultaneously assisting the Nation in meeting its energy demands. For tribes that have demonstrated the capability to represent themselves effectively in energy development activities, we have long-advocated legislation that would provide the option of bypassing the stifling effects of the Bureau of Indian Affairs approval requirements applicable to tribal leases, business agreements and rights-of-way. The referenced legislation addresses this very matter; however, as Section 2604 of Title III emerged from the Senate Committee of Indian Affairs and the Senate Committee on Energy and Natural Resources, it contained a number of provisions that were objectionable to the Indian community.

Over the last month, committee staff members and representatives of tribes and Indian organizations have engaged in an intense dialogue about the problems in the draft legislation, and, as a result of their tireless efforts, proposed amendments have been developed that would eliminate the problems previously identified. A list of those proposed amendments is attached for references purposes. Among the different matters resolved to our satisfaction have been the following: (i) confirmation that Section 2604 is a voluntary program available to Tribes on an opt-in/opt-out basis; (ii) inclusion of pre-approval public notice and comment opportunities regarding the environmental impacts of a proposed tribal mineral lease, business agreement or right-of-way, but preservation of the confidentiality of the business terms of such documents; (iii) acceptable balancing of the limitations on and ongoing responsibility of the Secretary to perform trust duties associated with a participating tribe's activities undertaken pursuant to this legislation; and (iv) confirmation of the appropriate scope of NEPA review that would be associated with the Secretary's decision to approve a Tribal Energy Resource Agreement (''TERA''), which is the enabling document permitting a tribe to proceed with independent development of mineral leases, business agreements, or rights-of-way. Again, we helped develop and wholly support these amendments.

During the course of debate on this legislation, some have suggested that Section 2604 will eliminate effective environmental protection on affected tribal lands. We want to assure the members of the Senate that this is not the case. Energy resource development by a tribe generally carries with it a deep commitment to preserving one's backyard. Tribal leaders are directly accountable to their members for preserving environmental resources. In the Four Corners Region, it is not unusual for private landowners or BLM lessees to comment enviously on the environmental diligence employed by our Tribe in the development of our energy resources. We renew our invitation to members of the Senate to visit our Reservation and see firsthand our energy resource projects.

In conclusion, with the referenced amendments, we strongly support S. 14, Title III. We urge other members of the Senate to also support this legislation, and we commend those who have worked toward its development and passage.

Sincerely,

HOWARD D. RICHARDS, SR.,
*Chairman.*

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NATIVE AMERICAN ENERGY GROUP, LLC,
*Ft. Washakie, WY, May 7, 2003.*

Senator PETE V. DOMENICI,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR DOMENICI: Native American Energy Group (NAEG) is an Indian owned company working with tribes and allottees throughout the country to determine how best to develop oil and gas reserves and help provide for the energy security of this country while also protecting the interests of mineral owners. The recent Indian provisions of the Energy Bill are a big step in the right direction to accomplish positive results for the Indian people of this country.

One of the areas of contention is the environmental area with many people stating that these provisions will gut the NEPA process. While this is a legitimate concern, nowhere have I read or heard that this is the intent of these provisions. In fact recent language in the Bill clearly denotes compliance with all applicable tribal and federal environmental laws. Even without this new language though my understanding was always that the intent was not to gut environmental laws. Tribal governments with energy resources are pro-development but by the same token they are also pro-environment. This may seem a dichotomy of sorts but my read on this bill is that the language will strengthen tribal sovereignty, develop tribal capacities and make tribal and allotted oil and gas operations more accountable with less impacts. In addition, the federal trust oversight will not be diminished which is always a concern of tribal governments.

NAEG appreciates the work and coordination that goes into an effort of this magnitude and you and your staff are to be commended for the recent provisions as presented in the bill. The history and discussions surrounding this bill recognize the importance of bringing tribes into the mainstream of the energy picture of this country and providing the mechanisms for the technical, administrative and legislative efforts to occur.

The research your staff has undertaken in support of this bill very well explains the amounts of energy resources situated on tribal and allotted lands. This largely untapped resource can be a boost for this country as we seek to provide jobs and diversify our economy, while helping America meet its energy needs. Please share with the rest of the Senate Indian Committee our support for these endeavors and if there is any information we can provide to assist you in your work please do not hesitate to call me.

Sincerely,

WES MARTEL,
*President.*

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CHEROKEE NATION,
*Tahlequah, OK, June 2, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

Hon. DANIEL K. INOUYE,
*Vice Chairman, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN AND MR. VICE CHAIRMAN: It has come to my attention that several changes have been made to Title III of the Senate Energy bill. I understand that these changes will reduce any risk to Tribes, and wish to offer the Cherokee Nation's continued support of S. 14, the Energy Policy Act of 2003.

I thank the Committee for its hard work on this issue and for incorporating tribal recommendations into the bill. Your leadership is greatly appreciated.

Please feel free to contact my office if you have any questions or comments. I may be reached at (918) 456–0671.

Sincerely,

CHAD SMITH,
*Principal Chief.*

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OFFICE OF THE GOVERNOR,
THE CHICKASAW NATION,
*Ada, OK, June 5, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: We support the inclusion of Title III, as it is, in Senate Bill 14. Thoughtful development of our tribal natural resources serves all Americans.

We are grateful for the opportunities and support Title III provide to the Chickasaw Nation, and for all of Indian Country, as we explore and develop our natural resources. The language allows us to exercise our own progressive style in development and regulation; yet, it provides for those tribes which prefer the more traditional approach.

Having a voice in the U.S. Department of Energy will highlight and expedite tribal energy issues. This is an opportunity for every tribe to enter into the nation's economic mainstream with the support of the federal government.

Your help, and that of Senators Bingaman and Domenici, is appreciated.

Sincerely,

BILL ANOATUBBY,
*Governor.*

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THE MOHEGAN TRIBE,
*Uncasville, CT, June 5, 2003.*

Hon. BEN NIGHTHORSE CAMPBELL,
*U.S. Senate, Senate Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Mohegan Tribe supports the inclusion of Title III in S. 14, the Energy Policy Act of 2003. Offering flexibility and support in developing natural resources throughout Indian Country, Title III creates opportunities in which all Indian nations can benefit. We also appreciate the hard work of Senators Domenici and Bingaman in this matter.

Sincerely,

MARK F. BROWN,
*Chairman.*

Mr. CAMPBELL. I say to my colleagues, in supporting the amendment, you are not only assisting Indian tribes and the development of energy resources but helping the United States become less dependent on foreign energy which I think is the goal of all.

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

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

## WEAPONS OF MASS DESTRUCTION IN IRAQ

Mr. BENNETT. Mr. President, I am going to take two literary allusions and put them together as the background for the points I wish to make. The first one is a novel that has become a worldwide classic called ''1984,'' written by George Orwell. You may recall that in this particular novel, George Orwell describes a terrifying future. And the principal character in his novel, Winston Smith, works at the Ministry of Truth.

His job at the Ministry of Truth is to go back over old newspapers and clip out things that contradict the current party line and send those down the memory hole; in other words, destroy them, so that if someone comes along and tries to determine whether there is any past support for the present position, the past has been scrubbed to the point where everything there agrees with the present position. Anything that was said previously that disagrees with the present position of Big Brother, the figure that controls the world in the novel, has been sent down the memory hole. It has been destroyed.

Keep that in mind as I take another literary allusion. This is an exact quote from Ben Bradlee, formerly editor of the Washington Post and one of

the great journalists of our time who said:

Journalism is the first rough draft of history.

I cite those two because I want to put them together in the debate that has occurred on the floor and even more so that is going on out in the world of the media—the debate about whether we had proper justification for going into Iraq. We are being told over and over again that the world was lied to, the American people were lied to, the Congress was lied to because we were told that Saddam Hussein had weapons of mass destruction. And since we haven't found any, that means we were deceived at the very beginning when the justification was given to us by the Bush administration to move ahead with respect to the operation in Iraq.

I submit to you, those who make that argument have tried to reconstruct their own memory holes. They have tried to take past information and scrub it from the record and pretend it was never there. In other words, to go back to Ben Bradlee's comment that ''journalism is the first rough draft of history,'' they are prepared, even this quickly after the journalists have reported what was said, to try to change the first draft of history and create, virtually overnight, a new history that never existed.

Well, my memory hole has not been used. I have not scrubbed from my memory a series of statements and comments that have been made prior to Iraq. And I intend to go through those comments here tonight to make it clear that those who claim that the President misled the Congress, the people, and the rest of the world with respect to his reasons for going into Iraq are, in fact, trying to rewrite history.

The record is very clear. It is very firm. And unless Winston Smith is suddenly somehow materialized to change history, the record stands in firm denunciation of those who are now attacking the President on this issue.

Let's go back to the question of weapons of mass destruction. I remember going to S–407 in this building, the room on the fourth floor where we go to receive confidential, highly classified briefings from administration officials. I remember sitting there and listening to Madeleine Albright, Secretary of State, outline for us in detail the reasons we had to attack Iraq. President Clinton, who appointed her Secretary of State, was even more pointed in his public statements of the fact that Iraq possessed weapons of mass destruction. In the President's phrase, ''Saddam Hussein will surely use them.'' We needed, according to the President and the Secretary of State, to move ahead militarily in Iraq.

I remember walking out of that meeting in S–407 convinced that the bombs would start falling within days. As it turned out, the administration changed its mind and moved away from that particular decision. They backed off. But they never backed off their statement that weapons of mass destruction were there, that weapons of mass destruction would be used, and that Saddam Hussein could not be trusted long term with weapons of mass destruction.

Vice President Gore—however much he has attacked this administration and its positions—has nonetheless stated on the record his firm belief that there were weapons of mass destruction in Iraq. I think it is clear that if President Bush were involved in some kind of sleight of hand to pretend that weapons were there when they were not, and create some sort of conspiracy among the members of his administration to peddle this false notion, former Vice President Gore would not be part of that conspiracy. As Vice President, he saw the intelligence briefings. He was in a position to evaluate how accurate they were, and Vice President Gore has said publicly on the record, speaking of Saddam Hussein on September 23:

We know that he has stored secret supplies of biological and chemical weapons throughout his country.

One of the men in Iraq who worked with Saddam Hussein in creating those weapons had a piece in the Wall Street Journal where he made this statement: ''Inspectors will never find them.'' Also, he pointed out that the artillery shells that had been found by the inspectors that were hollow were, in fact, a demonstration of the fact that there were weapons of mass destruction—that is, chemical and biological weapons—because when the inspectors said, oh, there is no problem here, the warheads are hollow and there is nothing there, this man who worked in Iraq to create these weapons said, of course, they are hollow; the weapons are not put into the artillery shells until just before they are to be used. The artillery shells are prepared for weapons of mass destruction—for chemical or biological weapons—and then stored hollow.

So instead of saying that the discovery of these weapons proves they don't have chemical or biological capability, in fact, the reverse is actually true. We do not have a storehouse in the American military of hollow artillery shells because we don't use chemical weapons. The Iraqis have hollow shells because they expect to put chemical agents in those shells. All of this is part of the record and was available prior to the current debate of those who just want to look back and find it.

Senator BOB GRAHAM, who used to be chairman of the Intelligence Committee when all of this intelligence was being developed, and is still the ranking member of that committee, had this to say when Colin Powell went before the United Nations and laid out the case:

I applaud Secretary Powell for finally making available to the world the information on which this administration will base its actions in Iraq. . . . In my judgment, the most significant information was the confirmation of a linkage between the shadowy networks of international terrorists and Saddam Hussein, the true coalition of evil.

All of this information was available to all these individuals prior to the time we went into Iraq, and all of them were satisfied that it was sound information. All of them were satisfied that it was real. And now the press is pretending that nobody—nobody—believed there were weapons of mass destruction in Iraq except the Bush administration, and that everybody simply took the Bush administration at its word and now is being betrayed by the facts because we have not found enough of it to satisfy them; we have only found hollow artillery shells; we have only found chemicals that could be used for pesticides.

I wonder if anyone has done an analysis of just how many pesticides Iraqi agriculture requires. Looking at the stores of chemicals they have found, chemicals that have dual use—yes, they could be pesticides or they could be a component part of a chemical weapon. Look at the quantities we have found and ask yourself: Do the Iraqis really need this much for pesticides? Or do they have another purpose?

We have not yet found Saddam Hussein. As KIT BOND said today at lunch, if we don't ever find Saddam Hussein, is that proof of the fact that he doesn't exist? If we don't find him, will that be evidence that the Bush administration made him up? If we don't find him, is that proof that he never was in Iraq? That same kind of reasoning is being applied here. We have not found all of the weapons of mass destruction that all of the critics would like to have as proof of their position, so our failure to have done that so far is, in their logic, proof that these weapons never existed or proof that they were never in Iraq.

I think Senator BOND's question is a legitimate one. If we don't find Saddam Hussein, does that mean he never existed or he was never in Iraq? Of course not. It means something happened. Either we killed him the first night with that first strike and his remains have been removed by the SSO—his central group of key supporters—so that his body will never be found or he has left the country or he was killed somewhere else. But we know he was there. Everybody knew he was there, and our failure to find him now does not mean he was not there when the attack began. Quite the contrary. Everybody is satisfied he was there.

The same thing applies to the weapons of mass destruction. As I have demonstrated, starting with President Clinton, we have known they were there, we have known they had them. If we cannot find them all, that means either they were destroyed by us or by the Iraqis or they have been moved somewhere. It doesn't mean they never existed. The evidence that they existed cannot go down the memory hole just to make the present arguments sound more convincing.

I read a commentator who quoted Deputy Secretary Wolfowitz, in what the commentator thought was a damning admission on this story, when he said:

Yes, we had other reasons for going into Iraq, but we stressed weapons of mass destruction because that was the one everybody was focused on.

According to the commentator, that is a damning admission on the part of the Secretary that we had other motives, and that is part of the attack that is being mounted on the floor, that the Bush administration was duplicitous: They told us they were going after weapons of mass destruction, but they had other motives. And here, Secretary Wolfowitz has admitted it; a smoking gun.

Back to my memory. I remember very clearly that the Bush administration openly and directly said they had other motives. Let me go down them as I remember them.

Weapons of mass destruction—there are many countries that have weapons of mass destruction. If we were to go after the country in the world, other than ourselves, that has the highest stock of weapons of mass destruction, we would go after Russia. Why don't we? Because weapons of mass destruction alone are by no means justification for attacking another nation. They must be tied to other motives. This is what I am sure Deputy Secretary Wolfowitz was talking about.

Right now President Putin and President Bush have a good relationship. Russia and the United States have a trusting relationship. Why should we attack Russia just because it has weapons of mass destruction when that relationship exists?

Iraq was ruled by a tyrant, and not just your everyday tyrant but a brutal, bloody tyrant who had demonstrated that he not only possessed weapons of mass destruction, he was willing to use weapons of mass destruction and has done so—the only person in the world whose government has employed weapons of mass destruction against anyone else—in this case it was his own people—in the last half century. So, yes, there are other motives besides possessing weapons of mass destruction. They are the man's personality and his history.

We are not just interested in nations that have WMD. We are interested in brutal tyrants who will use weapons of mass destruction.

Next, Iraq was clearly a crossroads of terrorist activity. That is what Senator GRAHAM referred to, not just al-Qaida. Iraq was one of the principal financial supporters of the terrorist suicide bombings in Palestine. They offered a $100,000 reward to anyone who would kill himself as long as he took a few Jews with him. How many tyrants around the world are willing to harbor terrorists and support terrorists? The list gets a little smaller.

North Korea has weapons of mass destruction. North Korea is ruled by a brutal tyrant. But North Korea has not invaded any of its neighbors for half a century, and North Korea is not a haven for al-Qaida, Hamas, Hezbollah, and the other terrorist organizations. We are closing down here on the other motives.

Attacking your neighbors. Saddam Hussein has attacked his neighbors twice in the last dozen years, set off two major wars, and is responsible for killing more Muslims than any other person on the planet.

The other motives that the Bush administration had in dealing with Iraq were the totality of the situation. Yes, they wanted to deal with WMD. Yes, they wanted to deal with a tyrant who was brutalizing his own people. Yes, they wanted to deal with terrorism. And, yes, they wanted to deal with somebody who was threatening his neighbors. If you take that criteria and apply it to all the countries in the world, you come up with only one that qualifies on every count.

It was not the single issue that current commentators and candidates, pundits and pollsters are talking about that prompted President Bush to give the order to go ahead in Iraq. It is a distortion of history to hammer again and again on the fraud that says only weapons of mass destruction drove us to go into Iraq, and it is our failure to find weapons of mass destruction in this time period in Iraq that demonstrates we were wrong.

Nobody has gone to the last part of that sentence. Nobody has said yet that we were wrong to have taken out Saddam Hussein. They come close to that in their attack on the President. They say he lied. They say he manipulated. They say he distorted. But they cannot quite bring themselves to say we were wrong to have done it, and no one will say the world would have been a better place if we had not. Why? Because we have discovered some other things we did not know.

If you are going to talk about intelligence failures, our intelligence community did not know until we got into Iraq about the mass graves. We did not know about the prisons holding children who were put in there as young as 4 and 5 years of age and have been there for 5 years or more.

We did not know the details of the brutality of this man. We did not know that he treated his own population, those who were hostile to him or, indeed, simply suspect in his eyes, as brutally as Adolf Hitler treated the Jews in World War II in Germany. We did not know that. We have discovered that now. So no one will quite go to the point of saying we made a mistake, that Bush did the wrong thing.

One commentator closed his attack on the Bush administration with this interesting quibble, in my view. He said: It was the right war but it was fought for the wrong reason. I find it very difficult to reconcile those two. If it was the right war and has achieved the right result, it was the right thing to have done, and it was the right thing to have done for all of the reasons that people who hate this administration are now conveniently forgetting all of the historical buildup to this that has gone down the memory hole that people are now conveniently saying never happened.

This is a historic Chamber, and it has seen all kinds of debates, high and low. It has seen all standards of rhetoric, good and bad, and, yes, if I may, true and false. There has been a call for the rafters here to be ringing in a discussion of the Iraqi war and America's activity. I wanted to answer that call and do what I can to see that the rafters are ringing with the truth; that the rafters are ringing with real history, not invented history; that the rafters are ringing with a recognition that what the Bush administration has done in Iraq was the right thing to have done; it was based on sound and careful analysis that ran over two administrations; that was vetted thoroughly with our allies abroad, bringing Great Britain, Australia, Poland, and others, into the fight, and the result has demonstrated that the world is a safer place.

The Iraqi people live in a safer society, and the prospects for the future are better than would have been the case if we had gone to the brink, as President Clinton did, and then changed our minds. President Clinton thought the evidence was overwhelming but decided not to act. President Bush thought the evidence was overwhelming and did act, and the rafters should ring with at least one speech that applauds that decision and that level of leadership.

I say to my colleagues, I say to the country, I say to my constituents, I believe the history is there that justifies the decision, and I believe the evidence is there after the fact that more than justifies the decision.

In this case, America and her President can stand proud before the world as having done the right thing for the right reason.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. BENNETT. I ask unanimous consent that the Senate proceed to a period for morning business.

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

## CONGRATULATING ROBERT AND ERMA BYRD ON THEIR 66TH WEDDING ANNIVERSARY

Mr. DASCHLE. Mr. President, last Thursday marked an important—and

extraordinary—milestone in the lives of two very special members of our Senate family.

On May 29, 1937—66 years and one week ago today—ROBERT CARLYLE BYRD and Erma Ora James were married.

The Senate was not in session on their actual anniversary, so I come to the floor today—one week later—to congratulate Senator and Mrs. Byrd on their remarkable achievement.

ROBERT and Erma Byrd both grew up in the hardscrabble coal country of West Virginia. They were high school sweethearts.

Of all of Senator BYRD's tremendous achievements—and there are many—I suspect the two that mean the most to him are convincing Erma James to marry him in the first place—and staying married to her all these years.

I have heard Senator BYRD say often that he could not do this job were it not for his wife's love and support. In his words: ''She is not only my wife, but also my best counselor. She has been a strong pillar of support in all my endeavors.''

The Byrds' marriage has brought them two wonderful daughters: Mona Byrd Fatemi and Marjorie Byrd Moore.

They have also been blessed with six grandchildren and three great-granddaughters.

After Mrs. Byrd and their family, the Senate and the Constitution, one of the things that Senator BYRD loves best—as we all know—is history—especially ancient history. So I think he may appreciate this thought from Homer:

> There is nothing more admirable than two people who see eye-to-eye keeping house as man and wife, confounding their enemies, and delighting their friends.

For 66 years, ROBERT and Erma Byrd have done for more than delight their friends.

Together, they have created a full and rich life. They have raised a family. And they have served the people of West Virginia, and America, well. We wish them many more years of happiness together.

## 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 on March 21, 2003. In Burbank, IL, an explosion caused by a powerful fireworks-type device damaged the 1989 Ford Econoline van of a Palestinian Muslim family and shook doors and windows of neighboring homes. The blast shattered the vehicle's windows and blew open the vehicle's door. The man who committed the crime is being held on bond and is being charged with arson, criminal property damage, and committing 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.

## NATIONAL HUNGER AWARENESS DAY

Mr. KENNEDY. Mr. President, the only problem I have with National Hunger Awareness Day is that it should be every day. Across the Nation, 33 million of our fellow citizens are living in poverty and they deserve our help.

In recent weeks, Congress has been focused on giving hundreds of billions of dollars in new tax breaks for the wealthiest Americans, yet we leave the cupboard bare for millions of parents and low-income families. This week, as we debate the energy bill, we are listening carefully to the concerns of big corporations like Halliburton, Exxon, and Entergy, but not nearly carefully enough to the concerns of all those who need our help the most.

It is a national scandal and disgrace that for so many millions of Americans, hunger is an issue today and every day. Since the year 2000, poverty and unemployment have been on the rise, while wages and income continue to fall. Hardworking parents have been forced to make impossible choices between feeding their children and paying the rent and medical expenses. These are choices no parent should have to make.

No child should go hungry. But every night, 13 million children go to sleep not knowing where or when they will get their next meal. As hunger and malnutrition continue, children are more likely to be absent from school to have behavioral problems, and to have trouble learning to read or do math. They are less likely to be friends with other children or learn from their surroundings, and more likely to miss school because of illness.

Clearly, we have to move to end child hunger. This year, Congress will reauthorize the Child Nutrition Act. The Act includes important initiatives, such as school breakfasts and school lunches, and food programs for summer school, after school, and childcare.

Studies demonstrate that at-risk, school-age children depend on school-based breakfasts and lunches for more than half of their daily meals. In the reauthorization, we must work to see that every child eligible for subsidized programs actually receives these important meals. Schools must be reimbursed for the actual costs of providing nutritionally balanced meals. We also need these programs to provide additional resources, encourage nutrition education, and to pay school employees a living wage.

We have a choice. Congress can continue to lavish more and more tax breaks on the wealthiest individuals and companies in the Nation, or we can invest in food for hungry children. The answer should be obvious to us all. We can and must ensure that no child is allowed to go hungry.

## OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months we've seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it's wonderful. I'm proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey towards a democratic Iraq has now been embarked upon. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty of today's Iraq, I am hopeful, will soon give way to the promise of a better future for the Iraqi people. And as we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom.

Specialist Jose A. Perez III was killed last week when his convoy was ambushed near Baghdad. Perez's convoy received fire from a rocket-propelled grenade while on a main supply route.

This San Diego, TX, native was stationed in Fort Sill. He came from a family with a proud military tradition who knows all to well the pain of losing a loved one. His uncle, Baldemar

''Billy'' Benavides, Jr. died in the Persian Gulf in 1992.

My heart breaks for this family that has given so much to our great Nation. Of his older brother, 9-year-old Joshua said, ''He was a very good hero, and he died for our freedom. I will never forget him.''

A good hero indeed.

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Specialist Perez did not die in vain. He died so that many others could live in security and freedom. And for that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

I yield the floor.

## FBI BACKGROUND CHECK SYSTEM

Mr. LEVIN. Mr. President, earlier this week, the Federal Bureau of Investigation released a report on the efficiency and effectiveness of the National Instant Criminal Background Check System, also known as NICS. According to the report, the FBI has improved its ability to respond quickly to gun dealer requests for criminal background checks, with only nine percent of the transactions delayed. These improvements have increased the immediate response rate from an average of 71 percent in early 2001 to 91 percent in 2002.

According to the report, in 2001 the NICS system processed 8.9 million background checks, with approximately 125,000 denials of permission to purchase a gun. While, in 2002, the system performed over 8.4 million checks and denied approximately 121,000 of these purchases. I commend the FBI for its hard work and commitment to improving this important law enforcement tool.

Despite the success of the NICS System and the FBI's hard work, many guns are still being purchased without any background checks being performed. Under current Federal law, criminal background checks on gun purchasers are only required for sales by licensed firearm dealers. Consequently, criminals, fugitives, and terrorists are able to purchase firearms without any background check. They do this by purchasing guns at gun shows. I believe we should require a background check on every gun sale and close the loopholes in Federal law that criminals manipulate to buy and sell guns.

During the last Congress, I cosponsored the Gun Show Background Check Act introduced by Senator JACK REED. I believe this legislation would be a vital tool in preventing guns from getting into the hands of criminals and other ineligible buyers. This bill would simply apply existing law governing background checks to individuals buying firearms at gun shows. This bill is commonsense gun safety legislation that is supported by a number of major law enforcement organizations including the International Association of Chiefs of Police, the National Troopers Coalition, the International Brotherhood of Police Officers, the Police Executive Research Forum, the Major Cities Chiefs, the National Association of School Resource Officers, the National Black Police Association, the National Organization of Black Law Enforcement Executives, and the Hispanic American Police Command Officers Association.

I believe closing the gun show loophole is an important tool in reducing gun violence and preventing guns from getting into the hands of criminals and foreign terrorists. Since its inception, the National Instant Criminal Background Check System has prevented over 563,000 ineligible buyers from gaining access to guns, but many continue to slip through the gun show loophole. I urge my colleagues to join me in supporting this important piece of gun safety legislation.

## FUNDING THE GLOBAL AIR TRAFFIC MANAGEMENT SYSTEM

Mr. INHOFE. Mr. President, I would like to take a moment and recognize the brave men and women who flew and supported the mission of the B–2 bomber. The B–2 is a critical asset of our U.S. military and must be supported in the future. The B–2 can carry up to 40,000 pounds of munitions and can strike up to 16 targets in a single pass. The first night of the bombing in Baghdad, 6 B–2s destroyed 92 targets on the first night. B–2s flew nonstop, 36–hour missions from Whiteman AFB in Missouri to Iraq, unscathed. The B–2s targeted everything from airfields to surface-to-air missiles, sometimes changing targets while airborne enroute to Iraq. No other military has this capability with such accuracy and survivability. It is essential we fund the Global Air Traffic Management, GATM, system, the Secure Nuclear Communications and Broadband Connectivity capabililty, and the repair of the Aft Deck Durability issue for the B–2. We must ensure the B–2 is maintained and modified to keep its lethal edge.

## INDICTMENT OF CHARLES TAYLOR

Mr. LEAHY. Mr. President, yesterday I wanted to give a statement on the indictment of Charles Taylor by the Special Court in Sierra Leone, but due to the rapidly changing events in West Africa and the lack of floor time because of extensive debates on the Defense Authorization and Energy bills, I did not get an opportunity. What follows is the statement that I sent to the State Department, Special Court, and United Nations officials, yesterday, expressing my views on this serious issue.

I rise today to voice my strong support for the decision of the Special Court for Sierra Leone to indict Charles Taylor for ''bearing the greatest responsibility for war crimes, crimes against humanity, and serious violations of international humanitarian law in Sierra Leone.'' I commend the Court's prosecutor, David Crane, for taking this decisive action.

Since its inception, the Special Court has moved swiftly to indict key figures allegedly involved in some of the worst atrocities that occurred during the brutal civil war in Sierra Leone during the late 1990s. The Court has also made it a priority to emphasize outreach programs to further the reconciliation process and promote the rule of law throughout the country.

Despite important progress, we all know that the Court's work would be grossly deficient if those most responsible for these crimes were not brought to justice because they were too hard to catch, were high officials of a foreign government, or no longer resided inside of Sierra Leone. It would be like the United States deciding against pursuing the perpetrator of an act of terrorism on American soil, that killed or maimed thousands of individuals, because he left the country or was a high-ranking official in a foreign government. That would be unacceptable.

That is precisely why Congress expressed its clear intent that the Special Court for Sierra Leone should pursue those most responsible, irrespective of where they currently reside.

In the report that accompanied the Senate version of the Fiscal Year 2002 Foreign Operations bill, Report 107–58, Congress stated in unambiguous terms: ''To build a lasting peace, the Committee believes that it is imperative for the international community to support a tribunal in order to bring to justice those responsible for war crimes and other atrocities in Sierra Leone, irrespective of where they currently reside.''

This statement was later endorsed by the Conference Report to the Fiscal Year 2002 Foreign Operations bill, Report 107–345, which put the House of Representatives on record on this issue as well.

Even before these reports were issued, Senators FEINGOLD, FRIST, MCCONNELL and I wrote a letter to Secretary Powell, dated June 20, 2001, which stated: ''Because some of the individuals most responsible for the atrocities in Sierra Leone are no longer in the country, we believe it is imperative that the tribunal has the authority to prosecute culpable individuals—including senior Liberian officials—regardless of where they reside. This will prevent such persons from escaping justice simply by leaving the country.''

I can safely say that we had one individual especially in mind when we drafted that text: Charles Taylor. I was the principal author of the letter and two Congressional reports referenced above.

The involvement of Charles Taylor in the conflict in Sierra Leone is well documented and I will not go into great detail here. I will simply say that there is no doubt in my mind that he deserves to be brought to justice before the Special Court.

To its credit, the State Department took the advice of Congress. The State Department successfully negotiated an agreement that established the Special Court for Sierra Leone and which did

not contain geographic restrictions on the Prosecutor, allowing him to go after Charles Taylor.

Perhaps the Prosecutor for the Court, David Crane, best described the Special Court's mandate: ''My office was given an international mandate by the United Nations and the Republic of Sierra Leone to follow the evidence impartially wherever it leads.''

Today, acting on information that Charles Taylor was traveling to Ghana, the Special Court unsealed an indictment for Charles Taylor, originally approved March 7, 2003, and served the outstanding warrant for his arrest on Ghanaian authorities and transmitted the arrest warrant to INTERPOL.

Again, I commend the prosecutor for taking this step. While I understand there are some, including in the Administration, who are concerned about the impact that this may have on the peace process now underway in West Africa, I agree with Mr. Crane's comments on this sensitive issue:

To ensure the legitimacy of these negotiations, it is imperative that the attendees know they are dealing with an indicted war criminal. These negotiations can still move forward, but they must do so without the involvement of this indictee. The evidence upon which this indictment was approved raises serious questions about Taylor's suitability to be a guarantor of any deal, let alone a peace agreement.

The Ghanaian Government needs to act immediately. It needs to uphold the basic tenants of international law, apprehend Charles Taylor and hold him until arrangements can be made to transfer him to the Court. In addition, the State Department needs to send an unequivocal message to Accra that action on this issue is urgently needed.

This may be the only chance that we get for years to bring Charles Taylor to justice. It is imperative that, in its most important moment thus far, the United States and Ghana do everything in their power to apprehend Charles Taylor. If this does not occur, the world will have missed a golden opportunity to bring to justice one of the world's most heinous war criminals and advance the cause of international justice.

In closing, I would like to read into the RECORD Mr. Crane's statement issued today that describes the situation concerning Charles Taylor:

Today, on behalf of the people of Sierra Leone and the international community, I announce the indictment of Charles Ghankay Taylor, also known as Charles Ghankay Macarthur Dapkpana Taylor.

The indictment accuses Taylor of ''bearing the greatest responsibility'' for war crimes, crimes against humanity, and serious violations of international humanitarian law within the territory of Sierra Leone since 30 November 1996. The indictment was judicially approved on March 7th and until today, was sealed on my request to the Court.

My office was given an international mandate by the United Nations and the Republic of Sierra Leone to follow the evidence impartially wherever it leads. It has led us unequivocally to Taylor.

Upon learning that Taylor was travelling to Ghana, the Registrar of the Special Court served the outstanding warrant for his arrest on Ghanaian authorities and transmitted the arrest warrant to INTERPOL. This is the first time that his presence outside of Liberia has been publicly confirmed. The Registrar was doing his duty by carrying out the order of the Court.

Furthermore, the timing of this announcement was carefully considered in light of the important peace process begun this week. To ensure the legitimacy of these negotiations, it is imperative that the attendees know they are dealing with an indicted war criminal. These negotiations can still move forward, but they must do so without the involvement of this indictee. The evidence upon which this indictment was approved raises serious questions about Taylor's suitability to be a guarantor of any deal, let alone a peace agreement.

I am aware that many members of the international community have invested a great deal of energy in the current peace talks. I want to make it clear that in reaching my decision to make the indictment public. I have not consulted with any state. I am acting as an independent prosecutor and this decision was based solely on the law.

I also want to send a clear message to all factions fighting in Liberia that they must respect international humanitarian law. Commanders are under international legal obligation to prevent their members from violating the laws of war and committing crimes against humanity.

In accordance with Security Council resolutions 1315, 1470, and 1478, now is the time for all nations to reinforce their commitments to international peace and security. West Africa will not know true peace until those behind the violence answer for their actions. This office now calls upon the international community to take decisive action to ensure that Taylor is brought to justice.

Mr. FEINGOLD. Mr. President, yesterday the Special Court for Sierra Leone unsealed an indictment of President Charles Taylor of Liberia. Taylor is accused of crimes against humanity, war crimes, and serious violations of international humanitarian law. I commend the Court for taking its mandate seriously and for following the evidence where it led—directly to a sitting head of state.

I have long been a strong supporter of accountability mechanisms in Sierra Leone—both the Special Court and the Truth and Reconciliation that will address the horrible crimes committed by the foot soldiers in the field—soldiers who were, all too often, children. I have worked to ensure that the United States provides appropriate financial support to these mechanisms, and I have raised the importance of our political support at the highest levels. West Africa must break the cycle of violence and impunity, and all of us in the international community have a role to play in that effort.

The Special Court is charged with prosecuting those who bear the greatest responsibility for serious violations of international humanitarian law committed in Sierra Leone since November 1996. For over a decade, Sierra Leone was one of the most insecure places on Earth. Civilians not only suffered from deprivation and displacement, they also had to contend with the forced recruitment of child soldiers, widespread and brutal sexual violence, and horrifying murders and mutilations. Those responsible for these crimes abandoned all human decency in their simple quest for power and wealth.

The indictment announced yesterday had been sealed for months, but for years there has been no secret about one basic fact—Charles Taylor is a war criminal. I said so years ago, and it remains true today. He should be brought before the Court and held accountable for his actions.

I also strongly support continued American efforts to isolate and pressure the Taylor regime. But at the same time, the situation of the Liberian people cannot be overlooked. Pressuring and condemning Taylor is not a complete policy toward this troubled and volatile country. The armed rebel groups currently fighting for dominance in Liberia have proven all to willing to prey on Liberian civilians in their own lust for power. We must ask ourselves, what will Liberia look like in 10 years, and what will that mean for the Liberian people, for the West African region, and for international criminal networks? What steps can be taken today to influence that outcome? And then we must muster the will and the means to act before the trend most recently exemplified by crisis in Cote d'Ivoire dominates the region.

## OKLAHOMA LOSS IN OPERATION IRAQI FREEDOM

Mr. NICKLES. Mr. President, over the past few months, we've seen the fall of Saddam Hussein's brutal regime coupled with the dawning of a new day for the Iraqi people.

With major military combat operations in Iraq over and the security of our homeland bolstered, America and her allies are turning our efforts toward helping the Iraqi people build a free society.

Like many Americans, I was thrilled and heartened by the dramatic images of U.S. troops helping Iraqi citizens tear down statues and paintings of Saddam Hussein. The Iraqi people needed our help, our tanks, our troops, and our commitment to topple Saddam Hussein.

For the first time in their lives, many Iraqis are tasting freedom, and like people everywhere, they think it's wonderful. I'm proud of our military and America's commitment to make the people of the Middle East more free and secure.

Our military men and women surely face more difficult days in Iraq, and the Iraqi people will be tested by the responsibilities that come with freedom. The thugs who propped up the previous regime and outside forces with goals of their own will seek to cause problems, stir up trouble and initiate violence. Freedom is messy—nowhere more so than in a country that has just shaken off a brutal dictatorship.

But the journey towards a domestic Iraq has now been embarked upon. Like so many nations before it, Iraq now endures the growing pains common to a fledgling democracy. The uncertainty of today's Iraq, I am hopeful, will soon give way to the promise of a better future for the Iraqi people. And as we move closer to this goal, we must remember those who sacrificed for this noble cause.

Today, I rise to honor a man who made the ultimate sacrifice one can make for his country and the cause of freedom.

Staff Sergeant Aaron Dean White, 27, died May 19 when the CH–46 transport helicopter he was in crashed into a canal in central Iraq.

White was an Oklahoma native. He grew up in Seminole County where he attended school until his junior year in high school. He then graduated from Shawnee High School in 1994 and immediately began his military career.

If you ask his mother, she will tell you that he had a ''calling to serve people.'' That call to service was put to good use in our Armed Forces.

White was trained in helicopter maintenance, but he could not get enough of flying. His pastor, Reverend Wesley Martin, explained his passion for flight: ''After he got his pilot's license, all he did was fly. He couldn't get enough of it. He loved to fly and he loved life.''

As a result, he volunteered for the gunner position on the helicopter that crashed. ''What a flight that must have been,'' said Martin. ''No equipment necessary—as he flew immediately into the heavens.''

As we watch the dawn of a new day in Iraq, let us never forget that the freedom we enjoy every day in America is bought at a price.

Staff Sergeant White did not die in vain. He died so that many others could live in security and freedom. And for that sacrifice, we are forever indebted. Our thoughts and prayers are with him and his family today and with the troops who are putting their lives on the line in Iraq.

I yield the floor.

## THE NATIONAL SECURITY ASPECTS OF THE GLOBAL MIGRATION OF THE U.S. SEMICONDUCTOR INDUSTRY

Mr. LIEBERMAN. Mr. President, I rise today to express my concern about the loss to the U.S. economy of most of our high-end semiconductor chip manufacturing sector, the threat of the subsequent loss of the semiconductor research and design sectors, and the resulting serious national security implications.

The composition of the global semiconductor industry has changed dramatically in recent years. East Asian countries are leveraging these changing market forces through their national trade and industrial policies to drive a migration of semiconductor manufacturing to that region, particularly China, through a large array of direct and indirect subsidies to their domestic semiconductor industry. If this accelerating shift in manufacturing overseas continues, the U.S. will lose the ability over time to reliably obtain high-end semiconductor integrated circuits from trusted sources, at a time when these advanced processing components are becoming a crucial defense technology advantage to the U.S. Experts in the military and intelligence sectors have made clear that relying on semiconductor integrated circuits fabricated outside the U.S., e.g. in China, Taiwan and Singapore, is not an acceptable national security option. The economic impact in the U.S. of the loss of manufacturing, research and design has equally serious implications.

I would like to direct my colleagues' attention to a White Paper, that I am asking to be included in the CONGRESSIONAL RECORD, which outlines the fact that this off-shore migration of high-end semiconductor chip manufacturing is a result of concerted foreign government action, through an effective combination of government trade and industrial policies which have taken advantage of opportunities resulting from market forces and changes in the semiconductor industry. This White Paper lists a number of possible actions the defense and intelligence communities should consider to prevent this serious loss of U.S. semiconductor manufacturing and design capability. I have also requested that the Department of Defense, the National Security Agency, and the National Reconnaissance Office submit reports and plans of action to respond to this impending national security threat. I have asked that these reports provide an analysis of the semiconductor manufacturing issues that relate to defense and national security, as well as an analysis of the potential solutions that are discussed in the White Paper. I hope these reports will detail the steps that will be taken to counteract this loss of critical components for U.S. defense needs, as well as a timetable for the implementation of such steps. I note that the Armed Services Committee report on the bill we passed yesterday requests similar information.

I hope we can act promptly to avoid a potential national security crisis in terms of reliable access to cutting-edge technology necessary to the critical defense needs of our country. The loss goes beyond economics and security. What is at stake here is our ability to be preeminent in the world of ideas on which the semiconductor industry is based. A prompt, concerted effort by the defense and intelligence community in cooperation with industry can reverse this trend of off-shore migration of manufacturing, research and design that is now under way and that will become essentially irreversible if no action is taken in the next few months.

I ask consent that my ''White Paper on National Security Aspects of the Global Migration of the U.S. Semiconductor Industry'' be printed in the RECORD.

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

WHITE PAPER: NATIONAL SECURITY ASPECTS OF THE GLOBAL MIGRATION OF THE U.S. SEMICONDUCTOR INDUSTRY

The U.S. is facing an imminent threat to national security as a result of foreign government actions that have capitalized on the changing composition of the semiconductor industry. Our concern is the loss to the U.S. economy of the high-end semiconductor manufacturing sector, the potential subsequent loss of the semiconductor research and design sectors, and the grave national security implications that this would entail. East Asian countries are leveraging market forces through their national trade and industrial policies to drive a migration of semiconductor manufacturing to that region, particularly China. If this accelerating shift in manufacturing overseas continues, the U.S. will lose the ability to reliably obtain high-end semiconductor integrated circuits from trusted sources. This will pose serious national security concerns to our defense and intelligence communities. Historically, shifts in manufacturing result over time in the migration of research and design capabilities. This is especially true of leading-edge industries such as advanced semiconductor manufacturing, which requires a tight linkage and geographic proximity for research, development, engineering and manufacturing activities. The economic impact in the U.S. of the loss of manufacturing, research and design has equally serious implications.

The Pentagon's Advisory Group on Electron Devices (AGED) has warned that the Department of Defense (DoD) faces shrinking advantages across all technology areas due to the rapid decline of the U.S. semiconductor industry, and that the off-shore movement of intellectual capital and industrial capability, particularly in microelectronics, has impacted the ability of the U.S. to research and produce the best technologies and products for the nation and the war-fighter. This global migration has also been discussed in a recently released National Research Council/National Academy of Sciences report on the U.S. semiconductor industry, which details the significant growth in foreign programs that support national and regional semiconductor industries. This support is fueling the structural changes in the global industry, and encouraging a shift of U.S. industry abroad.

CRITICAL NATIONAL SECURITY APPLICATIONS

Studies have shown that numerous advanced defense applications now under consideration will require high-end components with performance levels beyond that which is currently available. These cutting-edge devices will be required for critical defense capabilities in areas such as synthetic aperture radar, electronic warfare, and image compression and processing. Defense needs in the near future will also be focused on very high performance for missile guidance (''fire and forget''), signal processing, and radiation-hardened chips to withstand the extreme environments of space-based communications and tactical environments. There are profound needs for much more advanced onboard processing capabilities for unmanned aerial vehicles undertaking both reconnaissance and attack missions, for cruise missiles and ballistic missile defense, and for

the infrastructure that connects these systems. As the military transforms to a ''network-centric'' force in the future, the DoD's Global Information Grid will demand extremely high-performance computation to overcome the technical barriers to a seamless communication network between terrestrial 24 and 48 color optical fiber and satellite platforms transmitting in 100+Mbps wireless. Such performance will also be necessary for ''last-mile'' extremely high-speed connectivity to platforms and to the soldier in the field, as well as for the high-speed encryption requirements for a secure communication system. Intelligence agencies will increasingly need the most advanced chips for very high-speed signal processing and data analysis, for real-time data evaluation, for sensor input and analysis, and for encryption and decryption.

As studies for DARPA have indicated, the next several generations of integrated circuits, which emerge at roughly eighteen-month intervals as predicted by Moore's Law, offer the potential for exponential gains in defense war-fighting capability. It is erroneous to believe that future U.S. war-fighting capability will be derived from chips one or two generations behind current state-of-the-art technology. Many of the integrated circuits and processing platforms that are coming in to use, and which are at the heart of DoD defense strategies, are clearly at the cutting edge in their capabilities.

With the dramatic new capabilities enabled by rapidly evolving chip technologies, DoD and the intelligence agencies will need to be first adopters of the most advanced integrated circuits, and will be increasingly dependent on such chips for a defense and intelligence edge. If the ongoing migration of the chip manufacturing sector continues to East Asia, DoD and our intelligence services will lose both first access and assured access to secure advanced chip-making capability, at the same time that these components are becoming a crucial defense technology advantage. Informed elements of the intelligence community therefore have made clear that relying on integrated circuits fabricated outside the U.S. (e.g. in China, Taiwan and Singapore) is not an acceptable national security option.

ECONOMIC IMPORTANCE AND CHANGES IN THE SEMICONDUCTOR INDUSTRY

The influence of the semiconductor industry to the U.S. economy in the last decade is difficult to overstate. The U.S. semiconductor sector currently employs 240,000 people in high-wage manufacturing jobs, and had sales totaling $102 billion in the global market in 2000 (50 percent of total worldwide sales). In 1999, this sector was the largest value-added industry in manufacturing in the U.S.—larger than the iron, steel and motor vehicle industries combined. The productivity growth in the U.S. in the 1990s was due in significant part to the computer production and advances in information technology that depended on the semiconductor industry. The economic implications of the potential migration of high-end semiconductor chip research, design and manufacturing to off-shore facilities has the potential to cause (and, it could be argued, is already causing) long-term damage to the economic growth of this country, with corresponding national security ramifications.

A fundamental change in the semiconductor industry has been, in very simplified form, that the price to performance curve has reduced revenue in the industry dramatically over the last decade. During the early 1960's, and continuing until about 1994, the compound annual growth rate in revenue of the industry was 16 percent. From 1994 to the present, the growth rate has been approximately 8 percent. This situation is combined with the very large costs associated with the development of new 300 mm fabrication facilities (''fabs''), as well as the increasing complexity and cost of research and design as the industry must develop methods other than the traditional scaling methods (making all aspects of the chips smaller and smaller) in order to increase performance. These factors, and the current recession, are driving the industry to consolidations. As those consolidations take place, new business models, such as fabless companies and consortia, come into play.

A PROCESS DRIVEN BY GOVERNMENT POLICY IN REACTION TO MARKET FORCES

The principal reason that China is becoming a center of semiconductor manufacturing is the effective combination of government trade and industrial policies which have taken advantage of opportunities resulting from market forces and changes in the semiconductor industry. In a sector characterized by rapidly increasing capital costs and the need to have access to large, rapidly growing markets, such as China's, Chinese government policies and subsidies can decisively change the terms of international competition. The impact of these incentives is accentuated as a result of the multi-year recession, which has sharply reduced revenue and increased the competition for markets to absorb the industry's characteristic high fixed costs. Government policies in Taiwan were already drawing new manufacturing capability, as well as tool and equipment makers, to its science and technology park complex. However, in the last two years, Chinese policy has resulted in a sharp upsurge in construction of fabrication facilities in that country, with plans for a great many more.

The U.S. high-tech industry has been in a recession the last two years, with sharply reduced sales and severe losses. The number of state-of-the-art U.S. chip manufacturing facilities is expected to sharply decrease in the next 3–5 years to as few as 1–2 firms that now have the revenue base to own a 300 mm wafer production fab, and likely less than a handful of firms. Although the U.S. currently leads the world semiconductor industry with a 50 percent world market share, the Semiconductor Industry Association estimates that the U.S. share of 300 mm wafer production capacity will be only approximately 20 percent in 2005, while Asian share will reach 65 percent (only 10 percent of this from Japan). The remaining state-of-the-art U.S. chip-making firms face great difficulty in attaining the huge amounts of capital required to construct next-generation fabs. This situation stands in contrast to that in China. To ensure that they develop the ability to build the next-generation fabrication facilities, the Chinese central government, in cooperation with regional and local authorities, has undertaken a large array of direct and indirect subsidies to support their domestic semiconductor industry. They have also developed a number of partnerships with U.S. and European companies that are cost-advantageous to the companies in the short-term. The Chinese government is successfully using tax subsidies (see below) to attract foreign capital from semiconductor firms seeking access to what is expected to be one of the world's largest markets. This strategy, which is similar to that employed by the European Union in early 1990s, is a means of inducing substantial inflows of direct investment by private firms. Indeed, much of the funding is Taiwanese, driven by the tax incentives and their need for market access, especially for commodity products such as DRAMs. The strategy does not rely on cheaper labor, as that is a small element in semiconductor production.

The Chinese are, however, able to increasingly draw on substantially larger pools of technically trained labor as compared to the U.S., from the large cohorts of domestic engineering graduates. Importantly, the output of Chinese universities is supplemented by large numbers of engineers trained at U.S. universities and mid-career professionals who are offered substantial incentives to return to work in China. These incentives for scientists and engineers, which include substantial tax benefits, world-class living facilities, extensive stock options taxed at par value, and other amenities, are proving effective in attracting expatriate labor. They also represent an important new dimension in an accelerating global competition for highly skilled IT labor.

The immediate and most powerful incentives for a highly leveraged industry are the direct and indirect subsidies, including infrastructure needed for state-of-the-art fabs, offered by the government. For example, the Chinese central government has undertaken indirect subsidies in the form of a substantial rebate on the value-added tax (VAT) charged on Chinese-made chips. While many believe this is an illegal subsidy under GATT trade rules, the impact of the subsidy on the growth of the industry may well be irreversible before—and if—any trade action is taken. There are a variety of other documented measures adopted by the Chinese government. The development of special government funded industrial parks, the low costs of building construction in China as compared to the U.S., and their apparent disinterest in the expensive pollution controls required of fabrication facilities in the U.S. all represent further hidden subsidies. The aggregate effect of these individual ''subsidies'' may be only a few tens of percentage points of decrease (literally, only 20–30 percent in the manufacturing costs of the chips, but in such a cost-driven industry, this difference appears to play an important role in driving the entire offshore migration process for these critical components. Essentially, these actions reflect a strategic decision and represent a concerted effort by the Chinese government to capture the benefits of this enabling, high-tech industry, and thereby threatening to be a monopoly supplier and thus in control of pricing and supply.

It is therefore important to understand that the current shift in manufacturing capacity to China is not entirely the result of market forces. It is equally important to recognize that even if some residual U.S. manufacturing capacity remains after this large-scale migration takes place, the shift of the bulk of semiconductor manufacturing will severely constrain the ability of the U.S. to maintain high-end research and development capabilities. Such directed government support has proven itself to be a severe threat to U.S. industry. For a variety of reasons, the U.S. government has never been able to provide such coordinated support. The results of this deficit have been devastating. The idea that national governments cannot contribute to the health and direction of such a ''consumer based'' industry is unfounded, particularly given the national security implications.

A PLAN OF ACTION

The stakes are real. The time for the country to react effectively is limited. There are things that can be done. If these steps are taken in a timely fashion, the collective impact of the measures will be more powerful in maintaining reliable first access to high-end semiconductor chip design and manufacturing in the U.S. These could include:

Active Enforcement of GATT trade rules. Currently the Chinese government is providing a 14 percent rebate on VAT to customers who buy Chinese-made semiconductor chips, essentially providing a large

subsidy of their domestic industry in clear violation of GATT rules. Thus, U.S.-made chips would pay a 17 percent VAT, and Chinese-made chips would pay a 3 percent VAT. Given the tight price competition of chips and the growing importance of the Chinese chip market, this is a very significant step towards ending U.S. production. It is important to ensure that GATT rules are properly enforced in this instance, and not allow government imposed advantages for foreign competitors to damage U.S. manufacturers. DoD should insist that the U.S. Trade Representative undertake prompt bilateral negotiations to remove these measures.

Joint production agreements. With the current downturn in the high-tech sector, it is probable that many chip manufacturing companies will be unable to acquire the necessary capital to invest in the $3+ billion required for new 12-inch water advanced chip fabrication facilities, which are radically increasing in cost. Title 15 of the U.S. code (sections 4301 through 4305) gives private technology companies facing global competition the ability to enter into joint production ventures with a waiver of certain antitrust laws. Under this provision, a group of companies could consolidate assets into a small number of chip fabrication plants, which could be jointly run by a cooperative of two to five companies. This cooperative investment in a fab could sharply reduce the risk and cost to each participating firm, and their agreements to purchase chips from the new fab could be the basis to obtain financing. The Department could encourage this kind of venture and offer contracting opportunities to meet DoD's own chip-making needs, thus being an additional guarantor of demand.

Business models. A variety of creative business models exist which can help the Department and intelligence agencies obtain improved access to advanced manufacturing lines. The Department and intelligence agencies can enter into agreements with a number of U.S.-based chip manufacturers within the context of one of these models to the mutual benefit of all parties. DoD should contract with selected U.S. fabs for long-term access, using any one or more types of contractual vehicles (such as ''take or pay''). DoD should also direct its aerospace end-users to employ the services of these domestic fabs. While DoD, NSA and NRO are only a very small piece of the semiconductor market, they can still use their residual contracting power to encourage retention of U.S. advanced chip manufacturing in a coordinated way. DoD and the intelligence agencies must pursue this avenue of creative government-industry cooperation, and must do so soon, as time is not on the side of the U.S. industrial base or the U.S. Government. It is important to note, however, that even a much stronger and better coordinated effort in this area alone will not resolve DoD's problems because over time without a strong domestic commercial semiconductor industrial base it will become very difficult for DoD to retain access to state of the art chips. DoD requires an industry with technology leadership, not just its own short term supply fix.

Encourage tax incentives for U.S. investment. As the next generation of chip fabrication facilities can cost at least $3 billion per plant, the manufacturing sector will require assistance in acquiring the investment capital necessary to develop the manufacturing capabilities for cutting edge semiconductor chips. DoD and the intelligence agencies should work with industry and propose targeted tax incentives, possibly in coordination with state and local government financing, to assist in meeting these investment costs. As noted above, these efforts cannot be delayed into the out-years, as time is of the essence.

Increase Science and Engineering Graduates. The unprecedented technical challenges faced by the industry will require technically trained talent to provide solutions to these problems. In order to effectively compete against the concerted effort by the Chinese to capture the semiconductor industry, it will be necessary to counter the growing disparity of trained talent in both physical sciences and engineering between East Asia and the U.S. Incentives need to be created for increasing university student training in these fields, in particular, of students who are U.S. citizens. The training over the past two decades of East Asian students in American universities, who increasingly return to their country of origin, is a partial cause of the present situation. Additionally, efforts need to be undertaken to encourage their retention in the U.S. Overall, DoD should focus on programs that increase the number of science and engineering graduates at the B.S. and M.S. level needed to provide the technical capabilities for the semiconductor industry.

Increases in Federal Funds for Research and Development (R&D). Levels of federal funding in the U.S. for research on microelectronics have been steadily decreasing, while at the same time, competitors in Asia and Europe have dramatically expanded public support for semiconductor R&D. This decline in U.S. research support is of particular concern because the industry is increasingly addressing extremely complex technical challenges for which no solution is readily apparent. The following points highlight this need for restoration of funding and describe possible steps that could be taken:

a. DARPA's annual funding of microelectronics research and development—the principle channel of direct federal financial support in this area—has declined since 1999, and is projected to decline further. DoD should consider restoring this funding.

b. SEMATECH, the private industry partnership with government which was created to help revive the weakened U.S. industry in 1987 through collaborative research and pooled manufacturing knowledge, was provided with government funds of $100 million per year, fully matched by industry funds. Since 1996, SEMATECH has no longer received any government fundings. Originally an entirely U.S. endeavor, SEMATECH has now had to become ''international'' to remain in operation, thereby destroying its original U.S.-centric focus. DoD should consider alternative mechanisms for cooperative R&D efforts with industry in critical research areas.

c. In the current harsh financial climate of the U.S. high-tech industry, the private sector will not be able to continue an adequate investment in research and development—there have in fact been widespread anecdotal report of major decreases in R&D efforts in the U.S. commercial electronics industry. The need is developing for processors based on the next generation of silicon chip technology (referred to as the ''90 nanometer'' generation), and the U.S. could find itself without a domestic manufacturing base, as the research for that technology generation should be under way now. The area of non-silicon semiconductors, which offer a level of speed performance exceeding that of silicon components, is clearly under-funded. For example, research is needed on nano-electronics, such as alternatives to silicon CMOS through nanotubes and nanowires. This technology will be important for next-generation military communications and radar systems (operating in consort with advanced silicon processor chips). Here too, the DoD must find ways to assist the U.S. non-silicon semiconductor manufacturing based by further encouraging R&D appropriate to DoD requirements.

d. I urge the Department and intelligence agencies to support increased government funding for R&D of advanced chip technologies and also to support the development of new DoD-specfic chip designs within the aerospace industry, which, like the fabs, are losing their capabilities as the chip designs themselves are increasingly conducted overseas. DoD's decades-long role in the support of such research has diminished in recent years. Rejuvenation of this long-standing DoD role in advanced R&D would help to assure that U.S. industry, to the extent that it can be retained, will lead the future shifts to the most advanced chip technology which DoD will need.

Cooperative Research Programs. Programs such as the Focus Research Center Program (FRCP) under the Microelectronics Advanced Research Corporation (MARCO) seek to overcome the growing challenges companies face in advancing microelectronics technologies through government-industry partnerships that focus on cutting-edge research deemed critical to the continued growth of the industry. The government's share of funding (25 percent) of this cooperative program has been supported through the Government-Industry Co-sponsoring of University Research (GICUR) program within the Office of Secretary of Defense. The funding targets for this program as outlined in the original ramp-up plan have not been met. In fact, this program has been zeroed out of the administration's FY 2004 budget. DoD should ensure that funding levels for this vital area of government-industry collaborative research be properly supported, and that when U.S. universities are the recipients of such funding, the training of U.S. citizens (in contrast to foreign students) is strongly emphasized.

Survey of Trade Practices. DoD should survey all possible technologies that the Chinese government may be targeting for subsidies that would assist in the transfer of U.S. chip-making and related fields to China, and then develop a list of those subsidies that are in violation of GATT trade rules and seek USTR action For those that are not in violation but nonetheless create a competitive ''edge'' for China, the Department and the intelligence agencies will need to develop counter strategies. The focus should aid to strengthen the entire electronics and IT ''food chain''—from semiconductor manufacturing equipment to semiconductors to computers and systems. This will require broad interagency coordination and cooperation. It would probably be necessary to form such a ''tiger team'' immediately, and to provide that team with the authority and resources to act to stem the deterioration of our defense-critical on-shore infrastructure.

The Semiconductor Equipment and Materials Industry. Over the last decade a fair fraction of U.S. semiconductor tooling and equipments capability has migrated off shore. This has been particularly true of the ''high technology'' end of the business—advanced lithography. The migration has had a significant impact on our ability to guide and direct development in the chip economy as a whole. For example, when ASML (a Dutch firm) tool over SVG–L (our last cutting edge lithography stepper supplier) the personnel base at the former SVG–L site, in part because of the recession, was reduced, and some advanced product development shifted to Europe. Along with the sale of SVG–L, Tinsley, an SVG–L subsidiary, which is the world's premier supplier of aspheric optical components widely used in defense surveillance systems, was also conveyed to ASML. Lithography patent battles that could affect sales and services to U.S. chip

makers using equipment from either of these companies are continuing. As another example, it is generally accepted throughout the industry that the photomask is a key gating element in semiconductor development today, and that mask development is one of the largest challenges currently facing the industry. The cost of photomask infrastructure development is currently outstripping available R&D resources by a factor of 4 to 5. A recent SEMATECH study indicated the shortfall at approximately $750 million. Outside the U.S., this shortfall is being met with Government sponsored development activities in hopes of taking over the market. A small number of U.S. merchant mask companies are currently spearheading an effort to establish a pre-competitive R&D activity focused on U.S. mask infrastructure development. The need, supported by SEMATECH, includes advanced tool evaluation and development, along with materials, metrology, and standards activities to improve future photomask manufacturing capability. The goal is to accelerate leading edge photomask infrastructure capability on-shore by building on prior and current mask industry investments. DoD should give full consideration to supporting this effort for a U.S. mask consortium. Overall, the ''tiger team'' should survey and make recommendations on what can be done to stimulate and grow what is left of the on-shore semiconductor equipment industry, including masks and lithography.

NECESSITY OF COMPREHENSIVE ACTION

If DoD and the intelligence agencies lose commercial advanced chip production capability, off of which they have sharply leveraged over the past two decades to greatly reduce their costs and to improve war-fighting capability, the ability to benefit from such cost-saving relationships will be permanently lost. DoD can attempt to achieve temporary solutions, such as building its own next generation government-owned chip fabrication facility, but this is likely to be both expensive and ineffective. If the best research and design capability shifts to China along with manufacturing, this approach will not work past the next generation or two of semiconductor chip production. In addition, such temporary solutions are not only unworkable over time if the U.S. wishes to retain the best capability that is required for defense and intelligence needs, but will be far more expensive than the solutions proposed above. This is because the opportunity to leverage off the commercial sector (an approach which the DoD and intelligence community rely upon at present) for new advances and cost savings will be lost. The U.S. policy goal should not be to seek to prevent China from obtaining significant chip-making capability in the very near future. That will happen. The issue is whether the U.S. can improve its competitive position and remove unfair distortions in order to retain significant on-shore manufacturing capacity.

CONCLUSIONS AND FURTHER ACTION

A prompt, concerted effort by the defense and intelligence community can reverse this trend of off-shore migration of manufacturing, research and design that is now underway and that will become essentially irreversible if no action is taken in the next few months. I am requesting a report and plan of action from DoD and the intelligence community, based on the steps enumerated above, on how they will act to prevent the national security damage that the loss of the U.S. semiconductor industry will entail.

The loss goes beyond economics and security. What is at stake here is our ability to be preeminent in the world of ideas on which the semiconductor industry is based. Much of applied physical science—optics, materials, science, computer science, to name a few—will be practiced at foreign centers of excellence. This stunning loss of intellectual capability will impede our efforts in all areas of our society.

I hope that by bringing attention to this matter, we can avoid a potential national security crisis in terms of reliable access to cutting edge technology necessary to the critical defense needs of our country. We are being confronted by one of the greatest transfers of critical defense technologies ever organized by another government and the time for action is overdue.

## AUNG SAN SUU KYI: RELEASE HER UNHARMED

Mr. KENNEDY. Mr. President, Burma's brutal and illegitimate military government committed yet another vicious atrocity last week when Aung San Suu Kyi and many members of her democracy movement were suddenly assaulted by a paramilitary group. Some of her supporters were killed and many others were wounded. She herself was taken into so-called ''protective custody'' by the regime but little more is known of her whereabouts, her health, or the safety of the 20 or so people arrested with her.

The violent repression of these democracy activists is another sad and infuriating example of the continuing efforts by the Burmese government to block any genuine political reform in the country.

Only a year ago Suu Kyi was released from one of her numerous occasions of house arrest in Burma, this one lasting 19 months. Her release last spring came with the promise to release political prisoners and begin a new discussion with her party. That party, the National League of Democracy, legitimately won power in a 1990 election, but was denied the opportunity to take office in the government crackdown that followed.

This cruel attack is another example of a corrupt government that continues to commit flagrant human rights violations against its citizens, uses rape as a weapon of intimidation and torture against women, and forcibly enslaves child soldiers to fight their own people.

This new atrocity has outraged the world, and many governments have denounced it. Stronger action by the international community is long overdue, and we must act as well. Under S. 1182, the Burmese Freedom and Democracy Act, we call on the Burmese government to release Suu Kyi and her supporters immediately and with no additional harm. Our legislation will impose a total ban on import from Burma. It will freeze the Burmese government's assets in the United States. It will tighten the visa ban on their government officials. It will oppose any new international loans to its government.

I am very encouraged by the swift decision of President Bush and Secretary Powell to express their outrage and concern. Congress must do all it can to support the courageous struggle for democracy led by the heroic Aung San Suu Kyi. We pray that she will be released unharmed. She won the Nobel Prize for Peace in 1991 for her courageous leadership, and again and again she continues to show us why.

## THE HOLOCAUST VICTIMS' ASSETS, RESTITUTION POLICY, AND REMEMBRANCE ACT

Mrs. CLINTON. Mr. President, today I join my colleagues in support of the Holocaust Victims' Assets, Restitution Policy, and Remembrance Act.

We are motivated by a desire to achieve justice for Holocaust victims and their families, and we recognize that if such justice is to be attained, the United States must continue to lead the world by example.

The United States has provided leadership in this area ever since American troops liberated the death camps. Most recently, the United States has been the driving force behind international settlements with foreign governments, the Swiss banks, the European insurance companies, and German corporations that benefited from slave labor. This legislation recognizes that the struggle for justice requires continued American leadership and that the foundation is the appropriate mechanism for that leadership.

Justice is timeless, and it is time for us to take the necessary steps and help Holocaust survivors reunite with their assets and belongings. For many survivors and family members, a painting, a piece of furniture, or a family heirloom is the only remaining connection between them and their loved ones who died in the Holocaust. This legislation is long overdue. I hope that it reunites many victims and families with those items that have been missing for too many years, and a reunion like that would be a bittersweet kind of justice.

The purpose of this act is to create a public/private foundation to integrate research that has been conducted by 23 international commissions in the area of Holocaust-era assets, to complete the research agenda that arises from that synthesis, and stimulate the transition to a contemporary restitution policy.

The foundation will be the single most effective facilitator of the identification and return of Holocaust-era asserts to their rightful owners and heirs ever supported by the U.S. Government.

If the nations of the world are to be convinced of our lasting commitment to justice for Holocaust victims and if continued work on Holocaust assets issues is to be truly effective, the foundation must have the stamp of the Federal Government. But the Federal Government cannot, and should not, perform these tasks by itself.

It will coordinate the efforts of the Federal Government, State governments, the private sector, and individuals here, and abroad, to help people locate and identify assets who would

otherwise have no ability to do so. It will encourage policymakers to deal with contemporary restitution issues, including how best to treat unclaimed assets.

The foundation is authorized for 10 years, after which it will sunset and ''spin off'' its research results and materials to other appropriate public and private entities. It is able to accept private funds as well as public dollars.

The commission identified a number of policy initiatives that require U.S. leadership. These initiatives included, but are not limited to the need to: compile a report that integrates, synthesizes, and supplements the research on Holocaust-era assets that has been conducted around the world; review the degree to which other nations have implemented the principles adopted at various international conferences; work with organizations to provide for the coordinated and centralized dissemination of information about restitution programs; encourage the creation and expansion of mechanisms, including Alternative Dispute Resolution options, to assist claimants in obtaining the speedy resolution of their claims; and, support the establishment and maintenance of a computerized and searchable database of Holocaust victims' claims for the restitution of personal property.

The foundation will also encourage, and support, the efforts of State governments to facilitate the cross match of unclaimed property records with lists of Holocaust victims. It will work with the museum community to further stimulate provenance research into European paintings and Judaica. It will promote and monitor the implementation by major banking institutions of the agreement developed in conjunction with the New York Bankers Association. Finally, it will work with the private sector to develop and promote common standards and best practices for research on Holocaust-era assets.

The impetus for the foundation comes from the work of the Presidential Advisory Commission on Holocaust Assets in the United States chaired by Edgar M. Bronfman, Sr. The commission report, ''Plunder and Restitution: The U.S. and Holocaust Victims' Assets,'' was the most comprehensive examination ever conducted into how the Federal Government handled the assets of Holocaust victims that came into its possession or control.

The Congress has dealt with Holocaust issues on a nonpartisan basis, and I am confident it will consider this bill in the same spirit. I urge my colleagues to cosponsor it and look forward to its prompt adoption.

## ADDITIONAL STATEMENTS

### IN CELEBRATION OF THE 25TH ANNIVERSARY OF MARIN SERVICES FOR WOMEN

● Mrs. BOXER. Mr. President, I take this opportunity to recognize the 25th anniversary of Marin Services for Women.

Since 1978, Marin Services for Woman MSW, has helped women recover from drug and alcohol abuse. It is the only agency in Marin County that provides alcohol and drug treatment programs designed to meet the specific needs of women and their families.

MSW works tirelessly to ensure the physical and emotional health of Bay Area women by working one-on-one with individuals and providing them with specialized treatment. MSW's treatment philosophy is a comprehensive, gender-specific, culturally responsible approach to alcohol and drug recovery. MSW respects and encourages each client's strengths and provides social, economic and political empowerment.

Throughout its 25 years of service, MSW has successfully provided a safe haven for women seeking recovery by providing female staff role models who reflect the diversity of the client population; residential and outpatient services that address the addiction patterns of women; and intensive case management to assist with employment status, access to housing, and use of outside health and social services. MSW's success in advancing community recovery by providing specialized treatment tailored to each individual woman has set a standard for care in the Bay Area.

For 25 years, Marin Services for Women has served as a beacon for women who have nowhere else to turn. Their dedication to the community is inspiring and impressive. I congratulate Marin Services for Women on their 25th anniversary and wish them another 25 years of success.●

### IN RECOGNITION OF OFFICER MICHAEL SIEBERT, RECIPIENT OF THE CALIFORNIA AMERICAN LEGION LAW ENFORCEMENT OFFICER OF THE YEAR AWARD.

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Officer Michael Siebert of the San Francisco Police Department.

The American Legion, Department of California has chosen Officer Michael Siebert as its Law Enforcement Officer of the Year. Officer Siebert is receiving this award for his dedication to the betterment of his community and to law enforcement.

Officer Michael Siebert has dedicated himself to raising funds for children with catastrophic childhood diseases. In 1998, Officer Siebert volunteered to travel to Sydney, Australia, to take part in its ''Crop-A-Cop'' fundraising event. This event featured officers who raise charity funds earmarked for children with cancer. As part of the event, officers would shave their heads to demonstrate to children going through the horrors of chemotherapy that it was okay to have no hair. Not only did Officer Siebert shave his head, but he also returned to ''Crop-A-Cop'' in Australia the following year.

Through his efforts, in 1999, this event debuted in the United States. Not only did he succeed in having the San Francisco Police Department and the Sheriff's Department participate, but Officer Siebert enlisted agencies all over the State of California to take part. This year marked the fourth year of Officer Siebert's ''Buzz the Fuzz'' fundraiser.

Officer Siebert is an inspiration to all. Californians are extremely proud of Officer Siebert's dedication to his police work, the community, and to children who bravely face the devastation of cancer. He is most deserving of this award and the outpouring of admiration he receives from colleagues and friends. I am honored to pay tribute to him, and I encourage my colleagues to join me in wishing Officer Michael Siebert much continued success in his law enforcement career.●

### COMMEMORATING JOE CENOZ ON 50 YEARS OF SERVICE TO THE AMERICAN LEGION CALIFORNIA BOYS STATE

● Mrs. BOXER. Mr. President, I would like to take a few minutes to recognize a constituent, Joe Cenoz, who will, at the end of the month, mark his 50th year of exemplary service to the American Legion California Boys State program.

Since 1935, the Boys State program has brought together high school boys from across their States to immerse them in a week of education about, and simulation of, their State government. The California program began in 1938, and Mr. Cenoz is the first counselor in the history of the California Boys State program to reach 50 years of service. His work has touched the lives of nearly 50,000 young Californians and 3,000 staff members who have served with and under his guidance.

Mr. Cenoz began his 50 years of service with the California Boys State program in 1951 as a city counselor. In 1955, he also assumed the role of political party counselor, helping to guide the Boys State delegates through the process of partisan politics. In 1961, Mr. Cenoz was elevated to the role of county counselor. In this role, he worked with the delegates of the three cities that made up the county, while continuing his role as political party counselor.

In 1974, Mr. Cenoz moved to the role of assistant chief counselor, guiding the California Boys State counseling staff and delegates through the week-long program. He became the chief

counselor in 1981, assuming overall responsibility for the activities that make up the California Boys State program. The 2003 California Boys State session will be Mr. Cenoz's 23rd serving as chief counselor.

In 1980, Mr. Cenoz was invited to join the staff of Boys Nation. Boys Nation is an extension of the Boys State program. Annually, two boys from each Boys State program around the country are selected to represent their home States at the 10-day Boys Nation program in Washington, DC.

Mr. Cenoz has been a leader outside of the California Boys State program as well, serving in the U.S. Navy and the Navy Reserve as a submariner from 1941 to 1953. He served in both World War II and the Korean war. Additionally, Mr. Cenoz served as a police officer with the city of Pomona, beginning in 1951, and retiring at the rank of lieutenant in 1980.

Mr. Cenoz's actions demonstrate his dedication to serving his country and the State of California, and I offer my hearty congratulations to him for his 50 years of service to the California Boys State program.●

## RECOGNIZING OFFICER CLAYTON HARMSTON, RECIPIENT OF THE CALIFORNIA AMERICAN LEGION LAW ENFORCEMENT OFFICER OF THE YEAR FOR VALOR AWARD

● Mrs. BOXER. Mr. President, I rise today to bring to the Senate's attention the exemplary achievements and outstanding service of Officer Clayton Harmston of the San Francisco Police Department.

The American Legion, Department of California has chosen Officer Clayton Harmston as its Law Enforcement Officer of the Year for Valor. Officer Harmston is receiving this award for the extraordinary heroism he displayed in the line of duty on July 7, 2002.

On that day, Officer Harmston and his partner stopped a vehicle that was operating in a suspicious manner. During the vehicle stop, Officer Harmston approached the passenger, who was just paroled from State prison. The passenger refused to submit to a search and immediately attacked Officer Harmston. A struggle ensued, Officer Harmston was knocked to the ground face-first, and then the parolee drew his loaded weapon on Officer Harmston. Although injured and dazed, Officer Harmston demonstrated great presence of mind and warned his partner of the gun. When Harmston's partner distracted the parolee, Officer Harmston displayed remarkable courage by attempting to pull the gun away from the parolee. During the struggle, the parolee shot Officer Harmston who was able to roll away to cover, where a gun battle began. The gunman was struck and fell to the ground, refusing to release his weapon until it was taken from his grip.

Officer Clayton Harmston, despite his injuries, used all his abilities and resources to protect his partner and ultimately end this dangerous situation. Officer Harmston is an inspiration to all. It is because of the courage and valor of police officers such as Clayton Harmston that our streets are safer.

Californians are extremely proud of Officer Harmston. He is most deserving of the American Legion, Department of California's Law Enforcement Officer of the Year for Valor award and of the admiration that he receives from colleagues and friends. I am honored to pay tribute to him, and I encourage my colleagues to join me in wishing Officer Harmston much continued success in his law enforcement career.●

## TRIBUTE TO CAPTAIN CHARLES A. BUSH

● Mr. WARNER. Mr. President, I rise today to recognize and pay tribute to an outstanding officer, CPT Charles A. Bush, on the occasion of his retirement from the Department of the Navy. It is a great honor for me to take this opportunity to thank Captain Bush and his family for his 27 years of distinguished and dedicated service to our Nation. Over the last quarter of a century, he has proudly and selflessly served his Nation in defense of freedom.

Few of us can appreciate the true awe of the U.S. aircraft carrier as well as Captain Bush can. During his career he served the aircraft carrier community in many facets: naval aviator, engineer officer, maintenance coordinator, and most recently as program manager for in-service aircraft carriers.

During his tenure as program manager, Captain Bush oversaw the construction of the USS *Harry S Truman*, CVN 75, and *Ronald Reagan*, CVN 76, the complete refueling and complex overhaul of the first Nimitz-class carrier, USS *Nimitz*, CVN 68, the commencement of the second Nimitz-class carrier to undergo a refueling and overhaul—the USS *Dwight D. Eisenhower*, CVN 69, as well as the maintenance planning for the in-service carrier force at the highest possible level of readiness.

His innovative concepts, motivational leadership, and personal energy have produced exactly what was required to support these national assets—dramatic streamlining of processes and organizations, reduced maintenance cost and cycle time, and a government and commercial workforce trained for and ready to take these concepts forward. The culmination of his efforts can be no better illustrated than by the successful surge of carriers in support of both Operation Enduring Freedom and Operation Iraqi Freedom. Captain Bush's son, Nicholas, now has the distinct honor to continue the family's great service to our Nation onboard the USS *Nimitz*. Nicholas is a naval flight officer assigned to VAQ–135, NAS Whidbey Island, WA, and was recently deployed in support of Operation Iraqi Freedom.

It is my honor to recognize Captain Bush for his distinguished service to our Nation. As a veteran of World War II and Korea, I have the highest respect for those who serve in uniform, and I appreciate and honor all the men and women who have served, and continue to serve, in defense of freedom. Recalling our national anthem, to our veterans and Armed Forces, I say, we would not be ''the land of the free'' were we not also the ''home of the brave.'' My colleagues and I wish Captain Bush and his family continued success and the traditional naval wish of ''Fair winds and Following seas'' as he closes out his military career.●

## TRIBUTE TO COMPANY C 5TH BATTALION 112TH ARMOR

● Mr. PRYOR. Mr. President, I stand before you today in tribute of the Company C 5th Battalion 112th Armor currently stationed at the Pine Bluff Arsenal. Along with the people of my State as well as those across the Nation. I would like to offer my sincere appreciation and farewell to this group of 238 personnel that will be relieved of their duty at the Arsenal in a transfer of authority on June 11, 2003.

This exceptional group of young men and women hailing from Arkansas and Texas came together in an unusual display of diversity in September of 2002 in order to provide extensive base security as a Chemical Site Defense Force. Under the creed, ''One flag, One Team, One Fight,'' this company is a combination of 169 men and women from five Army Companies in Northeast Texas, as well as 69 personnel from my home State of Arkansas. For those not schooled in the procedures of the National Guard, this interstate combination is rare. On top of this is the fact that within ''Tank Fantillery,'' which is the adopted nickname of the company, there is also an unusual mixture of tankers, infantrymen and an artillery battery. Under the direction of CDR Robert Eason, ''Tank Fantillery'' has shown their dedication, unity, and diversity as they have joined in the fight against terrorism by successfully fulfilling their protective duties at the Pine Bluff Arsenal Chemical Munitions facility. Now, coming to the end of their term of duty, I feel that it is appropriate for us to offer them our gratitude and congratulations on the completion of their objective.

Later this month the transfer of authority will take place, and this group of personnel will be relieved of the protective duties that they have held for the last 10½ months. Such an occasion offers the chance to honor these men and women that display a level of dedication to their country that too few of us share. All of the world should be so lucky as to have such dedicated and honorable soldiers committed to their protection. It is with a warm heart that I salute these men and women and wish them luck in all of their future endeavors.●

## 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.)

## MESSAGES FROM THE HOUSE

At 12:22 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 bills, in which it requests the concurrence of the Senate:

H.R. 361. An act to designate certain conduct by sports agents relating to the signing of contracts with student athletes as unfair and deceptive acts or practices to be regulated by the Federal Trade Commission.

H.R. 1954. An act to revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

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. 177. Concurrent resolution recognizing and commending the members of the United States Armed Forces and their leaders, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations.

The message further announced that the House insists upon its amendment to the bill (S.3) to prohibit the procedure commonly known as partial-birth abortion, an asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members to be the managers of the conference on the part of the House: From the Committee on the Judiciary for consideration of the Senate bill and the House amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. HYDE, and Mr. NADLER.

## ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 192. An act to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 1474. An act to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes.

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. 190. Concurrent resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people.

The message further announced that the House has passed the following bills, without amendment:

S. 222. An act to approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

S. 273. An act to provide for expeditious completion of the acquisition of land owned by the State of Wyoming within the boundaries of Grand Teton National Park, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 361. An act to designate certain conduct by sports agents relating to the 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.

H.R. 1474. An act to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 177. Concurrent resolution recognizing and commending the members of the United States Armed Forces and their leader, and the allies of the United States and their armed forces, who participated in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq and recognizing the continuing dedication of military families and employers and defense civilians and contractors and the countless communities and patriotic organizations that lent their support to the Armed Forces during those operations; to the Committee on Armed Services.

H. Con. Res. 190. Concurrent resolution to establish a joint committee to review House and Senate rules, joint rules, and other matters assuring continuing representation and congressional operations for the American people; to the Committee on Rules and Administration.

## 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–2547. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of Transportation, case number 02–08, in the amount of $5,380,764, received on May 20, 2003; to the Committee on Appropriations.

EC–2548. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Air Force, case number 01–03, in the amount of $1,919,682, received on May 27, 2003; to the Committee on Appropriations.

EC–2549. A communication from the Under Secretary of Defense, Comptroller, transmitting, pursuant to law, the report of a violation of the Antideficiency Act by the Department of the Navy, case number 00–02, in the amount of $1,321,000, received on May 27, 2003; to the Committee on Appropriations.

EC–2550. A communication from the Assistant Secretary, Indian Affairs, Division of Transportation, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Distribution of Fiscal Year 2003 Indian Reservation Roads Funds (RIN 1076–AE34)'' received on June 1, 2003; to the Committee on Indian Affairs.

EC–2551. A communication from the Chair, Federal Election Commission, transmitting, pursuant to law, the submission of 7 recommendations for legislative action, received on June 1, 2003; to the Committee on Rules and Administration.

EC–2552. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Second Report of the Dwight D. Eisenhower Memorial Commission; to the Committee on Rules and Administration.

EC–2553. A communication from the Director, Regulations Management, Veterans Benefit Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Schedule for Rating Disabilities Evaluation of Tinnitus (2900–AK86)'' received on May 27, 2003; to the Committee on Veterans' Affairs.

EC–2554. A communication from the Associate Deputy Administrator, Government Contracting and Business Development, Small Business Administrator, transmitting, pursuant to law, the report relative to Minority Small Business and Capitol Ownership Development, received on June 1, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2555. A communication from the Acting Deputy General Counsel, Office of Size Standards, Small Business Administration, transmitting, pursuant to law, the report of a rule entitled ''Small Business Size Standards; Job Corps Centers (3245–AF02)'' received on May 20, 2003; to the Committee on Small Business and Entrepreneurship.

EC–2556. A communication from the Regulations Officer, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Claimant Identification Pilot Projects (0960–AF79)'' received on May 27, 2003; to the Committee on Finance.

EC–2557. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guideline: Leasing Promotions—Lease Stripping Transactions (UIL 9300.03–00)'' received on May 27, 2003; to the Committee on Finance.

EC–2558. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report entitled ''Collateral Valuation Improvement Act of 2003'' received on May 27, 2003; to the Committee on Finance.

EC–2559. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of the Designation of an acting officer for the position of Chief Financial Officer for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2560. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a confirmation for the position of Member, IRS Oversight Board, Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2561. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary, Public Affairs for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2562. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Management for the Department of the Treasury, received on June 1, 2003; to the Committee on Finance.

EC–2563. A communication from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Anticipating Income and Reporting Changes (0584–AB57)'' received on May 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2564. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clothianidin; Pesticide Tolerance (FRL 7306–8)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2565. A communication from the Acting Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Methoxyfenozide; Pesticide Tolerance (FRL 7308–6)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2566. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Imported Fire Ant; Additions to Quarantined Areas (Doc. 02–114–2)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2567. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sapote Fruit Fly (Doc. No. 03–032–1)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2568. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Canada Because of BSE (Doc. No. 03–058–1)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2569. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Beef from Uruguay (Doc. No. 02–109–3)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2570. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Tobacco Payment Program (RIN 0560–AG96)'' received on May 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2571. A communication from the Director, Regulatory Review Group, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Cottonseed Payment Program (RIN 0560–AG97)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2572. A communication from the Administrator, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on imports (2003 Amendments) (Doc. No. CN–03–002)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2573. A communication from the Administrator, Cotton Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Revision of User Fees for 2003 Crop Cotton Classification Services to Growers (CN–02–006) (RIN 0581–AC71)'' received on June 1, 2003; to the Special Committee on Aging.

EC–2574. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Raisins Produced from Grapes Grown in California; Modification to the Raisins Diversion Program (Doc. No. FV03–989–FIR)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2575. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Spearmint Oil Produced in the Far West; Increased Assessment Rate (Doc. No. FV03–985–2 FR)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2576. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Final Free and Restricted Percentages for the 2002–2003 Marketing Year (Doc. No. FV03–982–1 FIR)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2577. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2003–2004 Marketing Year'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2578. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Raisins Produced from Grapes in California; Reduction in Production Cap for 2003 Diversion Program (Doc. No. FV03–989–3FIR)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2579. A communication from the Administrator, Fruit and Vegetable Program, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Requirements for the USDA ''Produced From'' Grademark for Shell Eggs (Doc. No. PY–02–007) (RIN 0581–AC24)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2580. A communication from the Administrator, Tobacco Programs, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Flue-Cured Tobacco Advisory Committee, Amendment to Regulations (Doc. No. TB–02–14)'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2581. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Official Performance and Procedural Requirements for Grain Weighing Equipment and Related Grain Handling Systems'' received on May 21, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2582. A communication from the Regulatory Contact, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report rule entitled ''Fees for Official Inspection and Official Weighing Services'' received on June 1, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2583. A communication from the Director, Office of Management and Budget (OMB), Executive Office of the President, transmitting, pursuant to law, the OMB's second annual report relative to the agency's Information Technology security, received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2584. A communication from the Deputy Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report entitled ''Fiscal Year 2004 Annual Performance Plan'' received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2585. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–92 ''Fiscal Year 2003 Budget Support Temporary Act of 2003'' received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2586. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–90 ''Operations Enduring Freedom and Operation Iraqi Freedom Active Duty Pay Differential Extension Temporary Amendment Act of 2003'' received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2587. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–91 ''Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2003'' received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2588. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 15–81 ''Central Detention Facility Monitoring Temporary Amendment Act of 2003'' received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2589. A communication from the Chief Operating Officer, Chemical Safety and Hazard Investigation Board, transmitting, pursuant to law, the annual report on the inventory of activities of the Board, received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2590. A communication from the Director, Employment Service, Office of Personal Management, transmitting, pursuant to law,

the report on ''Excepted Service—Temporary Organizations (3206–AJ70)'' received on June 1, 2003; to the Committee on Governmental Affairs.

EC–2591. A communication from the Chairman, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Semiannual Report to Congress prepared by the Board's Inspector General (IG), received on May 27, 2003; to the Committee on Governmental Affairs.

EC–2592. A communication from the Office of the Executive Director, Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report relative to the Commission's compliance to the Sunshine Act, received on May 20, 2003; to the Committee on Governmental Affairs.

EC–2593. A communication from the Director, Legislative Affairs, Railroad Retirement Board, transmitting, pursuant to law, the report on the agency's 2002 Government in the Sunshine Act, received on May 21, 2003; to the Committee on Governmental Affairs.

EC–2594. A communication from the Acting Director, Director of Selective Service, transmitting, pursuant to law, the report on the Selective Service System's (SSS) Performance Measurement Plan for FY 2004, received on May 20, 2003; to the Committee on Governmental Affairs.

EC–2595. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Inspector General's Semiannual Report to Congress and the Management Response of the Securities and Exchange Commission, received on June 1, 2003; to the Committee on Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 116. A resolution commemorating the life, achievements, and contributions of Al Lerner.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By the HATCH for the Committee on the Judiciary.

R. Hewitt Pate, by Virginia, to be an Assistant Attorney General.

David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2004.

Richard C. Wesley, of New York, to be United States Circuit Judge for the Second Circuit.

J. Ronnie Greer, of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

Mark R. Kravitz, of Connecticut, to be United States District Judge for the Distict of Connecticut.

John A. Woodcock, Jr., of Maine, to be United States District Judge for the District of Maine.

Harlon Eugene Costner, of North Carolina, to be United States Marshal for the Middle District of North Carolina for the term of 4 years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY:

S. 1188. A bill to repeal the two-year limitation on the payment of accrued benefits that are due and unpaid by the Secretary of Veterans Affairs upon the death of a veteran or other beneficiary under laws administered by the Secretary, to allow for substitution of parties in the case of a claim for benefits provided by the Secretary when the applicant for such benefits dies while the claim in pending, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DURBIN:

S. 1189. A bill to ensure an appropriate balance between resources and accountability under the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mrs. HUTCHISON):

S. 1190. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1191. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Ms. STABENOW):

S. 1192. A bill to establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses; to the Committee on Energy and Natural Resources .

By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

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

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. FRIST, Mr. ALEXANDER, Mrs. LINCOLN, Mr. BUNNING, Mr. SMITH, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. KERRY, Mr. KENNEDY, and Mr. HATCH):

S. 1195. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the medicaid drug rebate program; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. FITZGERALD, and Mr. HAGEL):

S. 1196. A bill to eliminate the marriage penalty permanently in 2003; to the Committee on Finance.

By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. DORGAN):

S. 1197. A bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD:

S. 1198. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD (for himself, Mrs. LINCOLN, and Mr. MCCAIN):

S. 1199. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. CANTWELL (for herself, Mr. WARNER, Mr. BINGAMAN, Mr. CHAFEE, Mrs. CLINTON, Mr. HARKIN, and Mr. HOLLINGS):

S. 1200. A bill to provide lasting protection for inventoried roadless areas within the National Forest System; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of South Carolina (for himself, Mr. DORGAN, Mr. BUNNING, Mr. DURBIN, Mr. ROBERTS, Mrs. MURRAY, Mr. SMITH, Ms. LANDRIEU, Mr. DEWINE, Mr. CORZINE, Mr. DASCHLE, and Mrs. LINCOLN):

S. 1201. A bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER:

S. 1202. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to improve the safety of meat and poultry products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ENZI (for himself, Mr. BINGAMAN, and Mr. CAMPBELL):

S. 1203. A bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1204. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1205. A bill to provide discounted housing for teachers and other staff in rural areas of States with a population less than 1,000,000 and with a high population of Native Americans or Alaska Natives; to the Committee on Indian Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. AKAKA:

S. Res. 160. A resolution to express the sense of the Senate that the federal Government should actively pursue a unified approach to strengthen and promote the national policy on aquaculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM of South Carolina (for himself and Mr. HOLLINGS):

S. Res. 161. A resolution commending the Clemson University Tigers men's golf team for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship; considered and agreed to.

ADDITIONAL COSPONSORS

S. 50

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 50, a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 68

At the request of Mr. INOUYE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 68, a bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes.

S. 269

At the request of Mr. JEFFORDS, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 269, a bill to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

S. 296

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 296, a bill 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. 373

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 373, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the medicare program.

S. 384

At the request of Mr. REID, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 384, a bill to amend the Internal Revenue Code of 1986 to prevent corporate expatriation to avoid United States income taxes.

S. 491

At the request of Mr. REID, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 518

At the request of Ms. COLLINS, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 518, a bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 610

At the request of Mr. VOINOVICH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 610, a bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes.

S. 623

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mrs. LINCOLN) 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. 652

At the request of Mr. CHAFEE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor 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. 736

At the request of Mr. ENSIGN, the names of the Senator from California (Mrs. BOXER) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 794

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 794, a bill to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency, and for other purposes.

S. 811

At the request of Mr. ALLARD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 811, a bill to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes.

S. 877

At the request of Mr. BURNS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

S. 908

At the request of Ms. COLLINS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 908, a bill to establish the United States Consensus Council to provide for a consensus building process in addressing national public policy issues, and for other purposes.

S. 970

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 970, a bill to amend the Internal Revenue Code of 1986 to preserve jobs and production activities in the United States.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 982

At the request of Mrs. BOXER, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Alabama (Mr. SHELBY) 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. 1008

At the request of Mr. CAMPBELL, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1008, a bill to provide for the establishment of summer health career introductory programs for middle and high school students.

S. 1022

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1022, a bill to amend the Richard B. Russell National School Lunch Act to improve the child and adult care food program.

S. 1046

At the request of Mr. HOLLINGS, the names of the Senator from Delaware (Mr. CARPER), the Senator from Massachusetts (Mr. KERRY), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Florida (Mr. NELSON) 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. 1053

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 1076

At the request of Mr. HAGEL, the names of the Senator from Minnesota

(Mr. DAYTON) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1076, a bill to authorize construction of an education center at or near the Vietnam Veterans Memorial.

S. 1092

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor 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. 1110

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1110, a bill to amend the Trade Act of 1974 to provide trade adjustment assistance for communities, and for other purposes.

S. 1157

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Virginia (Mr. WARNER) and the Senator from Alaska (Ms. MURKOWSKI) 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 name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor 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. 1170

At the request of Mr. WYDEN, the names of the Senator from Nebraska (Mr. NELSON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of 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.

S. 1182

At the request of Mr. MCCONNELL, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 1182, a bill to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

S. 1182

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1182, supra.

S. 1184

At the request of Mr. SMITH, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1184, a bill to establish a National Foundation for the Study of Holocaust Assets.

S. RES. 153

At the request of Mrs. MURRAY, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors 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.

S. RES. 159

At the request of Mr. PRYOR, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 159, a resolution expressing the sense of the Senate that the June 2, 2003, ruling of the Federal Communications Commission weakening the Nation's media ownership rules is not in the public interest and should be rescinded.

AMENDMENT NO. 853

At the request of Mr. SCHUMER, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 853 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 (for himself and Mrs. HUTCHISON):

S. 1190. A bill to expand and enhance postbaccalaureate opportunities at Hispanic-serving institutions, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN: Mr. President, I rise today with my colleague from Texas, Senator KAY BAILEY HUTCHISON, to introduce the Next Generation Hispanic-Serving Institution Act. This bill will strengthen provisions in Title V of the Higher Education Act, HEA, by providing our Hispanic-Serving Institutions with both graduate opportunities and reductions in regulatory barriers.

According to the 2000 census Hispanics make up 12.5 percent of the American population. Currently Hispanics constitute 10 percent of the college enrollment. By 2050 the Hispanic population will grow to 25 percent. It is in our national interest to ensure that this population is well educated so that they will be ready to take their place as professionals, scientists, inventors, and well-informed citizens.

Hispanic-Serving Institutions, HSIs, serve students of all backgrounds and ethnicities in 13 States. Colleges and universities become eligible for HSI status if at least 50 percent of their student population receives need-based financial assistance, 25 percent is Hispanic, and 50 percent of their Hispanic population is low-income. It is at these HSIs that the largest growth in advanced degrees awarded to Hispanics is occurring. Between 1991 and 2000 the number of Hispanic students earning master's degrees at HSIs grew 136 percent and the number of receiving doctoral degrees grew by 85 percent. Currently over 25 percent of the Hispanics who obtained these degrees did so at HSIs. As a nation, we need to expand the capacity of Hispanic-Serving Institutions, support their undergraduate programs, and encourage them to offer quality graduate and professional degree programs.

The Next Generation Hispanic-Serving Institution Act will strengthen our Hispanic-Serving Institutions by: Establishing a competitive grant program for HSIs to support their masters and doctoral degree programs. Eliminating the current requirement for HSIs to show that 50 percent of their Hispanic population is low-income. This requirement is difficult for the institutions to meet because they cannot collect the necessary student data. Eliminating the 2-year wait-out period between HSI grants allowing continuous funding of existing programs. Adding, as an authorized activity, programs that support student transfers from 2-year to 4-year institutions. Raising the funding for the Title V HSI grant program to $175,000,000. Allocating $125,000,000 for a new grant program to support HSI masters and doctoral programs.

The State of New Mexico houses 19 HSIs within its border. The New Mexico HSIs serve the entire State and their student populations are very diverse. Over the years these 19 institutions have worked diligently to educate and support all students. They have graduated outstanding teachers, scientists, and other professionals. The Next Generation Hispanic-Serving Institution Act supports the valuable work that these and all other HSIs are currently doing and gives them new resources they need to expand their offerings.

I urge my colleagues to support this bill and 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. 1190

*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 ''Next Generation Hispanic Serving Institutions Act''.

**TITLE I—GRADUATE OPPORTUNITIES AT HISPANIC-SERVING INSTITUTIONS**

**SEC. 101. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.**

(a) ESTABLISHMENT OF PROGRAM.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

**"PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS**

**"SEC. 511. FINDINGS AND PURPOSES.**

''(a) FINDINGS.—Congress finds the following:

''(1) According to the United States Census, by the year 2050, 1 in 4 Americans will be of Hispanic origin.

''(2) Despite the dramatic increase in the Hispanic population in the United States, the National Center for Education Statistics reported that in 1999, Hispanics accounted for only 4 percent of the master's degrees, 3 percent of the doctor's degrees, and 5 percent of first-professional degrees awarded in the United States.

''(3) Although Hispanics constitute 10 percent of the college enrollment in the United States, they comprise only 3 percent of instructional faculty in college and universities.

''(4) The future capacity for research and advanced study in the United States will require increasing the number of Hispanics pursuing postbaccalaureate studies.

''(5) Hispanic-serving institutions are leading the Nation in increasing the number of Hispanics attaining graduate and professional degrees.

''(6) Among Hispanics who received master's degrees in 1999–2000, 25 percent earned them at Hispanic-serving institutions.

''(7) Between 1991 and 2000, the number of Hispanic students earning master's degrees at Hispanic-serving institutions grew 136 percent, the number receiving doctor's degrees grew by 85 percent, and the number earning first-professional degrees grew by 47 percent.

''(8) It is in the National interest to expand the capacity of Hispanic-serving institutions to offer graduate and professional degree programs.

''(9) Research is a key element in graduate education and undergraduate preparation, particularly in science and technology, and Congress desires to strengthen the role of research at Hispanic serving-institutions. University research, whether performed directly or through a university's nonprofit research institute or foundation, is considered an integral part of the institution and mission of the university.

''(b) PURPOSES.—The purposes of this part are—

''(1) to expand postbaccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and

''(2) to expand and enhance the postbaccalaureate academic offerings of high quality that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and low-income individuals complete postsecondary degrees.

**"SEC. 512. PROGRAM AUTHORITY AND ELIGIBILITY.**

''(a) PROGRAM AUTHORIZED.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award competitive grants to eligible institutions.

''(b) ELIGIBILITY.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

''(1) is a Hispanic-serving institution (as defined under section 502); and

''(2) offers a postbaccalaureate certificate or degree granting program.

**"SEC. 513. AUTHORIZED ACTIVITIES.**

''Grants awarded under this part shall be used for 1 or more of the following activities:

''(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

''(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

''(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

''(4) Support for needy postbaccalaureate students including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

''(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

''(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

''(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

''(8) Other activities proposed in the application submitted pursuant to section 514 that—

''(A) contribute to carrying out the purposes of this part; and

''(B) are approved by the Secretary as part of the review and acceptance of such application.

**"SEC. 514. APPLICATION AND DURATION.**

''(a) APPLICATION.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as determined by the Secretary. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students' greater financial independence.

''(b) DURATION.—Grants under this part shall be awarded for a period not to exceed 5 years.

''(c) LIMITATION.—The Secretary shall not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.''.

(b) COOPERATIVE ARRANGEMENTS.—Section 524 of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended by inserting ''and section 513'' after ''section 503''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 528(a) of the Higher Education Act of 1965 (as redesignated by subsection (a)(2)) is amended to read as follows:

''(a) AUTHORIZATIONS.—

''(1) PART A.—There are authorized to be appropriated to carry out part A of this title $175,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(2) PART B.—There are authorized to be appropriated to carry out part B of this title $125,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

(d) CONFORMING AMENDMENTS.—Title V of the Higher Education Act of 1965 (20 U.S.C. 1101 et seq.) is amended—

(1) in section 502—

(A) in subsection (a)(2)(A)(ii), by striking ''section 512(b)'' and inserting ''section 522(b)''; and

(B) in subsection (b)(2), by striking ''section 512(a)'' and inserting ''section 522(a)'';

(2) in section 521(c)(6) (as redesignated by subsection (a)(2)), by striking ''section 516'' and inserting ''section 526''; and

(3) in section 526 (as redesignated by subsection (a)(2)), by striking ''section 518'' and inserting ''section 528''.

**TITLE II—REDUCING REGULATORY BARRIERS FOR HISPANIC-SERVING INSTITUTIONS**

**SEC. 201. DEFINITIONS.**

Section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

**SEC. 202. AUTHORIZED ACTIVITIES.**

Section 503(b)(7) of the Higher Education Act of 1965 (20 U.S.C. 1101b(b)(7)) is amended to read as follows:

''(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.''.

**SEC. 203. ELIMINATION OF WAIT-OUT PERIOD.**

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended to read as follows:

''(a) AWARD PERIOD.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.''.

**SEC. 204. APPLICATION PRIORITY.**

Section 521(d) of the Higher Education Act of 1965 (as redesignated by section 101(a)(2)) is amended by striking ''(from funds other than funds provided under this title)''.

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By Mr. LEAHY:

S. 1191. A bill to restore Federal remedies for infringements of intellectual property by States, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, in June 1999, the United States Supreme Court issued a pair of decisions that altered the legal landscape with respect to intellectual property. I am referring to Florida Prepaid v. College Savings Bank and its companion case, College Savings Bank v. Florida Prepaid. The Court ruled in these cases that States and their institutions cannot be held liable for damages for patent infringement and other violations of the Federal intellectual property laws, even though they can and do enjoy the full protection of those laws for themselves.

Both Florida Prepaid and College Savings Bank were decided by the same five-to-four majority of the justices. This slim majority of the Court threw out three Federal statutes that Congress passed, unanimously, in the early 1990s, to reaffirm that the Federal patent, copyright, and trademark laws apply to everyone, including the States.

I believe that there is an urgent need for Congress to respond to the Florida Prepaid decisions, for two reasons.

First, the decisions opened up a huge loophole in our Federal intellectual property laws. If we truly believe in fairness, we cannot tolerate a situation in which some participants in the intellectual property system get legal

protection but need not adhere to the law themselves. If we truly believe in the free market, we cannot tolerate a situation where one class of market participants have to play by the rules and others do not. As Senator SPECTER said in August 1999, in a floor statement that was highly critical of the Florida Prepaid decisions, they ''leave us with an absurd and untenable state of affairs,'' where ''States will enjoy an enormous advantage over their private sector competitors.''

The second reason why Congress should respond to the Florida Prepaid decisions is that they raise broader concerns about the roles of Congress and the Court. Over the past decade, in a series of five-to-four decisions that might be called examples of ''judicial activism,'' the current Supreme Court majority has overturned Federal legislation with a frequency unprecedented in American constitutional history. In doing so, the Court has more often than not relied on notions of State sovereign immunity that have little if anything to do with the text of the Constitution.

Some of us have liked some of the results; others have liked others; but that is not the point. This activist Court has been whittling away at the legitimate constitutional authority of the federal government. At the risk of sounding alarmist, this is the fact of the matter: We are faced with a choice. We can respond—in a careful and measured way—by reinstating our democratic policy choices in legislation that is crafted to meet the Court's stated objections. Or we can run away, abdicate our democratic policy-making duties to the unelected Court, and go down in history as the incredible shrinking Congress.

About four months after the Florida Prepaid decisions issued, I introduced a bill that responded to those decisions. The Intellectual Property Protection Restoration Act of 1999 was designed to restore Federal remedies for violations of intellectual property rights by states. I have continued to refine this legislation over the years, and in February 2002, as Chairman of the Judiciary Committee, I held the Committee's first hearing on the issue of sovereign immunity and the protection of intellectual property.

Today, I am pleased to be introducing the Intellectual Property Protection Restoration Act of 2003, which builds on my earlier proposals and on the helpful comments I have received on those proposals from legal experts across the country. I am proud to have the House leaders on intellectual property issues, Representatives Smith and Berman, as the principal sponsors of the House companion bill.

This bill has the same common-sense goal as the three statutes that the Supreme Court's decisions invalidated: To protect intellectual property rights fully and fairly. But the legislation has been re-engineered, after extensive consultation with constitutional and intellectual property experts, to ensure full compliance with the Court's new jurisprudential requirements. As a result, the bill has earned the strong support of the U.S. Copyright Office and the endorsements of a broad range of organizations including the American Bar Association, the American Intellectual Property Law Association, the Business Software Alliance, the Intellectual Property Owners Association, the International Trademark Association, the Motion Picture Association of America, the Professional Photographers of America Association, and the Chamber of Commerce.

In essence, our bill presents States with a choice. It creates reasonable incentives for States to waive their immunity in intellectual property cases, but it does not oblige them to do so. States that choose not to waive their immunity within two years after enactment of the bill would continue to enjoy many of the benefits of the Federal intellectual property system; however, like private parties that sue States for infringement, States that sue private parties for infringement could not recover any money damages unless they had waived their immunity from liability in intellectual property cases.

This arrangement is clearly constitutional. Congress may attach conditions to a State's receipt of Federal intellectual property protection under its Article I intellectual property power just as Congress may attach conditions on a State's receipt of federal funds under its Article I spending power. Either way, the power to attach conditions to the federal benefit is part of the greater power to deny the benefit altogether. And no condition could be more reasonable or proportionate than the condition that in order to obtain full protection for your federal intellectual property rights, you must respect those of others.

I am encouraged by the Supreme Court's recent decision in Nevada Department of Human Resources v. Hibbs, which, although very narrow, suggests that certain Justices may be starting to realize that the Court has gone too far in sacrificing ordinary people's rights at the altar of sovereign immunity. By upholding the Family and Medical Leave Act as applied to the States, the Hibbs case also suggests that a very carefully crafted law, which simply does what is necessary to protect important rights, will be upheld.

I hope we can all agree on the need to protect the rights of intellectual property owners. A recent GAO study confirmed that, as the law now stands, owners of intellectual property have few or no alternatives or remedies available against State infringers—just a series of dead ends.

We need to assure American inventors and investors, and our foreign trading partners, that as State involvement in intellectual property becomes ever greater in the new information economy, U.S. intellectual property rights are backed by legal remedies. I want to emphasize the international ramifications here. American trading interests have been well served by our strong and consistent advocacy of effective intellectual property protections in treaty negotiations and other international fora. Those efforts could be jeopardized by the loophole in U.S. intellectual property enforcement that the Supreme Court has created.

Senator BROWNBACK made this point at a Judiciary Committee hearing on February 27, 2002. He said, ''When states assert sovereign immunity for the purpose of infringing upon intellectual property rights, it damages the credibility of the United States internationally, and could possibly even lead to violations of our treaty obligations. Any decrease in the level of enforcement of intellectual property rights around the world is likely to harm American businesses, because of our position as international leaders in industries like pharmaceuticals, information technology, and biotechnology.''

The Intellectual Property Protection Restoration Act restores protection for violations of intellectual property rights that may, under current law, go unremedied. We unanimously passed more sweeping legislation in the early 1990s, but were thwarted by the Supreme Court's shifting jurisprudence. We should enact this legislation without further delay.

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. 1191

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

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) SHORT TITLE.—This Act may be cited as the ''Intellectual Property Protection Restoration Act of 2003''.

(b) REFERENCES.—Any reference in this Act to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

**SEC. 2. PURPOSES.**

The purposes of this Act are to—

(1) help eliminate the unfair commercial advantage that States and their instrumentalities now hold in the Federal intellectual property system because of their ability to obtain protection under the United States patent, copyright, and trademark laws while remaining exempt from liability for infringing the rights of others;

(2) promote technological innovation and artistic creation in furtherance of the policies underlying Federal laws and international treaties relating to intellectual property;

(3) reaffirm the availability of prospective relief against State officials who are violating or who threaten to violate Federal intellectual property laws; and

(4) abrogate State sovereign immunity in cases where States or their instrumentalities, officers, or employees violate the

United States Constitution by infringing Federal intellectual property.

**SEC. 3. INTELLECTUAL PROPERTY REMEDIES EQUALIZATION.**

(a) AMENDMENT TO PATENT LAW.—Section 287 of title 35, United States Code, is amended by adding at the end the following:

''(d)(1) No remedies under section 284 or 289 shall be awarded in any civil action brought under this title for infringement of a patent issued on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such patent, except upon proof that—

''(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to a patent if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the patent, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the patent.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(b) AMENDMENT TO COPYRIGHT LAW.—Section 504 of title 17, United States Code, is amended by adding at the end the following:

''(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

''(1) No remedies under this section shall be awarded in any civil action brought under this title for infringement of an exclusive right in a work created on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

''(A) on or before the date the infringement commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to an exclusive right if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the exclusive right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(c) AMENDMENT TO TRADEMARK LAW.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

''(e) LIMITATION ON REMEDIES IN CERTAIN CASES.—

''(1) No remedies under this section shall be awarded in any civil action arising under this Act for a violation of any right of the registrant of a mark registered in the Patent and Trademark Office on or after January 1, 2004, or any right of the owner of a mark first used in commerce on or after January 1, 2004, if a State or State instrumentality is or was at any time the legal or beneficial owner of such right, except upon proof that—

''(A) on or before the date the violation commenced or January 1, 2006, whichever is later, the State has waived its immunity, under the eleventh amendment of the United States Constitution and under any other doctrine of sovereign immunity, from suit in Federal court brought against the State or any of its instrumentalities, for any infringement of intellectual property protected under Federal law; and

''(B) such waiver was made in accordance with the constitution and laws of the State, and remains effective.

''(2) The limitation on remedies under paragraph (1) shall not apply with respect to a right of the registrant or owner of a mark if—

''(A) the limitation would materially and adversely affect a legitimate contract-based expectation in existence before January 1, 2004; or

''(B) the party seeking remedies was a bona fide purchaser for value of the right, and, at the time of the purchase, did not know and was reasonably without cause to believe that a State or State instrumentality was once the legal or beneficial owner of the right.

''(3) The limitation on remedies under paragraph (1) may be raised at any point in a proceeding, through the conclusion of the action. If raised before January 1, 2006, the court may stay the proceeding for a reasonable time, but not later than January 1, 2006, to afford the State an opportunity to waive its immunity as provided in paragraph (1).''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO PATENT LAW.—Section 296 of title 35, United States Code, and the item relating to section 296 in the table of sections for chapter 29 of such title, are repealed.

(2) AMENDMENTS TO COPYRIGHT LAW.—Section 511 of title 17, United States Code, and the item relating to section 511 in the table of sections for chapter 5 of such title, are repealed.

(3) AMENDMENTS TO TRADEMARK LAW.—Section 40 of the Trademark Act of 1946 (15 U.S.C. 1122) is amended—

(A) by striking subsection (b);

(B) in subsection (c), by striking ''or (b)'' after ''subsection (a)''; and

(C) by redesignating subsection (c) as subsection (b).

**SEC. 4. CLARIFICATION OF REMEDIES AVAILABLE FOR STATUTORY VIOLATIONS BY STATE OFFICERS AND EMPLOYEES.**

In any action against an officer or employee of a State or State instrumentality for any violation of any of the provisions of title 17 or 35, United States Code, the Trademark Act of 1946, or the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), remedies shall be available against the officer or employee in the same manner and to the same extent as such remedies are available in an action against a private individual under like circumstances. Such remedies may include monetary damages assessed against the officer or employee, declaratory and injunctive relief, costs, attorney fees, and destruction of infringing articles, as provided under the applicable Federal statute.

**SEC. 5. LIABILITY OF STATES FOR CONSTITUTIONAL VIOLATIONS INVOLVING INTELLECTUAL PROPERTY.**

(a) DUE PROCESS VIOLATIONS.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that deprives any person of property in violation of the fourteenth amendment of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(b) TAKINGS VIOLATIONS.—

(1) IN GENERAL.—Any State or State instrumentality that violates any of the exclusive rights of a patent owner under title 35, United States Code, of a copyright owner, author, or owner of a mask work or original design under title 17, United States Code, of an owner or registrant of a mark used in commerce or registered in the Patent and Trademark Office under the Trademark Act of 1946, or of an owner of a protected plant variety under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.), in a manner that takes property in violation of the fifth and fourteenth amendments of the United States Constitution, shall be liable to the party injured in a civil action in Federal court for compensation for the harm caused by such violation.

(2) EFFECT ON OTHER RELIEF.—Nothing in this subsection shall prevent or affect the ability of a party to obtain declaratory or injunctive relief under section 4 of this Act or otherwise.

(c) COMPENSATION.—Compensation under subsection (a) or (b)—

(1) may include actual damages, profits, statutory damages, interest, costs, expert witness fees, and attorney fees, as set forth in the appropriate provisions of title 17 or 35, United States Code, the Trademark Act of 1946, and the Plant Variety Protection Act; and

(2) may not include an award of treble or enhanced damages under section 284 of title 35, United States Code, section 504(d) of title 17, United States Code, section 35(b) of the Trademark Act of 1946 (15 U.S.C. 1117 (b)), or section 124(b) of the Plant Variety Protection Act (7 U.S.C. 2564(b)).

(d) BURDEN OF PROOF.—In any action under subsection (a) or (b)—

(1) with respect to any matter that would have to be proved if the action were an action for infringement brought under the applicable Federal statute, the burden of proof shall be the same as if the action were brought under such statute; and

(2) with respect to all other matters, including whether the State provides an adequate remedy for any deprivation of property proved by the injured party under subsection (a), the burden of proof shall be upon the State or State instrumentality.

(e) EFFECTIVE DATE.—This section shall apply to violations that occur on or after the date of enactment of this Act.

**SEC. 6. RULES OF CONSTRUCTION.**

(a) JURISDICTION.—The district courts shall have original jurisdiction of any action arising under this Act under section 1338 of title 28, United States Code.

(b) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of intellectual property, to the maximum extent permitted by the United States Constitution.

(c) SEVERABILITY.—If any provision of this Act or any application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected.

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By Mr. DURBIN (for himself and Ms. STABENOW):

S. 1192. A bill to establish a Consumer and Small Business Energy Commission to assess and provide recommendations regarding recent energy price spikes from the perspective of consumers and small businesses; to the Committee on Energy and Natural Resources.

Mr. DURBIN. Mr. President, today I am introducing the Consumer and Small Business Energy Commission Act. I am pleased to have the support of the Senator from Michigan, Senator STABENOW, in introducing this legislation. This legislation will allow us to better understand the causes of energy price spikes from the consumer and small business perspectives, and better address this pressing issue.

The Consumer and Small Business Energy Commission Act would establish a Consumer and Small Business Energy Commission. The members would be appointed on a bipartisan basis by the Speaker and Minority Leader of the House and the Majority and Minority Leaders of the Senate, as well as the President. The Commission would be comprised of representatives of consumer groups, the energy industry, small businesses, and the Administration. The Commission will study the causes of energy price spikes and issue recommendations on how to avert price spikes in the future.

Sine 1990, residential heating oil, residential natural gas, commercial natural gas, industrial natural gas, and gasoline have all had significantly fluctuating prices. Gasoline price spikes have become commonplace in the Midwest. Escalating home heating and cooling bills have crippled family budgets in the Midwest and Northeast. Farmers and industries dependent on natural gas for the production of fertilizer and other chemical products have also suffered economically. Most recently, natural gas prices have skyrocketed and gasoline prices have shown little sign of falling from the historic highs of the past few months.

We need a comprehensive study of these problems. Some past studies have assessed the long-range supply and demand for energy product. The Federal Trade Commission studied gasoline price spikes in the Midwest, and Senator LEVIN has embarked on a series of hearings exploring gasoline pricing issues. Other studies have investigated narrow or specific abuses of market power in the energy industry, such as in California. The Consumer and Small Business Energy Commission will look at the entire picture, focusing on price fluctuations of all consumer energy products. The list of potential causes that need to be studied includes: insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, possible regulation problems, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient investment in research and development of alternative sources, opportunistic behavior by energy companies, and abuse of market power.

We need to give consumers and small businesses a voice. When consumers go to pay their grocery bills, or their tuition bills, or even their residential electricity bills in most states, and when small businesses go to pay for raw materials, prices are fairly predictable. But when they go to pay for their heating and cooling, natural gas, or gasoline, families and businesses face the frustrating reality of wild price swings.

We need to bring consumers and small businesses to the table together with representatives of the energy industry and government. We need these groups to work collectively, and to consider the range of possible causes of energy price spikes.

A measure very similar to this bill enjoyed strong, bipartisan support last year, and passed as an amendment to the Senate energy bill by a vote of 69–30. The minor changes to this bill include adding direct representation of small businesses to the Commission, expanding the participation of Administration representatives in the study phase, and establishing an Executive Committee to expedite the issuance of the final report, which will include recommendations.

By enacting the Consumer and Small Business Energy Commission Act, we will be able to better understand the causes of energy price spikes and hopefully avert them in the future. I urge my colleagues to join me as a cosponsor of this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1192

*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 ''Consumer and Small Business Energy Commission Act of 2003''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) there have been several sharp increases since 1990 in the price of electricity, gasoline, home heating oil, natural gas, and propane in the United States;

(2) recent examples of such increases include—

(A) unusually high gasoline prices that are at least partly attributable to global politics;

(B) electricity price spikes during the California energy crisis of 2001; and

(C) the Midwest gasoline price spikes in spring 2001;

(3) shifts in energy regulation, including the allowance of greater flexibility in competition and trading, have affected price stability and consumers in ways that are not fully understood;

(4) price spikes undermine the ability of low-income families, the elderly, and small businesses (including farmers and other agricultural producers) to afford essential energy services and products;

(5) energy price spikes can exacerbate a weak economy by creating uncertainties that discourage investment, growth, and other activities that contribute to a strong economy;

(6) the Department of Energy has determined that the economy would be likely to perform better with stable or predictable energy prices;

(7) price spikes can be caused by many factors, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(8) consumers and small businesses have few options other than to pay higher energy costs when prices spike, resulting in reduced investment and slower economic growth and job creation;

(9) the effect of price spikes, and possible responses to price spikes, on consumers and small businesses should be examined; and

(10) studies have examined price spikes of specific energy products in specific contexts or for specific reasons, but no study has examined price spikes comprehensively with a focus on the impacts on consumers and small businesses.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Consumer and Small Business Energy Commission established by section 4(a).

(2) CONSUMER ENERGY PRODUCT.—The term ''consumer energy product'' means—

(A) electricity;

(B) gasoline;

(C) home heating oil;

(D) natural gas; and

(E) propane.

(3) CONSUMER GROUP FOCUSING ON ENERGY ISSUES.—The term ''consumer group focusing on energy issues'' means—

(A) an organization that is a member of the National Association of State Utility Consumer Advocates;

(B) a nongovernmental organization representing the interests of residential energy consumers; and

(C) a nongovernmental organization that—

(i) receives not more than ¼ of its funding from energy industries; and

(ii) represent the interests of energy consumers.

(4) ENERGY CONSUMER.—The term ''energy consumer'' means an individual or small business that purchases 1 or more consumer energy products.

(5) ENERGY INDUSTRY.—The term ''energy industry'' means for-profit or not-for-profit entities involved in the generation, selling, or buying of any energy-producing fuel involved in the production or use of consumer energy products.

(6) EXECUTIVE COMMITTEE.—The term ''Executive Committee'' means the executive committee of the Commission.

(7) SMALL BUSINESS.—The term ''small business'' has the meaning given the term

''small business concern'' in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

**SEC. 4. CONSUMER ENERGY COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Consumer and Small Business Energy Commission''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be comprised of 20 members.

(2) APPOINTMENTS BY THE SENATE AND HOUSE OF REPRESENTATIVES.—The majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives shall each appoint 4 members, of whom—

(A) 2 shall represent consumer groups focusing on energy issues;

(B) 1 shall represent small businesses; and

(C) 1 shall represent the energy industry.

(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint 1 member from each of—

(A) the Energy Information Administration of the Department of Energy;

(B) the Federal Energy Regulatory Commission;

(C) the Federal Trade Commission; and

(D) the Commodities Future Trading Commission.

(4) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERM.—A member shall be appointed for the life of the Commission.

(d) INITIAL MEETING.—The Commission shall hold the initial meeting of the Commission not later than the earlier of—

(1) the date that is 30 days after the date on which all members of the Commission have been appointed; or

(2) the date that is 90 days after the date of enactment of this Act, regardless of whether all members have been appointed.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission, excluding the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(f) EXECUTIVE COMMITTEE.—The Commission shall have an executive committee comprised of all members of the Commission except the members appointed under subparagraphs (B), (C), and (D) of subsection (b)(3).

(g) INFORMATION AND ADMINISTRATIVE EXPENSES.—The Federal agencies specified in subsection (b)(3) shall provide the Commission such information and pay such administrative expenses as the Commission requires to carry out this section, consistent with the requirements and guidelines of the Federal Advisory Commission Act (5 U.S.C. App.).

(h) DUTIES.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a nationwide study of significant price spikes in major United States consumer energy products since 1990.

(B) MATTERS TO BE STUDIED BY THE COMMISSION.—In conducting the study, the Commission shall—

(i) focus on the causes of the price spikes, including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, any over-regulation or under-regulation, flawed deregulation, excessive consumption, over-reliance on foreign supplies, insufficient research and development of alternative energy sources, opportunistic behavior by energy companies, and abuses of market power;

(ii) examine the effects of price spikes on consumers and small businesses;

(iii) investigate market concentration, opportunities for misuse of market power, and any other relevant market failures; and

(iv) consider—

(I) proposals for administrative actions to mitigate price spikes affecting consumers and small businesses;

(II) proposals for legislative action; and

(III) proposals for voluntary actions by energy consumers and the energy industry.

(2) REPORT.—Not later than 270 days after the date of enactment of this Act, the Executive Committee shall submit to Congress a report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) recommendations for legislation, administrative actions, and voluntary actions by energy consumers and the energy industry to protect consumers from future price spikes in consumer energy products, including a recommendation on whether energy consumers need an advocate on energy issues within the Federal Government.

(i) TERMINATION.—

(1) DEFINITION OF LEGISLATIVE DAY.—In this subsection, the term ''legislative day'' means a day on which both Houses of Congress are in session.

(2) DATE OF TERMINATION.—The Commission shall terminate on the date that is 30 legislative days after the date of submission of the report under subsection (h)(2).

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By Mr. WYDEN (for himself, Mr. SMITH, and Mrs. MURRAY):

S. 1193. A bill to provide for qualified withdrawals from the Capital Construction Fund for fishermen leaving the industry and for the rollover of Capital Construction Funds to individual retirement plans, and for other purposes; to the Committee on Finance.

Mr. WYDEN. Mr. President, I am pleased today to introduce the Capital Construction Fund Qualified Withdrawal Act of 2003. My friends and colleagues, Senator SMITH and Senator MURRAY, join me in introducing this important bill.

In January of 2000, a fishery disaster was declared by the Secretary of Commerce for the West Coast groundfish fishery. Due to major declines in fish population, the Pacific Fisheries Management Council decreased groundfish catch quotas by 90 percent. Today, the groundfish fishery in Oregon and adjoining States in the Pacific Northwest continues to face daunting challenges as a result of this disaster. Fishery income has dropped 55 percent and over a thousand fishers face bankruptcy. The Pacific Fishery Management Council has called for a 50 percent reduction in fishing capacity as part of their strategic plan for the recovery of the fishery. This legislation supports this effort by reforming the Capital Construction Fund in a way that will ease the groundfish fishers' transition away from fishing.

The Capital Construction Fund, CCF, Merchant Marine Act of 1936, amended 1969, 46 U.S.C. 1177, has been a way for fishers to accumulate funds, free from taxes, for the purpose of buying or refitting fishing vessels. It was conceived at a time when the federal government wanted to help capitalize and expand American fishing fleets. The program was a success: it led to a larger U.S. fishing fleet. However, fish populations declined and the U.S. commercial fishing fleet is now over-capitalized. The CCF's usefulness has not kept up with the times, and now it exacerbates problems facing U.S. fisheries, including the West Coast groundfish fishery.

Now is the time to help fishers, who wish to do so, to leave the fleet.

In Oregon, the amounts in CCF accounts range from $10,000 to over $200,000. This legislation changes current law to allow fishers to remove money from their CCF for purposes other than buying new vessels or upgrading current vessels, without losing up to 70 percent of their CCF funds in taxes and penalties. This legislation changes the CCF so fishers who want to opt out of fishing are not penalized for doing so.

This bill takes a significant step towards helping fishermen and making the West Coast groundfish fishery and the commercial fishing industry sustainable by amending the CCF to allow non-fishing uses of investments. This bill amends the Merchant Marine Act of 1936 and the Internal Revenue Code to allow funds currently in the CCF to be rolled over into an IRA or other types of retirement accounts, or to be used for the payment of an industry fee authorized by the fishery capacity reduction program, without adverse tax consequences to the account holders. This bill will also encourage innovation and conservation by allowing fishers to use funds deposited in a CCF to develop or purchase new gear that reduces bycatch.

I look forward to working with my colleagues to pass this legislation.

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

S. 1194. A bill to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators DOMENICI, LEAHY, GRASSLEY, and CANTWELL, to introduce the ''Mentally Ill Offender Treatment and Crime Reduction Act of 2003.'' This bipartisan measure would, among other things, create a program of planning and implementation grants for communities so they may offer more treatment and other services to mentally ill offenders. Under this bill, programs receiving grant funds would be operated collaboratively by both a criminal justice agency and a mental health agency.

The mentally ill population poses a particularly difficult challenge for our criminal justice system. People afflicted with mental illness are incarcerated at significantly higher rates than the general population. According to the Bureau of Justice Statistics, while only about five percent of the American population has a mental illness, about 16 percent of the State prison population has such an illness. The Los Angeles County Jail, for example,

typically has more mentally ill inmates than any hospital in the country.

Unfortunately, however, the reality of our criminal justice system is that jails and prisons do not provide a therapeutic environment for the mentally ill and are unlikely to do so any time soon. Indeed, the mentally ill inmate often is preyed upon by other inmates or becomes even sicker in jail. Once released from jail or prison, many mentally ill people end up on the streets. With limited personal resources and little or no ability to handle their illness alone, they often commit further offenses resulting in their re-arrest and re-incarceration. This ''revolving door'' is costly and disruptive for all involved.

Although these problems tend to manifest themselves primarily within the prison system, the root cause of our current situation is found in the mental health system and its failure to provide sufficient community-based treatment solutions. Accordingly, the solution will necessarily involve collaboration between the mental health system and criminal justice system. In fact, it also will require greater collaboration between the substance abuse treatment and mental health treatment communities, because many mentally ill offenders have a drug or alcohol problem in addition to their mental illness.

The purpose of the ''Mentally Ill Offender Treatment and Crime Reduction Act'' is to foster exactly this type of collaboration at the Federal, State, and local levels. The bill provides incentives for the criminal justice, juvenile justice, mental health, and substance abuse treatment systems to work together at each level of government to establish a network of services for offenders with mental illness. The bill's approach is unique, in that it not only would promote public safety by helping curb the incidence of repeat offenders, but it also would promote public health, by ensuring that those with a serious mental illness are treated as soon as possible and as efficiently and effectively as possible.

Among its major provisions, this legislation calls for the establishment of a new competitive grant program, which would be housed at the U.S. Department of Justice, but administered by the Attorney General with the active involvement of the Secretary of Health and Human Services. To ensure that collaboration occurs at the local level, the bill would require that two entities jointly submit a single grant application on behalf of a community.

Applications demonstrating the greatest commitment to collaboration would receive priority for grant funds. If applicants can show that grant funds would be used to promote public health, as well as public safety, and if the program they propose would have the active participation of each joint applicant, and if their grant application has the support of both the Attorney General and the Secretary of Health and Human Services, then it would receive priority for funding.

Additionally, the bill would permit grant funds to be used for a variety of purposes, each of which embodies the goal of collaboration. First, grant funds may be used to provide courts with more options, such as specialized dockets, for dealing with the non-violent offender who has a serious mental illness or a co-occurring mental illness and drug or alcohol problem. Second, grant funds could be used to enhance training of mental health and criminal justice system personnel, who must know how to deal appropriately with the mentally ill offender. Third, grant funds could be devoted to programs that divert the criminal justice system into treatment those non-violent offenders with severe and persistent mental illness. Finally, correctional facilities may use grant funds to promote the treatment of inmates and ease their transition back into the community upon release from jail or prison.

In specifically authorizing grant funds to be used to promote more options for courts to deal with mentally ill offenders, this bill builds on legislation that I introduced two years ago with my colleague from Ohio, Congressman TED STRICKLAND. That measure, which became law, authorized $10 million per year for the establishment of more mental health courts. I have long supported mental health courts, which enable the criminal justice system to provide an individualized treatment solution for a mentally ill offender, while also requiring accountability of the offender. The legislation we are introducing today would make possible the creation or expansion of more mental health courts, and it also would promote the funding of treatment services that support such courts.

In addition to making planning and implementation grants available to communities, the ''Mentally Ill Offender Treatment and Crime Reduction Act'' also calls for an Interagency Task Force to be established at the federal level. This Task Force would include the Attorney General and the Secretary of Health and Human Services, as well as the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Commissioner of Social Security. The Task Force would be charged with identifying new ways that federal departments can work together to reduce recidivism among mentally ill adults and juveniles.

Finally, the bill would direct the Attorney General and Secretary of Health and Human Services to develop a list of ''best practices'' for criminal justice personnel to use when diverting mentally ill offenders from the criminal justice system.

Ultimately, this is a good bill and one that is long overdue. I encourage my colleagues to support this important legislative measure.

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. 1194

*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 ''Mentally Ill Offender Treatment and Crime Reduction Act of 2003''.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness; and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

**SEC. 3. PURPOSE.**

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) reduce rearrests among adult and juvenile offenders with mental illness, or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through diversion in appropriate cases involving non-violent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health treatment personnel about criminal

offenders with mental illness and the appropriate response to such offenders in the criminal justice system;

(6) promote communication between criminal justice or juvenile justice personnel, mental health treatment personnel, nonviolent offenders with mental illness, and other support services such as housing, job placement, community, and faith-based organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

**SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

**"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS**

**"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.**

''(a) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

''(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

''(A) a criminal justice agency, a juvenile justice agency, or a mental health court; and

''(B) a mental health agency.

''(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

''(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—

''(A) IN GENERAL.—The terms 'diversion' and 'alternative prosecution and sentencing' mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

''(B) APPROPRIATE USE.—In this paragraph, the term 'appropriate use' includes the discretion of the judge or supervising authority and the leveraging of justice sanctions to encourage compliance with treatment.

''(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government that is responsible for mental health services.

''(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.

''(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—

''(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

''(B) that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities.

''(8) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile who—

''(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

''(B) has faced or is facing criminal charges and is deemed eligible by a designated pretrial screening and diversion process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of the Department of Health and Human Services.

''(10) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

''(b) PLANNING AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders in order to promote public safety and public health.

''(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

''(A) mental health courts or other court-based programs for preliminarily qualified offenders;

''(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel in procedures for identifying the symptoms of mental illness and co-occurring mental illness and substance abuse disorders in order to respond appropriately to individuals with such illnesses;

''(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

''(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

''(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

''(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

''(3) APPLICATIONS.—

''(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

''(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

''(4) PLANNING GRANTS.—

''(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

''(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

''(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

''(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

''(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2003.

''(5) IMPLEMENTATION GRANTS.—

''(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

''(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

''(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

''(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to jointly ensure that the provision of mental health treatment services is integrated with the provision of substance abuse treatment services, where appropriate;

''(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

''(iv) involve, to the extent practicable, in developing the grant application—

''(I) individuals with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) the families and advocates of such individuals under subclause (I).

''(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

''(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

''(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

''(II) develop guidelines that can be used by personnel of a criminal or juvenile justice agency to identify individuals with mental illness or co-occurring mental illness and substance abuse disorders.

''(ii) SERVICES.—Applicants for an implementation grant shall—

''(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

''(II) specify plans for making mental health treatment services available and accessible to mentally ill offenders at the time of their release from the criminal justice system, including outside of normal business hours;

''(III) ensure that preliminarily qualified offenders served by the collaboration program will have access to effective and appropriate community-based mental health services, or, where appropriate, integrated substance abuse and mental health treatment services;

''(IV) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

''(V) include strategies to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

''(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

''(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

''(F) FINANCIAL.—Applicants for an implementation grant shall—

''(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

''(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as medicaid, medicare, and the State Children's Insurance Program); and

''(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

''(G) OUTCOMES.—Applicants for an implementation grant shall—

''(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

''(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

''(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

''(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

''(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

''(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

''(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

''(I) criminal justice system personnel to identify and respond appropriately to the unique needs of an adult or juvenile with mental illness or co-occurring mental illness and substance abuse disorders; or

''(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

''(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

''(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment for those incarcerated or for transitional re-entry programs for those released from any penal or correctional institution.

''(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

''(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

''(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

''(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program; and

''(3) have the support of both the Attorney General and the Secretary.

''(d) MATCHING REQUIREMENTS.—

''(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

''(A) 80 percent of the total cost of the program during the first 2 years of the grant;

''(B) 60 percent of the total cost of the program in year 3; and

''(C) 25 percent of the total cost of the program in years 4 and 5.

''(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

''(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

''(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

''(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

''(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

''(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

''(5) develop a uniform program evaluation process; and

''(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

''(f) INTERAGENCY TASK FORCE.—

''(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

''(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

''(A) identify policies within their departments which hinder or facilitate local collaborative initiatives for adults or juveniles with mental illness or co-occurring mental illness and substance abuse disorders; and

''(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to adults and juveniles with mental illness or co-occurring mental illness and substance abuse disorders.

''(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

''(1) $100,000,000 for each of fiscal years 2004 and 2005; and

''(2) such sums as may be necessary for fiscal years 2006 through 2008.''.

(b) LIST OF ''BEST PRACTICES''.—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of ''best practices'' for appropriate diversion from incarceration of adult and juvenile offenders.

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

''PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

''Sec. 2991. Adult and juvenile collaboration programs.''.

Mr. LEAHY. Mr. President, I have joined today with Senators DEWINE, GRASSLEY, CANTWELL, and DOMENICI to introduce legislation that will help State and local governments reduce crime by providing more effective treatment for the mentally ill. All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a series of minor offenses. Law enforcement officers' ever scarcer time is being occupied by these offenders, who divert them from their more urgent responsibilities. Meanwhile, offenders find themselves in prisons or jails, where little or no appropriate medical care is available for them. This bill give State and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public's safety, and mentally ill offenders.

I held a Judiciary Committee hearing last June on the criminal justice system and mentally ill offenders. At that

hearing, we heard from State mental health officials, law enforcement officers, corrections officials, and the representative of counties around our Nation. All agreed that people with untreated mental illness are more likely to commit crimes, and that our State mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. As this legislation's findings detail, more than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, about 20 percent of youth in the juvenile justice system have serious mental health problems, and up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. This is a serious problem that I hear about often when I talk with law enforcement officials and others in Vermont.

Under this bill, State and local governments can apply for funding to a. create or expand mental health courts or other court-based programs, which can divert qualified offenders from prison to receive treatment; b. create or expand programs to provide specialized training for criminal justice and mental health system personnel; c. create or expand local treatment programs that serve individuals with mental illness or co-occurring mental illness and substance abuse disorders; and d. promote and provide mental health treatment for those incarcerated in or released from a penal or correctional institution.

This legislation brings together law enforcement, corrections, and mental health professionals—indeed, officials from each of these fields in Vermont have offered their advice and support in drafting this bill. They know that the States have been dealing with the unique problems created by mentally ill offenders for many years, and that a Federal response is overdue. I look forward to working with them, and with Senator DEWINE, Representative TED STRICKLAND, and other Members, to see this bill enacted this Congress.

Mr. GRASSLEY. Mr. President, I am pleased today to be once again introducing with Senator DEWINE the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. This bipartisan bill authorizes the Attorney General to administer a grant program to assist communities in planning and implementing services for mentally ill offenders. These grants will increase public safety by fostering collaborative efforts by criminal justice, mental health, and substance abuse agencies. I have seen these types of collaborative programs work in Iowa and I know that they can work elsewhere.

We have an obligation to ensure that the public is protected from these offenders who suffer from mental illness. The Bureau of Justice Statistics has reported that over 16 percent of adults incarcerated in U.S. jails and prison have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention has reported that over 20 percent of youth in the juvenile justice system have serious mental health problems. This grant program will help increase public safety, as well as reduce the number of mentally ill adults and juveniles incarcerated in correctional facilities.

These grant dollars may be used by States and localities to establish mental health courts or other diversion programs, create or expand community-based treatment programs, provide in-jail treatment and transitional services, and for training of criminal justice and mental health system employees. The state of Iowa and a number of its counties are already leading the way in finding creative and collaborative programs to address the problems presented by these mentally ill criminals. Working together, the criminal justice, mental health, and substance abuse professionals can make a difference in the lives of this special class of offenders and also increase the safety of the public.

I want to thank Senator DEWINE for his leadership on this important issue. He has drafted a bill that reflects a common sense approach to a serious public safety issue. I also want to encourage my colleagues to support this important piece of legislation.

Ms. CANTWELL. Mr. President, I am proud to join with Senator DEWINE and Senator PATRICK LEAHY along with Senators GRASSLEY and DOMENICI in cosponsoring this important legislation. This bill will take steps to reduce the prevalence of the mentally ill in the criminal justice system by providing more effective treatment. Forty percent of the mentally ill in this country come in contact with the criminal justice system, many for minor but repeated offenses. This wastes tremendous law enforcement resources that can be better focused on more urgent responsibilities and results in many of the mentally ill sitting in jail cells where little treatment is available to them. My State has already taken some forward looking action in this area, and this legislation is an important next step.

The Mentally Ill Crime Reduction Act of 2003 funds new grants that will give States the tools they need to work collaboratively to break the cycle of mentally ill people repeatedly moving through the corrections system. This legislation will allow more jurisdictions to follow Seattle's lead in creating mental health courts that monitor individuals to keep them in treatment and out of jail. It will provide much needed funding to mental health and substance abuse programs, and it will provide critical dollars for treatment of those incarcerated in or released from prisons. The legislation has the support of Washington State Corrections Director Joe Lehman and the Washington Department of Social and Health Services as well as the National Alliance for the Mentally Ill and the Council of State Governments. I'd like to especially thank the Bazelon Center for its work in this area.

Last year, the Council on State Governments Criminal Justice/Mental Health Consensus Project issued a report that detailed the imbalance of the mentally ill in the criminal justice system. The Project found that, while those suffering from serious mental illness represent approximately five percent of the population of this country, they represent over 16 percent of the prison population. Of that 16 percent, nearly three-quarters also have a substance abuse problem, and nearly half were incarcerated for committing a nonviolent crime. In some jurisdictions recidivism rates for mentally ill inmates can reach over 70 percent. Police, judges and prosecutors are usually without options of what to do with mentally ill patients, given the lack of health services, and thus many end up in jail for minor crimes. The Los Angeles County Jail alone holds as many as 3,300 individuals with mental illness, more than any state hospital or mental health institution in the United States.

Each time a mentally ill individual is incarcerated, his or her mental condition will likely worsen. Once incarcerated, people with mental illness are particularly susceptible to harming themselves or others. This environment exacerbates their mental illness, yet access to effective counseling or medication is severely limited. This in turn brings on depression or delusions that immobilize them; many have spent years trying to mask torments or hallucinations with alcohol or drugs and on average spend more time in prisons.

This problem is particularly acute in the area of juvenile offenders. The Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of children in the juvenile justice system, over 155,000, have serious mental health problems. This bill creates specialized training programs for juvenile and criminal justice agency personnel in identifying symptoms of mentally ill individuals that will help identify and treat juveniles at an earlier stage.

The prevalence of people with mentally illness in the criminal justice system comes at a high price to taxpayers. In King County, WA, officials identified 20 people who had been repeatedly hospitalized, jailed or admitted to detoxification centers. These emergency services cost the county approximately $1.1 million in a single year. In contrast, an Illinois Cooperative Program which brought criminal justice and mental health service personnel together to provide services to those mentally ill patients released from jail calculated that the 30 individuals in the study spend approximately 2,200 days less in jail, and 2,100 fewer days, in hospitals than they had the previous year, for a savings of $1.2 million dollars.

In 1997, Seattle Fire Department Captain Stanley Stevenson was murdered by an individual who had been found incompetent by the local municipal court but was released because of the lack of alternative options. This murder was the impetus for the creation of a Task Force that led directly to the formation of the King County Mental Health Court in 1999. The primary reason why this Court has been growing more effective in dealing with mentally ill offenders is that it has increased cooperation between the mental health and criminal justice systems, institutions that have traditionally not worked closely together. Building on the model of the drug court, the mental health court closely monitors compliance with treatment regimens by assembling a team proficient in dealing with the mentally ill and at using the stick of the criminal justice system to make that treatment work. The vast majority of these mentally ill individuals are responsive to treatment.

This program has progressed well and is becoming an effective means of helping mentally ill offenders, assuring public safety, and running a more cost efficient system. Yet to allow this system to continue to expand in Seattle and other communities in Washington State, as well as to allow other States to begin using these types of programs, federal grant funding is critical. That is what this bill provides.

Collaboration between mental health, substance abuse, law enforcement, judicial, and other criminal justice personnel is also critical to the success of our mental health court program in Seattle. It is only through full coordination between the criminal justice and the mental health treatment community at the Federal and the local level that these efforts will be successful.

Similarly, only through full coordination at the Federal and local level will this bill be able to make a critical difference. I believe that some additional improvements can be made to strengthen that critical coordination and I look forward to working with Senator DEWINE and Senator LEAHY to accomplish that goal. I welcome the introduction of this legislation and look forward to working with my cosponsors to make this bill law in the next Congress.

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By Mr. KYL (for himself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. FRIST, Mr. ALEXANDER, Mrs. LINCOLN, Mr. BUNNING, Mr. SMITH, Mr. GRAHAM of Florida, Mr. SANTORUM, Mr. KERRY, Mr. KENNEDY, and Mr. HATCH):

S. 1195. A bill to amend title XIX of the Social Security Act to clarify that inpatient drug prices charged to certain public hospitals are included in the best price exemptions for the medicaid drug rebate program; to the Committee on Finance.

Mr. KYL. Mr. President, I rise today with Senators BINGAMAN, ROCKEFELLER, MCCAIN, FRIST, ALEXANDER, LINCOLN, BUNNING, SMITH, BOB GRAHAM, SANTORUM, KERRY, KENNEDY and HATCH to introduce a modest but important piece of legislation, the Safety Net Hospital Pharmacy Access Act. This legislation would correct a small error in current law that prohibits safety-net hospitals from being able to negotiate with pharmaceutical companies for the lowest prices they can get.

Let me provide some background on this problem. In 1990, Congress established the Medicaid drug-rebate program to ensure that the Medicaid program pays no more than a pharmaceutical manufacturer's ''best price'' for a covered outpatient drug. So whatever was the lowest price the manufacturer offered to anyone, this becomes the price Medicaid pays under this ''best price'' rule.

Unfortunately, this rule provides an incentive for pharmaceutical manufacturers not to offer deep discounts to anyone, given that these prices may become the new price that Medicaid pays. Given this, in 1992 Congress exempted some organizations from the Medicaid best price calculations so that pharmaceutical manufacturers would offer them lower drug prices. These organizations include the VA, the Department of Defense, and section 340B covered entities. These 340B hospitals are so called because they fall under section 340B of the Public Health Services Act, which defines 12 categories of publicly funded safety net providers. There are approximately 160 hospitals in the country that fall under the 340B program. These hospitals often bear the burden of providing a substantial amount of uncompensated care in dealing with the indigent or the uninsured.

Unfortunately, the Center for Medicare and Medicaid Services interpreted the 1992 law as only applying to outpatient drugs purchased by these entities. Therefore, drugs purchased for inpatient use at the 340B hospitals are covered by the Medicaid best price rule. This means these hospitals actually pay more for these drugs than for drugs that they can negotiate their own prices for in the outpatient setting. The legislation I am introducing today corrects this problem by allowing the 340B hospitals to also negotiate for lower drug prices in the inpatient setting.

This is an important correction since these hospitals are often providing free care to the indigent and the uninsured. And let me be clear that this legislation would not require pharmaceutical companies to provide discounts to these hospitals. All this legislation would do is allow the hospitals to negotiate for lower prices. However, in my discussion with representatives of hospitals that would be affected by this law, they believe they would be able to save money.

For instance, the Maricopa County hospital, which is the public hospital for the city of Phoenix, believes that it could save up to $1 million a year. Since this hospital constantly runs in the red because of the massive amount of uncompensated care it is required under federal law to provide, such savings would be very helpful.

I want to thank the bill's cosponsors. I also want to urge my colleagues to take a close look at this important legislation. I am going to work to see that it is passed this year.

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By Mrs. HUTCHISON (for herself, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. COCHRAN, Mr. FITZGERALD, and Mr. HAGEL):

S. 1196. A bill to eliminate the marriage penalty permanently in 2003; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce a bill to provide permanent tax relief from one of the most egregious, anti-family aspects of the tax code—the marriage penalty. Relieving American taxpayers of this burden has been one of my highest priorities as a U.S. Senator.

Last week President Bush signed into law a $350 billion jobs and economic growth package to put Americans back to work and stimulate the economy. The bill provides immediate marriage penalty relief by enlarging the standard deduction and the 15 percent tax bracket for married couples filing jointly to twice that as for single filers. This provision will save 34 million married couples an average of $589 this year alone.

Enacting marriage penalty relief is a giant step for tax fairness, but it may be fleeting. The Jobs and Growth Act was just signed, but even as the ink dries a tax increase on married couples looms in the near future. Since the bill was restricted by artificial limitations to $350 billion, the marriage penalty provisions will only be in effect for two years. In 2005, marriage will again be a taxable event for millions of Americans. Similar restrictions were placed on the 2001 tax cut, so, while relief will be phased in by 2009, it will disappear for good in 2011 unless we act decisively.

Millions of couples across America will be penalized once more by our tax code simply because they are married. Without marriage penalty relief, 48 percent of married couples will again pay the government an average $1,400 more in taxes.

Given the state of the economy and the difficulty many families face in making ends meet, we must make sure we do not backtrack on this important reform.

Without marriage penalty relief, the tax code provides a significant disincentive for people to walk down the aisle, and the benefits of marriage are well established. Marriage is a fundamental institution in our society and should not be discouraged by the IRS. Children living in a married household are far less likely to live in poverty or

to suffer from child abuse. Research indicates they are less likely to be depressed or have developmental problems. Scourges such as adolescent drug use are less common in married families, and married mothers are less likely to be victims of domestic violence.

The bill I am offering would make the marriage penalty relief in the Jobs and Growth Act permanent. It also will accelerate changes to the earned income tax credit that were passed in the 2001 tax reform bill. This will reduce the marriage penalty on lower income couples.

We cannot be satisfied until couples never again must decide between love and money. Marriage should not be a taxable event.

I call on the Senate to finish the job we started and say ''I do'' to providing permanent marriage penalty relief today.

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. 1196

*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 ''Permanent Marriage Penalty Relief Act of 2003''.

**SEC. 2. ACCELERATION OF MARRIAGE PENALTY RELIEF PROVISIONS.**

(a) ELIMINATION OF MARRIAGE PENALTY IN STANDARD DEDUCTION.—

(1) IN GENERAL.—Paragraph (2) of section 63(c) of the Internal Revenue Code of 1986 (relating to standard deduction) is amended—

(A) by striking ''the applicable percentage of the dollar amount in effect under subparagraph (D)'' in subparagraph (A) and inserting ''200 percent of the dollar amount in effect under subparagraph (C)'';

(B) by adding ''or'' at the end of subparagraph (B);

(C) by striking subparagraph (C);

(D) by redesignating subparagraph (D) as subparagraph (C); and

(E) by striking the last sentence.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 63(c) of such Code is amended by striking ''(2)(D)'' each place it appears and inserting ''(2)(C)''.

(B) Paragraph (7) of section 63(c) of such Code is repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

(1) IN GENERAL.—Paragraph (8) of Section 1(f) of the Internal Revenue Code of 1986 (relating to adjustments in tax tables so that inflation will not result in tax increases) is amended to read as follows:

''(8) ELIMINATION OF MARRIAGE PENALTY IN 15-PERCENT BRACKET.—

''(A) IN GENERAL.—With respect to taxable years beginning after December 31, 2002, in prescribing the tables under paragraph (1)—

''(i) the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (a) (and the minimum taxable income in the next higher taxable income bracket in such table) shall be 200 percent of the maximum taxable income in the 15-percent rate bracket in the table contained in subsection (c) (after any other adjustment under this subsection), and

''(ii) the comparable taxable income amounts in the table contained in subsection (d) shall be ½ of the amounts determined under clause (i).

''(B) ROUNDING.—If any amount determined under subparagraph (A)(i) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (f) of section 1 of such Code is amended by striking ''PHASEOUT'' and inserting ''ELIMINATION''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(c) MARRIAGE PENALTY RELIEF FOR EARNED INCOME CREDIT.—

(1) INCREASED PHASEOUT AMOUNT.—

(A) IN GENERAL.—Section 32(b)(2)(B) of the Internal Revenue Code of 1986 (relating to amounts) is amended by striking '''increased by—'' and all that follows and inserting ''increased by $3,000.''.

(B) INFLATION ADJUSTMENT.—Paragraph (1)(B)(ii) of section 32( j) of such Code (relating to inflation adjustments) is amended to read as follows:

''(ii) in the case of the $3,000 amount in subsection (b)(2)(B), by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) of such section 1.''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 2002.

(2) EXPANSION OF MATHEMATICAL ERROR AUTHORITY.—

(A) IN GENERAL.—Paragraph (2) of section 6213(g) of such Code is amended by striking ''and'' at the end of subparagraph (K), by striking the period at the end of subparagraph (L) and inserting '', and'', and by inserting after subparagraph (L) the following new subparagraph:

''(M) the entry on the return claiming the credit under section 32 with respect to a child if, according to the Federal Case Registry of Child Support Orders established under section 453(h) of the Social Security Act, the taxpayer is a noncustodial parent of such child.''.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect on January 1, 2003.

(d) CONFORMING AMENDMENTS.—

(1) REPEAL OF AMENDMENT.—Sections 303(g) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) REPEAL OF SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset of provisions of such Act) shall not apply to sections 301, 302, and 303 (other than subsection (g) of such section 303) of such Act (relating to marriage penalty relief).

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By Mr. ENZI (for himself, Mr. KENNEDY, Mr. DASCHLE, Mr. LAUTENBERG, and Mr. DORGAN):

S. 1197. A bill to amend the Public Health Service Act to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, imagine for a moment you have gone to the doctor to have a medical condition evaluated. Uncertain as to what your injury may be, your doctor sends you to a specialist for a medical imaging examination to determine the extent of your injury and the proper course of treatment for it.

Or, imagine, having heard the dreaded diagnosis of cancer, going to the same facility for radiation therapy.

In either case, our sense of concern and anxiety about our medical condition will serve to focus our attention on ourselves, and not on the caregivers providing us with the treatment we need to recover, or in the case of cancer, to survive.

But, what would you say if you knew that the individual helping to direct your diagnosis or the one providing your course of treatment is someone who has done nothing more to earn his credentials than spend a few weeks getting some on the job training.

Imagine how you would feel and the level of trust you would have in a system that allowed such a thing to happen.

Unfortunately, that's an all too common occurrence with the present state of our health care system.

But, it is a problem that we can solve with the passage of legislation I am introducing today.

The Consumer Assurance of Radiological Excellence, RadCARE, Act will ensure that there are coherent standards in place for those who plan and deliver radiation therapy treatments. I am pleased to be joined by my distinguished colleague from Massachusetts, Senator KENNEDY, as well as Senators DASCHLE, LAUTENBERG, and DORGAN, in this effort, which will bring peace of mind and restore the confidence of the health consumer in the treatment they receive from those who perform radiologic procedures. It will also increase awareness of the skills of these health care professionals and raise the level of visibility their profession enjoys in the public eye.

It is important that we establish standards for personnel who perform radiologic procedures because physicians depend upon medical imaging examinations to diagnose disease and identify and treat injuries of all kinds. The quality of a radiologic procedure hinges upon the expertise of the professionals who assist in administering them.

Currently, 15 States as well as the District of Columbia do not regulate or register radiologic personnel.

To address that lack of attention, the RadCARE Act will strengthen the Consumer-Patient Radiation Health and Safety Act of 1981. The current law calls for States to establish voluntarily a set of educational and credentialing standards for radiologic and medical imaging personnel. Yet many States still do not have licensing laws in place that meet the standards recommended by the Federal Government. The RadCARE Act will require that radiologic and medical imaging personnel meet a minimum credentialing standard.

The RadCARE Act will not affect states that have a suitable licensing system or those that have mandated higher standards than required by Federal law. If a state has no meaningful

regulations or licensing system, however, then the Federal standards will apply. The RadCARE Act also has a provision to ensure access to quality healthcare in rural regions where a one-size-fits all approach may not be applicable. Enforcement of the RadCARE Act would be achieved by restricting Medicare and Medicaid reimbursement to facilities that employ personnel who meet the minimal federal standards.

The RedCARE Act will improve the safety of radiological procedures by reducing the risk of harmful overexposure to radiation. Healthcare costs will also be lowered by decreasing the number of repeated procedures due to personnel error. Additionally, the RadCARE Act will enable radiologists and other healthcare professionals to have access to quality information so that patients receive the best health care possible.

This legislation is supported by a variety of organizations concerned with the quality of these procedures, including the American Society of Radiologic Technologists, the Society of Nuclear Medicine Technologist Section, the American Association of Medical Dosimetrists, the Nuclear Medicine Technology Certification Board, the Association of Vascular and Interventional Radiographers, and the other members of the Alliance for Quality Medical Imaging and Radiation Therapy, which represents the more than 275,000 medical imaging and radiation therapy professionals in the United States.

When it comes right down to it, it's a big enough battle to fight the cancers or the injuries to our bodies that require such invasive treatments or diagnosis. We shouldn't have to worry about the level of competence of those who are providing us with the services we so desperately require for the maintenance of our health.

I urge my colleagues to join me in supporting and passing this much needed legislation. It respects the power of the states who have addressed this problem as it provides minimum standards for those who have not.

More importantly, its enactment into law will do a great deal to increase the level of confidence of the American health consumer in our healthcare system.

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. 1197

*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 ''Consumer Assurance of Radiologic Excellence Act of 2003''.

**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) More than 300,000,000 medical imaging examinations and radiation therapy treatments are administered annually in the United States.

(2) Seven out of every 10 Americans undergo a medical imaging examination or radiation therapy treatment every year in the United States.

(3) The administration of medical imaging examinations and radiation therapy treatments and the effect on individuals of such procedures have a substantial and direct effect upon public health and safety and upon interstate commerce.

(4) It is in the interest of public health and safety to minimize unnecessary or inappropriate exposure to radiation due to the performance of medical imaging and radiation therapy procedures by personnel lacking appropriate education and credentials.

(5) It is in the interest of public health and safety to have a continuing supply of adequately educated persons and appropriate accreditation and certification programs administered by State governments.

(6) Persons who perform or plan medical imaging or radiation therapy, including those employed at Federal facilities or reimbursed by Federal health programs, should be required to demonstrate competence by reason of education, training, and experience.

(7) The protection of public health and safety from unnecessary or inappropriate medical imaging and radiation therapy procedures and the assurance of efficacious procedures are the responsibilities of both the State and the Federal Governments.

(8) Facilities that conduct medical imaging or radiation therapy engage in and affect interstate commerce. Patients travel regularly across State lines to receive medical imaging services or radiation therapy. Facilities that conduct medical imaging or radiation therapy engage technicians, physicians, and other staff in an interstate market, and purchase medical and other supplies in an interstate market.

(9) In 1981, Congress enacted the Consumer-Patient Radiation Health and Safety Act of 1981 (Public Law 97-35) which established minimum Federal standards for the accreditation of education programs for persons who perform or plan medical imaging examinations and radiation therapy treatments and for the certification of such persons. The Act also provided the States with a model State law for the licensing of such persons.

(10) Twenty-two years after the enactment of the Consumer-Patient Radiation Health and Safety Act of 1981—

(A) 13 States do not require licensure of any kind for persons who perform or plan medical imaging examinations and radiation therapy treatments;

(B) 37 States license, regulate, or register radiographers;

(C) 28 States license radiation therapists;

(D) 22 States license nuclear medicine technologists;

(E) 8 States license or require board certification of medical physicists; and

(F) no States regulate or license medical dosimetrists.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure the accreditation of education programs for, and the licensure or certification of, persons who perform, plan, evaluate, or verify patient dose for medical imaging examinations and radiation therapy treatments; and

(2) to ensure the safety and accuracy of medical imaging examinations and radiation therapy treatments.

**SEC. 3. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.**

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

''Subpart 4—Medical Imaging and Radiation Therapy

**''SEC. 355. QUALITY OF MEDICAL IMAGING AND RADIATION THERAPY.**

''(a) IN GENERAL.—The Secretary shall establish standards to assure the safety and accuracy of medical imaging or radiation therapy. Such standards shall include licensure or certification, accreditation, and other requirements determined by the Secretary to be appropriate.

''(b) EXEMPTIONS.—The standards established under subsection (a) shall not apply to physicians (as defined in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))), nurse practitioners and physician assistants (as defined in section 1861(aa)(5) of the Social Security Act (42 U.S.C. 1395x(aa)(5))).

''(c) REQUIREMENTS.—Under the standards established under subsection (a), the Secretary shall ensure that individuals prior to performing or planning such imaging or therapy—

''(1) have successfully completed a national examination approved by the Secretary under subsection (d) for individuals who perform or plan medical imaging or radiation therapy; and

''(2) meet such other requirements relating to medical imaging or radiation therapy as the Secretary may prescribe.

''(d) APPROVED BODIES.—

''(1) IN GENERAL.—The Secretary shall certify private nonprofit organizations or State agencies as approved bodies with respect to the accreditation of educational programs or the administration of examinations to individuals for purposes of subsection (c)(1) if such organizations or agencies meet the standards established by the Secretary under paragraph (2) and provide the assurances required under paragraph (3).

''(2) STANDARDS.—The Secretary shall establish minimum standards for the certification of approved bodies under paragraph (1) (including standards for recordkeeping, the approval of curricula and instructors, the charging of reasonable fees for accreditation or for undertaking examinations), and other additional standards as the Secretary may require.

''(3) ASSURANCES.—To be certified as an approved body under paragraph (1), an organization or agency shall provide the Secretary satisfactory assurances that the body will—

''(A) comply with the standards described in paragraph (2);

''(B) notify the Secretary in a timely manner before the approved body changes the standards of the body; and

''(C) provide such other information as the Secretary may require.

''(4) WITHDRAWAL OF APPROVAL.—

''(A) IN GENERAL.—The Secretary may withdraw the certification of an approved body if the Secretary determines the body does not meet the standards under paragraph (2).

''(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the certification of an approved body under subparagraph (A), the accreditation of an individual or the completion of an examination administered by such body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such individual to obtain another accreditation or to complete another examination.

''(e) EXISTING STATE STANDARDS.—Standards for the licensure or certification of personnel, accreditation of educational programs, or administration of examinations,

established by a State prior to the effective date of the standards promulgated under this section, shall be deemed to be in compliance with the requirements of this section unless the Secretary determines that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this section.

''(f) EVALUATION AND REPORT.—The Secretary shall periodically evaluate the performance of each approved body under subsection (d) at an interval determined appropriate by the Secretary. The results of such evaluations shall be included as part of the report submitted to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives in accordance with 354(e)(6)(B).

''(g) DELIVERY OF AND PAYMENT FOR SERVICES.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate regulations to ensure that all programs that involve the performance of or payment for medical imaging or radiation therapy, that are under the authority of the Secretary, are performed in accordance with the standards established under this section.

''(h) ALTERNATIVE STANDARDS FOR RURAL AREAS.—The Secretary shall determine whether the standards developed under subsection (a) must be met in their entirety with respect to payment for medical imaging or radiation therapy that is performed in a geographic area that is determined by the Medicare Geographic Classification Review Board to be a ''rural area''. If the Secretary determines that alternative standards for such rural areas are appropriate to assure access to quality medical imaging, the Secretary is authorized to develop such alternative standards. Alternative standards developed under this subsection shall apply in rural areas to the same extent and in the same manner as standards developed under subsection (a) apply in other areas.

''(i) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Secretary shall promulgate such regulations as may be necessary to implement this section.

''(j) DEFINITIONS.—In this section:

''(1) APPROVED BODY.—The term 'approved body' means a nonprofit organization or State agency that has been certified by the Secretary under subsection (d)(1) to accredit or administer examinations to individuals who perform or plan medical imaging or radiation therapy.

''(2) MEDICAL IMAGING.—The term 'medical imaging' means any procedure or article, excluding medical ultrasound procedures, intended for use in the diagnosis or treatment of disease or other medical or chiropractic conditions in humans, including diagnostic X-rays, nuclear medicine, and magnetic resonance procedures.

''(3) PERFORM.—The term 'perform', with respect to medical imaging or radiation therapy, means—

''(A) the act of directly exposing a patient to radiation via ionizing or radio frequency radiation or to a magnetic field for purposes of medical imaging or for purposes of radiation therapy; and

''(B) the act of positioning a patient to receive such an exposure.

''(4) PLAN.—The term 'plan' with respect to medical imaging or radiation therapy, means the act of preparing for the performance of such a procedure to a patient by evaluating site-specific information, based on measurement and verification of radiation dose distribution, computer analysis, or direct measurement of dose, in order to customize the procedure for the patient.

''(5) RADIATION THERAPY.—The term 'radiation therapy', means any procedure or article intended for use in the cure, mitigation, treatment, or prevention of disease in humans that achieves its intended purpose through the emission of radiation.''.

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By Mr. DODD:

S. 1198. A bill to establish the Child Care Provider Development and Retention Grant Program, the Child Care Provider Scholarship Program, and a program of child care provider health benefits coverage, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Focus on Committed and Underpaid Staff for Children's Sake Act. I am pleased that Senators KENNEDY, MURRAY, and BINGAMAN are joining me as original cosponsors and that companion legislation is being introduced in the House today by Representatives GEORGE MILLER and PATRICK KENNEDY.

The need for child care has become a daily fact of life for millions of parents nationwide. Sixty-five percent of mothers with children under age six and 78 percent of mothers with children ages 6 to 13 are in the labor force. Each day, 13 million preschool children, including 6 million infants and toddlers, spend some part of their day in child care.

The quality of that care has a tremendous impact on the critical early years of children's development. And, the most powerful determinant of the quality of child care is the training, education, and pay of those who spend 8–10 hours a day caring for our children.

Yet, what we know about the child care field is alarming. Despite the fact that continuity of care is critical for the emotional development of children, staff turnover at child care centers averages 30 percent per year—four times greater than the turnover rate for elementary school teachers.

We as a society say there is no more important task than helping to raise a child. Yet, according to the Bureau of Labor Statistics, we pay the average child care worker about $16,500 a year—barely above the poverty level for a family of three. Few child care providers have basic benefits like health coverage or paid leave. Only a small fraction of child care workers have graduated from college.

We pay people millions of dollars a year to throw baseballs, to shoot basketballs and to swing golf clubs. What does that say about our priorities when at the same time we pay those who care for our most precious resource—our children—poverty-level wages?

A report by the University of California, Berkeley and the Center for Child Care Workforce on child care providers' pay, training and education highlighted the current crisis in the child care field. In a survey of child care centers in three California communities, the study found that three-quarters of all child care staff employed in 1996 were no longer on the job in 2000. Some centers reported 100 percent turnover. Additionally, nearly half of the child care providers who had left had a Bachelor's degree, compared to only one-third of the new teachers. Some 49 percent, nearly half, of those who had left their job, left the child care field entirely.

It's clear that if we want to attract quality teachers to the child care field, the pay has to better reflect the value we place on their work. We can't attract them and we can't keep them if we don't pay them a living wage.

The legislation I am introducing today will provide states with funds to increase child care worker pay based on the level of education—the greater the level of education, the greater the increase in pay. In addition, the legislation will provide scholarships of up to $1,500 for child care workers who want to further their early childhood education training by getting a college degree, an Associate's degree, or a child development associate credential.

The legislation also includes a separate allotment to states to address access to health care coverage by child care workers. States would be free to develop their own creative methods to improve access to health care, but the intent is to ensure that an industry that works with children—who as many parents know, often come down with a variety of illnesses, particularly preschool age children—would have greater access to comprehensive and affordable health care coverage.

We will never make significant strides in improving the quality of child care in this Nation if we fail to address one of the leading problems—attracting and retaining a quality child care workforce. It is time to invest in our children by investing in those who dedicate their lives to caring for our children.

I ask unanimous consent to print a short summary of the bill following my remarks.

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

THE FOCUS ACT: FOCUS ON COMMITTED AND UNDERPAID STAFF OR CHILDREN'S SAKE ACT

Background: According to the Department of Labor, the average wage for a child care provider is $8.16 an hour—$16,980 per year. Despite the important role child care providers play in early childhood development and learning, child care providers earn less than bus drivers ($29,430), barbers ($21,190), and janitors ($19,800). The turnover rate in the child care field is high—30 percent. But, to offer compensation to attract and retain high quality staff, child care programs would be required to charge fees that many parents would not be able to afford. Current law reimbursement rates, which are woefully inadequate for center-based and family day care homes already shut out too many parents from the child care market.

The FOCUS Act: The purpose of the FOCUS Act is to establish a Child care Provider Retention and development Grant Program, a Child Care Provider Scholarship Program, and to improve access to health coverage by child care workers and their dependents in order to reward and promote retention of committee, quality child care providers.

Child Care Provider Retention and Development Grant Program: The FOCUS Act provides grants to states to supplement the

wages of full-time child care workers who have a child development associate (CDA) credential by at least $1,000. A child care worker who has a Bachelors Degree in child development or early child education shall receive a grant of at least twice as much as grants made to providers who have an Associates degree in the area of child development or early child education. Grants to providers with an AA degree shall be at least 150 percent of grants made to those with a CDA. States shall provide grants in progressively larger dollar amounts to child care providers to reflect the number of years worked as a child care provider.

Child Care Provider Scholarships: The FOCUS Act provides grants to states for child care providers who have been employed for at least a year in the child care field—maximum grant is $1,500, to further staff education and training. FOCUS Act scholarships are not counted against other federal education aid.

Health Care Coverage for Child Care Providers: The FOCUS Act provides grants to states to provide better access to health coverage for child care workers. States retain a great deal of flexibility in determining how they will improve access to health care and health coverage by child care providers.

Funding: For FY 2004, the FOCUS Act authorizes $500 million for wage and scholarship initiatives and $200 million for health care initiatives. Such sums are authorized for fiscal years 2005–2008.

Of the $500 million for wage and scholarship initiatives, 67.5 percent is for grants to attract and retain a quality child care workforce and 22.5 percent is for scholarships to promote a child care workforce better educated on childhood development.

Set-aside: 3 percent for Indian Tribes and tribal organizations.

Funding formula: based on the number of children under age 5 and the percentage of children receiving free or reduced price lunches. 90/10 funding 1st year; 85/15 funding 2nd year; 80/20 funding 3rd year; 75/25 funding fourth and subsequent years.

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By Mr. FEINGOLD (for himself, Mrs. LINCOLN, and Mr. MCCAIN):

S. 1199. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that will help to ensure that all of our veterans know about Federal benefits to which they may be entitled by improving outreach programs conducted by the Department of Veterans Affairs.

I am please to be joined in this effort by the Senator from Arkansas, Mrs. LINCOLN, and the Senator from Arizona, Mr. MCCAIN.

Three years ago, the Wisconsin Department of Veterans Affairs, WDVA, launched a statewide program called ''I Owe You.'' Under the direction of Secretary Ray Boland, the program encourages veterans to apply, or to reapply, for benefits that they earned from their service in the United States military.

As part of this program, WDVA has sponsored six events around Wisconsin called ''Supermarkets of Veterans Benefits'' at which veterans can begin the process of learning whether they qualify for Federal benefits from the Department of Veterans Affairs, VA. These events, which are based on a similar program in Georgia, supplement the work of Wisconsin's County Veterans Service Officers and veterans service organizations by helping our veterans to reconnect with the VA and to learn more about services and benefits for which they may be eligible. More than 11,000 veterans and their families have attended the supermarkets, which include information booths with representatives from WDVA, VA, and veterans service organizations, as well as a variety of Federal, State, and local agencies. I was proud to have members of my staff speak with veterans and their families at a number of these events. These events have helped veterans and their families to learn about numerous topics, including health care, how to file a disability claim, and pre-registration for internment in veterans cemeteries.

The Institute for Government Innovation at Harvard University's Kennedy School of Government recognized the ''I Owe You'' program by naming it a semi-finalist for the 2002 Innovations in American Government Award. The program was also featured in the March/April 2003 issue of Disabled American Veterans Magazine.

The State of Wisconsin is performing a service that is clearly the obligation of the VA. These are Federal benefits that we owe to our veterans and it is the Federal Government's responsibility to make sure that they receive them. The VA has a statutory obligation to perform outreach, and current budget pressures should not be used as an excuse to halt or reduce these efforts.

The legislation that I am introducing today was spurred by the overwhelming response to the WDVA's ''I Owe You'' program and the supermarkets of veterans benefits. If more than 11,000 Wisconsin veterans are unaware of benefits that may be owed to them, it is troubling to think how many veterans around our country are also unaware of them. We can and should do better for our veterans, who selflessly served our country and protected the freedoms that we all cherish. And it is important to address gaps in the VA's outreach program as we welcome home and prepare to enroll into the VA system the tens of thousands of dedicated military personnel who are serving in Afghanistan, Iraq, and other places around the globe.

In order to help to facilitate consistent implementation of VA's outreach responsibilities around the country, my bill would create a statutory definition of the term ''outreach.''

My bill also would help to improve outreach activities performed by the VA in three ways. First, it would create separate funding line items for outreach activities within the budgets of the VA and its agencies, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration. Currently funding for outreach is taken from the general operating expenses for these agencies. These important programs should have a dedicated funding source instead of being forced to compete for scarce funding with other crucial VA programs.

I have long supported efforts adequately fund VA programs. We can and should do more to provide the funding necessary to ensure that our brave veterans are getting the health care and other benefits that they have earned in a timely manner and without having to travel long distances or wait more than a year to see a doctor or to have a claim processed.

Secondly, the bill would create an intra-agency structure to require the Office of the Secretary, the Office of Public Affairs, the VBA, the VHA, and the NCA to coordinate outreach activities. By working more closely together, the VA components would be able to consolidate their efforts, share proven outreach mechanisms, and avoid duplication of effort that could waste scarce funding.

Finally, the bill would ensure that the VA can enter into cooperative agreements with State Departments of Veterans Affairs regarding outreach activities and would give the VA grant-making authority to award funds to State Departments of Veterans Affairs for outreach activities such as the WDVA's ''I Owe You Program.'' Grants that are awarded to State departments under this program could be used to enhance outreach activities and to improve activities relating to veterans claims processing, which is a key component of the VA benefits process. State departments that receive grants under this program may choose to award portions of their grants to local governments, other public entities, or private or non-profit organizations that engage in veterans outreach activities.

I am pleased that this bill has the support of a number of national and Wisconsin organizations that are committed to improving the lives of our Nation's veterans, including: Disabled American Veterans; Paralyzed Veterans of America; Vietnam Veterans of America; the National Association of County Veterans Service Officers; the National Association of State Directors of Veterans Affairs; the Wisconsin Department of Veterans Affairs; the Wisconsin Association of County Veterans Service Officers; the Wisconsin Department of Disabled American Veterans; the Wisconsin Department of Veterans of Foreign Wars; the Wisconsin Paralyzed Veterans Association; and the Wisconsin State Council, Vietnam Veterans of America.

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

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

S. 1199

*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 ''Veterans Outreach Improvement Act of 2003''.

**SEC. 2. DEFINITION OF OUTREACH.**

Section 101 of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(34) The term 'outreach' means the act or process of reaching out in a systematic manner to proactively provide information, services, and benefits counseling to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive benefits under the laws administered by the Secretary, to ensure that such individuals are fully informed about, and assisted in applying for, any benefits and programs under such laws.''.

**SEC. 3. AUTHORITIES AND REQUIREMENTS FOR ENHANCEMENT OF OUTREACH OF ACTIVITIES DEPARTMENT OF VETERANS AFFAIRS.**

(a) IN GENERAL.—Chapter 5 of title 38, United States Code, is amended by adding at the end the following new subchapter:

''SUBCHAPTER IV—OUTREACH

**''§ 561. Outreach activities: funding**

''(a) The Secretary shall establish a separate account for the funding of the outreach activities of the Department, and shall establish within such account a separate subaccount for the funding of the outreach activities of each element of the Department specified in subsection (c).

''(b) In the budget justification materials submitted to Congress in support of the Department budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary shall include a separate statement of the amount requested for such fiscal year for activities as follows:

''(1) For outreach activities of the Department in aggregate.

''(2) For outreach activities of each element of the Department specified in subsection (c).

''(c) The elements of the Department specified in this subsection are as follows:

''(1) The Veterans Health Administration.

''(2) The Veterans Benefits Administration.

''(3) The National Cemetery Administration.

**''§ 562. Outreach activities: coordination of activities within Department**

''(a) The Secretary shall establish and maintain procedures for ensuring the effective coordination of the outreach activities of the Department between and among the following:

''(1) The Office of the Secretary.

''(2) The Office of Public Affairs.

''(3) The Veterans Health Administration.

''(4) The Veterans Benefits Administration.

''(5) The National Cemetery Administration.

''(b) The Secretary shall—

''(1) periodically review the procedures maintained under subsection (a) for the purpose of ensuring that such procedures meet the requirement in that subsection; and

''(2) make such modifications to such procedures as the Secretary considers appropriate in light of such review in order to better achieve that purpose.

**''§ 563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach**

''(a) It is the purpose of this section to assist States in carrying out programs that offer a high probability of improving outreach and assistance to veterans, and to the spouses, children, and parents of veterans who may be eligible to receive veterans' or veterans'-related benefits, to ensure that such individuals are fully informed about, and assisted in applying for, any veterans' and veterans'-related benefits and programs (including under State veterans' programs).

''(b) The Secretary shall ensure that outreach and assistance is provided under programs referred to in subsection (a) in locations proximate to populations of veterans and other individuals referred to in that subsection, as determined utilizing criteria for determining the proximity of such populations to veterans health care services.

''(c) The Secretary may enter into cooperative agreements and arrangements with veterans agencies of the States in order to carry out, coordinate, improve, or otherwise enhance outreach by the Department and the States (including outreach with respect to State veterans' programs).

''(d)(1) The Secretary may award grants to veterans agencies of States in order to achieve purposes as follows:

''(A) To carry out, coordinate, improve, or otherwise enhance outreach, including activities pursuant to cooperative agreements and arrangements under subsection (c).

''(B) To carry out, coordinate, improve, or otherwise enhance activities to assist in the development and submittal of claims for veterans' and veterans'-related benefits, including activities pursuant to cooperative agreements and arrangements under subsection (c).

''(2) A veterans agency of a State receiving a grant under this subsection may use the grant amount for purposes described in paragraph (1) or award all or any portion of such grant amount to local governments in such State, other public entities in such State, or private non-profit organizations in such State for such purposes.

''(e) Amounts available for the Department for outreach in the account under section 561 of this title shall be available for activities under this section, including grants under subsection (d).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of such title is amended by adding at the end the following new items

''SUBCHAPTER IV—OUTREACH

''561. Outreach activities: funding.
''562. Outreach activities: coordination of activities within Department.
''563. Outreach activities: cooperative activities with States; grants to States for improvement of outreach.''.

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By Mr. GRAHAM of South Carolina (for himself, Mr. DORGAN, Mr. BUNNING, Mr. DURBIN, Mr. ROBERTS, Mrs. MURRAY, Mr. SMITH, Ms. LANDRIEU, Mr. DEWINE, Mr. CORZINE, Mr. DASCHLE, and Mrs. LINCOLN):

S. 1201. A bill to promote healthy lifestyles and prevent unhealthy, risky behaviors among teenage youth; to the Committee on Health, Education, Labor, and Pensions.

Mr. DORGAN. Mr. President, today I am happy to be joining my colleague Senator LINDSEY GRAHAM in introducing the YMCA Healthy Teen Act. Senator GRAHAM and I are introducing this bill along with Senators BUNNING, CORZINE, DASCHLE, DEWINE, DURBIN, LANDRIEU, LINCOLN, MURRAY, ROBERTS, and SMITH. This bipartisan legislation will address a critical issue for our Nation's future: the health of our children.

Unfortunately, there has been an alarming trend in recent years towards increased obesity in our Nation's youth. On average, America's young people spend 4 hours a day watching television, 1 and ½ hours a day listening to music, 30 minutes watching videos, and 20 minutes playing video games. Only 13 percent of students walk or bike to school. Only one State, Illinois, requires daily physical education in schools. The Surgeon General has reported that 13 percent of children and adolescents are overweight, more than double the number who were overweight in 1970.

We are rapidly becoming a country of the unfit, the inactive, and the unhealthy—and our young people are suffering the consequences of a sedentary lifestyle. If ignored, obesity in children leads to obesity in adulthood—and the numerous health problems that come with it including diabetes, heart disease, stroke, chronic obstructive pulmonary disease, and cancer. These five diseases alone account for more than two-thirds of all deaths in the United States, and caring for them comes at a tremendous cost to society—close to $117 billion annually.

On top of the need for increased physical activity and healthier lifestyles, the evidence is all around us that our young people today also need some extra care and support. Kids today face challenges and obstacles that I never dreamed about when I was growing up in Regent. Although recent promising evidence show that rates of smoking, drinking and the use of illegal drugs among 8th, 10th, and 12th graders fell simultaneously in 2002, still half of all high school seniors have reported using illicit drugs at least once in their lifetime.

These challenges arise in part from the temptations kids face when they have too much idle time on their own. Every day, millions of American teens are left unsupervised after school. Studies have shown that teens left unsupervised during those hours are more likely to smoke, drink alcohol, engage in sexual activity, and become involved in delinquent behavior than teens who participate in structured, supervised afterschool activities. Also, nearly 80 percent of teens who are involved in afterschool activities are A or B students, while only half of those who are not involved earn those grades.

To address these crucial issues facing America's youth, I propose we turn to an exemplary organization dedicated to improving kids' lives, the YMCA. Nearly 2.4 million teenagers—1 out of every 10—are involved in a program offered by their local YMCA. In 2001, total membership rolls reached their highest level in history, with 18.3 million men, women, and children—half of them under 18—receiving a vast range of services from their local YMCAs.

In the past year and a half, I visited three of the six YMCAs that serve

North Dakota teens. Through programs focused on education, healthy lifestyles, physical activity, leadership, and service learning, these North Dakota YMCAs helped 12,500 teens in my State develop character, build confidence, and become healthier within the last year alone.

I have seen firsthand what a difference a safe, structured, and healthy afterschool environment can make for our youth. In those communities in North Dakota and across the country, the YMCA is a place to learn, a place to play sports, a place to meet friends, and a place to simply shed the problems that youths face every day in school and at home and just have some fun. North Dakota teens embrace the countless opportunities presented to them at their YMCAs with enthusiasm, and I have no doubt they are not alone.

While the YMCA is national in scope, they are local in control and every program is designed and evaluated to meet the communities' unique needs. I am confident that this bill will help the YMCA to reach more teens and continue to provide successful solutions for our Nation's teens and families.

To serve more teens in need of healthier lifestyles and safe and structured afterschool programs, the YMCA has set the goal of doubling the number of teens served to one in five teens by 2005. This ambitious campaign is called the Teen Action Agenda.

The bill that Senator GRAHAM and I offer today provides funding to help the YMCA reach teens who need safe and structured activities that will promote physical activity and healthy lifestyles. This piece of legislation authorizes Federal appropriations of $20 million per year for fiscal years 2004 through 2008 for the YMCA to implement its Teen Action Agenda. This funding would in turn be distributed to local YMCAs that are located in all 50 States and the District of Columbia. Similar legislation was passed in the 105th Congress for the Boys and Girls Club and in the 106th Congress for the Police Athletic League to aid in their efforts to reach out to youth.

Each program funded through this initiative would include physical activity and nutritional education components, and could also focus on other health risks faced by teenage youths, such as tobacco, drugs, and risky behaviors that lead to injury and violence.

This bill will encourage public-private partnerships and leverage additional funding for teen programs. It contains a matching component that will be met by the YMCA through local and private support. The YMCA in 2001 raised $777 million in public contributions, double the annual contribution levels of a decade ago, and continues to grow and gain support from communities for its work. The matching component, along with the support the YMCA programs receive from national corporate sponsors, will turn $20 million in Federal funds into $50 million that will be invested in proven programs that serve teens who are most in need.

Adolescence is an opportune time to instill in children positive eating habits and exercise routines that will carry over into adulthood. The YMCA is an established and proven organization that is in the position to reach out and influence thousands of teenagers. This legislation is an opportunity for us to do something for the health of our Nation's teenagers, when they now face greater risks and challenges than ever before. Again, for the sake of our children's future, I urge my Senate colleagues to join Senator GRAHAM and me in cosponsoring this piece of legislation.

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By Mr. ENZI (for himself, Mr. BINGAMAN and Mr. CAMPBELL):

S. 1203. A bill to amend the Higher Education Act of 1965 regarding distance education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, one of the great benefits of the revolution in information technology has been its effect on education. With the information superhighway and the number of online research and information sources it has made available, modern technology and higher education have become inseparable.

The notion of distance learning and the access it provides to students—especially those in rural areas—could use a little more support, however, so that is why I am introducing the Distance Learning and Online Education Act of 2003.

This legislation builds on principles already found in the Higher Education Act to help reach populations that have traditionally been excluded from attending institutions of higher education.

Wyoming is a very rural State. There is only one four year school in the entire State, and there are only seven community colleges. If you include the University of Wyoming's satellite campuses, that adds up to nine institutions of higher education in an area of nearly one hundred thousand square miles. By contrast, there are one hundred twenty nine institutions of higher education in the State of Massachusetts, which makes up an area roughly one tenth the size of Wyoming. In fact, the only State that has fewer institutions of higher education is Alaska.

Expanding access to higher education for our rural communities has been a challenge for many years. Now, the Internet has made it possible for prospective students in rural communities, far removed from the university campus, to attend college online. They may now spend their time studying, rather than commuting back and forth between school.

At present, the most significant barriers that distance learners and online education programs must face are those that were created by the Higher Education Act. Under current law, students attending institutions that enroll more than half of their students in distance programs are ineligible for Federal student financial assistance. As a result, many of the communities that this assistance is designed to reach have been excluded from sharing in its benefits, including students from rural communities, single mothers, working professionals, and a range of others who are interested in attending college but who cannot afford to do so.

The legislation that I introduce today corrects this problem by creating an avenue for online and distance educators to reach out to rural communities and non-traditional students by making them eligible for federal student assistance. It creates an eligibility standard for these institutions that helps to ensure they will provide high quality education programs, while it also protects Federal funding from fraud and abuse.

The Distance Learning and Online Education Act ensures students will receive a high quality education by requiring online educators to become accredited by an agency that has an appropriate focus on distance education. As provided under current law, the accrediting body must also be recognized by the Secretary of Education as an agency that can determine the institution's eligibility under Title IV of the Higher Education Act. This is a slightly higher standard than is expected of the brick and mortar institutions that have been entrusted with Title IV funding since the Higher Education Act was originally passed.

My bill will also protect against any fraud and abuse of Title VI funds by requiring distance educators to demonstrate their financial responsibility. In addition to meeting the default rates already established in current law, institutions interested in becoming eligible must also have a record free from audit findings or program review findings resulting in significant penalties for a period of at least two years. Distance learning institutions must also show that they have not had their participation in Title IV limited, suspended or terminated during the previous five years, and they must create a system of assurances that the student participating in the program is the individual completing the work.

It is clear that the shape of higher education in this country is changing and it will never be the same again. We have an opportunity, through technology, to reach student populations that have been excluded from participation in higher education because they cannot afford to attend or travel to classrooms or campuses located many miles from their homes. We can change part of the equation by changing the way we view those programs that hold the greatest promise for nontraditional students. Making them eligible for federal student assistance will go a long way toward making a higher education available to everyone with

the interest in learning and the determination to get the job done. The Distance Learning and Online Education Act of 2003 will provide a hand up—not a hand out—to those whose interest in a higher education is limited only by their resources. By offering them a helping hand we can eliminate that obstacle and help a new generation achieve their goals and live their dreams.

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. 1203

*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 ''Distance Education and Online Learning Act of 2003''.

**SEC. 2. STUDENT ELIGIBILITY.**

Section 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(l)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''in whole or in part'' and inserting ''predominantly'';

(B) by striking ''of 1 year or longer''; and

(C) by striking ''unless'' and all that follows through ''all courses at the institution''; and

(2) by amending subparagraph (B) to read as follows:

''(B) REQUIREMENT.—An institution of higher education referred to in subparagraph (A) is an institution of higher education that is not an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.''.

**SEC. 3. DEFINITION OF ELIGIBLE PROGRAM.**

Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended by adding at the end the following:

''(3)(A) A program that is offered predominantly through distance education methods and processes (other than correspondence courses) is an eligible program for purposes of this title if—

''(i) the program was reviewed and approved by an accrediting agency or association that—

''(I) is recognized by the Secretary under subpart 2 of part H; and

''(II) has evaluation of distance education programs within the scope of its recognition; and

''(ii) the institution offering the program—

''(I) has not had its participation in programs under this title limited, suspended, or terminated within the preceding 5 years;

''(II) has not had or failed to resolve an audit finding or program review finding under this Act during the preceding 2 years that resulted in the institution being required to repay an amount that is greater than 10 percent of the total funds the institution received under the programs authorized by this title for any award year covered by the audit or program review;

''(III) has not been found by the Secretary during the preceding 5 years to be in material noncompliance with the provisions of this Act related to the submission of acceptable and timely audit reports required under this title; and

''(IV) is determined to be financially responsible under regulations promulgated by the Secretary pursuant to section 498(c).

''(B) If the accreditation agency or association withdraws approval of the program described in subparagraph (A)(i) or the institution fails to meet any of the requirements described in subparagraph (A)(ii), then the program shall cease to be an eligible program at the end of the award year in which such withdrawal of approval or failure to meet such requirements occurs. The program shall not be an eligible program until the provisions of subparagraph (A) (i) and (ii) are met again.

''(4) The Secretary shall promulgate regulations for determining whether a program that offers a degree or certificate on the basis of a competency assessment, that examines the content of the course work provided by the institution of higher education, is an eligible program for purposes of this title.''.

**SEC. 4. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.**

Section 496 of the Higher Education Act of 1965 (20 U.S.C. 1099b) is amended—

(1) in subsection (n)(3), by striking the last sentence and inserting the following: ''If the agency or association requests that the evaluation of institutions offering distance education programs be included within its scope of recognition, and demonstrates that the agency or association meets the requirements of subsection (p), then the Secretary shall include the accreditation of institutions offering distance education programs within the agency's or association's scope of recognition.''; and

(2) by adding at the end the following:

''(p) DISTANCE EDUCATION PROGRAMS.—An agency or association that seeks to evaluate the quality of institutions offering distance education programs within its scope of recognition shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that the agency or association assesses—

''(1) measures of student achievement of students enrolled in distance education programs;

''(2) the preparation of faculty and students to participate in distance education programs;

''(3) the quality of interaction between faculty and students in distance education programs;

''(4) the availability of learning resources and support services for students in distance education programs; and

''(5) measures to ensure the integrity of student participation in distance education programs.''.

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By Mr. CHAMBLISS (for himself and Mr. MILLER):

S. 1204. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, I rise today to introduce the Hunting Heritage Protection Act. With the introduction of this important legislation, we are able to acknowledge our Nation's rich heritage of hunting. The purpose of this bill is to pass that legacy on to future generations by protecting and preserving the rights of our Nation's sportsmen and women.

In 2001 over 13 million Americans contributed over $20.6 billion to the U.S. economy while hunting—a true recreational activity. Many believe that in order to hunt you must own land, but that is not true. I believe that hunting should be available as a recreational activity for everyone.

I have been an avid outdoor sportsman since my early adulthood. I am also an avid conservationist, like most other hunters. Mr. President, recreational hunting provides many opportunities to spend valuable time with children, just as I do with my son. He has been hunting since he was a young boy where he discovered and learned to appreciate one of the Earth's greatest treasures, nature.

Over the years, hunters have contributed billions of dollars to wildlife conservation, by purchasing licenses, permits, and stamps, as well as paying excise taxes on goods used by hunters. Since the time of President Teddy Roosevelt, father of the conservation movement, sportsmen and women have been and will continue to be some of the greatest supporters of sound wildlife management and conservation practices in the U.S.

Hunters need to be recognized for the vital role they play in conservation in this country. The Hunting Heritage Protection Act will do just that. This bill formalizes a policy by which the Federal Government will support, promote, and enhance recreational hunting opportunities, as permitted under State and Federal law. Further, the bill mandates that Federal public land and water are to be open to access and use for recreational hunting where and when appropriate. I should clarify and stress that this bill does not suggest that we open all national parks to hunting. As I mentioned, the goal is simple—I want recreational hunting on our public land to be available to the citizens of this country where and when appropriate.

It is crucial that the tradition of hunting is protected and that the valuable contributions that hunters have made to conservation in this country are recognized. And, we want to ensure that Federal land management decisions and their actions result in a 'no net loss of hunting opportunities'' on our public lands. This bill allows Congress to address this issue and to honor our Nation's sportsmen and women.

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By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 1205. A bill to provide discounted housing for teachers and other staff in rural areas of States with a population less than 1,000,000 and with a high population of Native Americans or Alaska Natives; to the Committee on Indian Affairs.

Mr. STEVENS. Mr. President, on behalf of Senator MURKOWSKI, I rise to introduce the Rural Teacher Housing Act of 2003.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will have a profound effect on the retention of good teachers, administrators, and other school staff in remote and rural areas of Alaska and in the rest of our Nation.

In rural areas of Alaska, school districts face the challenge of recruiting and retaining teachers, administrators and other school staff due to the lack of affordable housing. In one school district, they hire one teacher for every

six who decide not to accept job offers. Half of the applicants not accepting a teaching position in that district indicated that their decision was related to the lack of housing options.

Recently, I traveled throughout rural Alaska with Education Secretary Rod Paige. I wanted him to see the challenges of educating children in such a remote and rural environment. At one rural school, the principal must sleep in his office due to the lack of housing in that village. In the same village, there is not enough housing for each teacher to have their own separate home—several teachers must share a single home. Therefore, there is not enough room for the teachers' spouses.

Rural Alaskan school districts also experience a high annual rate of teacher turnover due to the dearth of affordable housing. Apparently, up to 30 percent of teachers leave rural school districts due to housing issues. How can we expect our children to thrive and to meet the mandates of the No Child Left Behind Act in such an educational environment? Clearly, the lack of affordable teacher housing in rural Alaska is an issue that needs to be addressed in order to ensure that children in rural Alaska receive an educational experience that is second to none and is also respectful of cultural differences.

My bill authorizes the Department of Housing and Urban Development to provide funds to States to address the shortage of teacher housing in rural areas in Alaska and in the rest of our Nation. Specifically, my bill provides funds to States that have a population of 1 million or fewer people and include qualifying municipalities, which have populations of 6,500 or fewer people and also do not have direct access to either a State or interstate highway system. The appropriate state housing authority will accept such funds and will then transfer the funds to an eligible school district in a qualifying municipality. An eligible school district must be within the boundaries of an Indian reservation, one or more Alaska Native villages or land owned by one or more Alaska Native village corporations. This legislation will allow the eligible school districts to address the housing shortage in the following ways: construct housing units, purchase and rehabilitate existing housing units, or rehabilitate housing units that are already owned by a school district. Once this phase is complete, eligible school districts shall provide the housing to teachers or other school staff under terms agreed upon by the school district and the teacher or other staff.

It is imperative that we address this important issue immediately and allow the flexibility for the disbursement of funds to be handled at the local level. The quality of education of our rural children is at stake.

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. 1205

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

**SECTION 1. SHORT TITLE.**

The Act may be cited as the ''Rural Teacher Housing Act of 2003''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) ELEMENTARY SCHOOL.—The term ''elementary school'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) ELIGIBLE SCHOOL DISTRICT.—The term ''eligible school district'' means a school district located within a qualified municipality within an eligible State and is within the boundaries of—

(A) Indian lands;

(B) 1 or more Native villages; or

(C) land owned by 1 or more Village Corporations.

(3) ELIGIBLE STATE.—The term ''eligible State'' means any State having a population of fewer than 1,000,000 people, based upon the most recent Government census.

(4) INDIAN LANDS.—The term ''Indian lands'' has the meaning given that term in section 2103 of the Revised Statutes (25 U.S.C. 81).

(5) NATIVE VILLAGE.—The term ''Native village'' has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C 1602).

(6) OTHER STAFF.—The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(7) QUALIFIED MUNICIPALITY.—The term ''qualified municipality'' means a municipality or unorganized borough within an eligible State—

(A) that has a total population of 6,500 or fewer people, based upon the most recent Government census; and

(B) does not have direct access to either a State or interstate highway system.

(8) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(10) TEACHER.—The term ''teacher'' means an individual who is employed as a teacher in a public elementary or secondary school, and meets the certification or licensure requirements of the eligible State.

(11) VILLAGE CORPORATION.—The term ''Village Corporation'' has the meaning given that term in section 3 of the Alaska Claims Settlement Act (43 U.S.C. 1602).

**SEC. 3. RURAL TEACHER HOUSING PROGRAM.**

(a) GRANTS AUTHORIZED.—The Secretary shall provide funds to eligible States, in accordance with such procedures as the Secretary determines are appropriate, to be used as provided in subsection (b).

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds received pursuant to subsection (a) shall be used by the eligible State to make grants to eligible school districts to be used as provided in paragraph (2).

(2) USE OF FUNDS BY ELIGIBLE SCHOOL DISTRICTS.—Grants received by an eligible school district pursuant to paragraph (1) shall be used for—

(A) the construction of new housing units within a qualified municipality;

(B) the purchase and rehabilitation of existing housing units within a qualified municipality; or

(C) the rehabilitation of housing units within a qualified municipality that are owned by an eligible school district.

(c) OWNERSHIP OF HOUSING.—All housing units constructed or purchased with grant funds awarded under this Act shall be owned by the relevant eligible school district.

(d) OCCUPANCY OF HOUSING UNITS.—Each housing unit constructed, purchased, or rehabilitated with grant funds under this Act shall be provided to teachers or other staff who are employed by the public school district in which the housing unit is located, under terms agreed upon by the eligible school district and the teacher or other staff

(e) COMPLIANCE WITH BUILDING CODES.—Each eligible school district receiving a grant under this Act shall ensure that all housing units leased pursuant to subsection (d) meet all applicable State and local building codes.

(f) MATCHING REQUIREMENT.—Each State that receives Federal funds under this Act shall provide matching funds from non-Federal sources in an amount equal to 20 percent of such Federal funds.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Department of Housing and Urban Development $50,000,000 for each of the fiscal years 2004 through 2013 to carry out this Act.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 160—TO EXPRESS THE SENSE OF THE SENATE THAT THE FEDERAL GOVERNMENT SHOULD ACTIVELY PURSUE A UNIFIED APPROACH TO STRENGTHEN AND PROMOTE THE NATIONAL POLICY ON AQUACULTURE

Mr. AKAKA submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 160

Whereas the Food and Agriculture Organization of the United Nations determined that aquaculture is the fastest growing food sector that provides animal protein for citizens of the world;

Whereas global aquacultural production (including the production of aquatic plants) has increased at an average rate of 9.2 percent per year since 1970, compared with only 1.4 percent for capture fisheries and 2.8 percent for terrestrial-farmed meat production systems;

Whereas freshwater aquacultural production increased from 15,900,000 metric tons in 1996 to 22,600,000 metric tons in 2001, marine aquacultural production increased from 10,800,000 metric tons in 1996 to 15,200,000 metric tons in 2001, and total aquacultural production increased from 26,700,000 metric tons in 1996 to 37,800,000 metric tons in 2001;

Whereas economic modeling predicts that global annual consumption of fish and shellfish per person will increase over time, from about 16 kilograms today to between 19 and 21 kilograms in 2030, due to increased health consciousness and the stronger demand for seafood products;

Whereas the United States imports more than 60 percent of its seafood products, resulting in an annual seafood trade deficit in excess of $7,000,000,000; and

Whereas section 7109 of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 436) reauthorized the National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) until 2007, but did not adequately address emerging national issues

such as offshore aquaculture development, water quality concerns, invasive species impacts, and a coordinated siting, permitting, and licensing process: Now, therefore, be it

*Resolved*, That the Senate calls on the Federal Government to actively pursue a unified approach to strengthen and promote the national policy on aquaculture, including as priorities—

(1) ensuring the sustainable development of production where aquaculture is economically viable, environmentally feasible, and culturally acceptable;

(2) analyzing the supply and demand for domestic and exported aquacultural products to enable the United States to compete in the global marketplace;

(3) increasing the availability of new technical and scientific information that supports aquaculture development;

(4) with regard to marine aquaculture, providing encouragement and identification of marine zones favorable to aquaculture that take into consideration desired environmental conditions and potential use conflicts; and

(5) establishing a goal of a 5-fold increase in United States aquacultural production by 2025.

Mr. AKAKA. Mr. President, I rise today to submit a resolution which calls upon the Federal Government to actively pursue a unified approach to strengthen our national policy on aquaculture. The United States has allowed its seafood trade deficit to reach $7 billion by importing over 60 percent of its seafood products from foreign countries, a distressing statistic. My resolution calls for immediate action by local, State, and Federal agencies to cooperatively reduce this seafood trade deficit. The United States must step forward to meet the growing consumer demand for seafood products that are sustainable, economically viable, environmentally feasible, and culturally acceptable. In order to adequately address the seafood trade deficit, we must promote aquaculture by committing to a five fold increase in U.S. aquaculture production by the year 2025.

As early as 1878, Congress supported the managed production of fish in the wake of a decrease in marine fisheries off the Atlantic Coast. Almost 100 years later, our Nation made important strides to encourage U.S. aquaculture by enacting the National Aquaculture Act of 1980 to coordinate all appropriate Federal programs and policies involving aquaculture. Even though the National Aquaculture Act was reauthorized by P.L. 107–171 until the year 2007, the legislation still falls short of its goal to ensure coordination and promote a strong aquaculture industry. Producers need improved guidance to clarify and simplify regulations pertaining to siting and environmental issues, particularly for the timely development of aquaculture in offshore waters. The level of funding for research and development has been very, very low and tangible incentives for marine aquaculture have been lacking compared to those of the agriculture and fishing industries. Therefore, a new, unified Federal policy promoting aquaculture is vitally needed to transform U.S. aquaculture into a major industry.

The current trends in aquaculture both worldwide and in the United States necessitate prompt action by the Federal Government. The contribution of aquaculture to global supplies of fish, crustaceans, and mollusks is growing by 9.21 percent annually. But aquaculture industries in china, India, Japan, Thailand, and Indonesia have greatly surpassed the United States due in part to less expensive labor, lower property values, and weaker environmental regulations. In fact, the total value of aquaculture production is approximately $61 billion worldwide; of this, the $0.5 billion U.S. aquaculture industry is far outpaced by nations that have a 1 to 28 billion dollar value. Although U.S. aquaculture has been considered a minor industry over the years, it is rapidly becoming one of the fastest-growing industries and has vast, vast potential. The U.S. has two choices. We can either stand by and watch our seafood trade deficit grow larger than $7 billion or we can seize this opportunity to promote a strong U.S. aquaculture industry to produce healthier foods and economic benefits for our citizens.

U.S. aquaculture development can meet the growing consumer demand for quality seafood products and, at the same time, relieve the pressure on overfished stocks. More than one billion people currently derive at least 20 percent of their animal protein from fish, and studies have predicted that this demand for seafood will only increase over time. Meanwhile, half of the world's main fish stocks are fully exploited or producing catches that have reached their maximum sustainable limits. A strong U.S. aquaculture industry will result in a net contribution to worldwide food availability, economic growth, and improved living standards.

In Hawaii, we are at the forefront of U.S. aquaculture through supportive research and production efforts for marine aquaculture. Hawaii first harvested offshore aquaculture products from sea cages in 1999 and the State awarded its first commercial lease for offshore aquaculture in State waters in the year 2001. The aquaculture technologies developed in Hawaii with high environmental standards can help lead the world in economically and environmentally sound aquaculture practices.

The U.S. needs to invest in our aquaculture industry today. This resolution recognizes the importance of aquaculture and calls for a coherent national approach to provide appropriate guidance for a sustainable aquaculture industry in different regions of the United States. This coherent, comprehensive strategy will contribute to worldwide food availability while providing much-needed economic growth within the United States. I urge my colleagues to support this measure.

## SENATE RESOLUTION 161—COMMENDING THE CLEMSON UNIVERSITY TIGERS MEN'S GOLF TEAM FOR WINNING THE 2003 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I MEN'S GOLF CHAMPIONSHIP

Mr. GRAHAM of South Carolina (for himself and Mr. HOLLINGS) submitted the following resolution; which was considered and agreed to:

S. RES. 161

Whereas on Friday, May 30, 2003, the Clemson University Tigers men's golf team won the 2003 NCAA Division I Men's Golf Championship, the first National Championship for the Clemson men's golf team;

Whereas the Tigers finished the Championship with a four-round total of 1191 strokes, for 39 shots over par, beating the second place Oklahoma State University Cowboys by two strokes;

Whereas the Tigers won the National Championship on the home course of Oklahoma State University, one of the most decorated golf schools in the Nation;

Whereas the Clemson golf team was the first in NCAA history to win its conference championship, a NCAA regional title, and the National Championship in the same year;

Whereas the Tigers started the year and ended the year as the number-one ranked team in the Nation;

Whereas the Tigers finished the season with a 128-8-3 record against opponents ranked in the top 25 teams in the country, which amounts to an incredible winning percentage of 93 percent, by far the best in the Nation and the best in Clemson history;

Whereas all of the Tigers players who participated in the NCAA Championship are native-born South Carolinians;

Whereas players D.J. Trahan, Jack Ferguson, and Matt Hendrix were honored as All-Americans for the 2002-03 season;

Whereas Head Coach Larry Penley won the Golf Coaches Association of America's Dave Williams Award as the National Coach of the Year;

Whereas the Clemson University men's golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving collegiate golf's highest honor; and

Whereas the Tigers have brought pride and honor to the State of South Carolina: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Clemson University Tigers for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship;

(2) recognizes the achievements of all the team's players, coaches, and staff and invites them to the United States Capitol Building to be honored in an appropriate manner; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Clemson University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I Men's Golf Championship team from Clemson University.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 854. Mrs. BOXER (for herself, Mr. LUGAR, and Ms. CANTWELL) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for 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, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

SA 855. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 856. Mrs. BOXER (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LAUTENBERG) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for 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, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, supra.

SA 857. Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 858. Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 859. Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 860. Mr. DOMENICI (for Mr. BINGAMAN) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, supra.

SA 861. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 862. Mr. GRASSLEY (for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, Ms. LANDRIEU, Mr. BYRD, Ms. COLLINS, and Mr. NELSON of Florida) proposed an amendment to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

SA 863. Mr. GRASSLEY (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 1308, supra; which was ordered to lie on the table.

SA 864. Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes.

## TEXT OF AMENDMENTS

**SA 854.** Mrs. BOXER (for herself, Mr. LUGAR, and Ms. CANTWELL) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for 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, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

On page 8, strike lines 16 through 19 and insert the following:

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

''(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

''(B) if the cellulosic biomass is derived from agricultural residue, shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

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**SA 855.** Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows;

On page 454, strike lines 5 through 9.

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**SA 856.** Mrs. BOXER (for herself, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LAUTENBERG) proposed an amendment to amendment SA 850 proposed by Mr. DOMENICI (for 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, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND)) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Beginning on page 18, strike line 16 and all that follows through page 19, line 17, and insert the following:

''(p) RENEWABLE FUELS SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.''.

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**SA 857.** Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, line 4, strike lines 4–11 and insert the following and renumber accordingly:

**SEC. 442. DECOMMISSIONING PILOT PROGRAM**

(a) PILOT PROGRAM.—The Secretary shall establish a decommissioning pilot program:

(1) to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998 Department of Energy report on the reactor; and

(2) to develop and demonstrate advanced state-of-the art nuclear fuel management, storage, transportation, and eventual advanced nuclear technology disposition alternatives through a cooperative research and development agreement utilizing the demonstration reactor remaining from the Cooperative Power Reactive Demonstration Program (Pub. L. No. 87–315, Sec. 109, 75 Stat. 679), the Dairyland Power Cooperative La Crosse Boiling Water Reactor.

(A) The project shall include planning, research and development, design, construction and demonstration of advanced and alternative approaches to handling loading and transportation of both canned and uncannistered stainless steel and zircalloy clad nuclear fuel, and

(B) The project shall explore technical and economic feasibility of alternative approaches to nuclear fuel management and storage, transportation, and eventual advanced nuclear technology disposition alternatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section:

(1) for the pilot program described in subsection (a)(1) above, $16,000,000; and

(2) for the pilot program described in subsection (a)(2) above, $5,000,000 per year until such time as all of the nuclear fuel is removed by the Department of Energy from La Crosse Boiling Water Reactor site, but not to exceed a total of $25,000,000.

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**SA 858.** Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; and follows:

On page 150, line 4, insert the following new section and renumber accordingly:

**''SECTION. REACTOR DEMONSTRATION PROGRAM.**

(a) DEFINITIONS.—For purposes of this section—

''(1) the term ''contract holder'' means a party to a contract with the Secretary of Energy for the disposal of spent nuclear fuel or high-level radioactive waste entered into pursuant to section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)); and

''(2) the terms ''Administrator'', ''civilian nuclear power reactor'', ''Commission'', ''Department'', ''disposal'', ''high-level radioactive waste'', ''Indian tribe'', ''repository'', ''reservation'', ''Secretary'', ''spent nuclear fuel'', ''State'', ''storage'', ''Waste Fund'', and ''Yucca Mountain site'' shall have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) REACTOR DEMONSTRATION PROGRAM SETTLEMENT AUTHORITY.—Not later than 120 days after the date of enactment of this Act, and notwithstanding Section 302(a)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)(5)), the Secretary is authorized to take title to the spent nuclear fuel withdrawn from the demonstration reactor remaining from the Cooperative Power Reactor Demonstration Program (Pub. L. No. 87–315, Sec. 109, 75 State. 679), the Dairyland Power Cooperative La Crosse Boiling Water Reactor. Immediately upon the Secretary's taking title to the Dairyland Power Cooperative La Crosse Boiling Water Reactor spent nuclear fuel, the Secretary shall assume all responsibility and liability for the interim storage and permanent disposal thereof and is authorized to compensate Dairyland Power Cooperative for any costs related to operating and maintaining facilities necessary for such storage, from the date of taking title until the Secretary removes the spent nuclear fuel from the La Crosse Boiling Water Reactor site. The Secretary's obligation to take title or compensate the holder of the La Crosse Boiling Water Reactor spent nuclear fuel under this subsection shall include all of such fuel, regardless of the delivery commitment schedule for such fuel under the Secretary's contract with the Dairyland Power Cooperative as the contract holder under Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) or the acceptance schedule for such fuel. The settlement agreement may also include terms to—

(1) relieve any harm caused by the Secretary's failure to meet the Department's commitment, or

(2) settle any legal claims against the United States arising out of such failure.

(c) WAIVER OF CLAIMS.—As a condition to the Secretary's taking of title to the La Crosse Boiling Water Reactor spent nuclear fuel, the contract holder for such fuel shall enter into a settlement agreement containing a waiver of claims against the United States as provided in this section. Nothing in this section shall be read to require a contract holder to waive any future claim against the United States arising out of the Secretary's failure to meet any new obligations assumed under a settlement agreement or backup storage agreement, including the acceptance of spent fuel and high-level waste in accordance with the acceptance schedule currently established or as may be established in the future.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred by the Secretary pursuant to a settlement agreement negotiated pursuant to this section that are not otherwise eligible for payment from the Nuclear Waste Fund.

(e) SAVINGS CLAUSE.—(1) Nothing in this section shall limit the Secretary's existing authority to enter into settlement agreements or address shutdown reactors and any associated public health and safety or environmental concerns that may arise.

(2) Nothing in this section diminishes obligations imposed upon the Federal Government by the United States District Court of Idaho in an order entered on October 17, 1995 in United States v. Batt (No. 91–0054–S–EJL). To the extent this Act imposes obligations on the Federal Government that are greater than those imposed by the court order, the provisions of this Act shall prevail.''

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**SA 859.** Mr. KOHL (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 12, insert the following and renumber accordingly:

**SEC. 606. FEDERAL ENERGY BANK.**

Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:

**SEC. 553. FEDERAL ENERGY BANK.**

''(a) DEFINITIONS.—In this section:

''(1) BANK.—The term 'Bank' means the Federal Energy Bank established by subsection (b).

''(2) ENERGY OR WATER EFFICIENCY PROJECT.—The term 'energy or water efficiency project' means a project that assists a Federal agency in meeting or exceeding the energy water efficiency requirements of—

''(A) this part;

''(B) title VIII;

''(C) subtitle F of title I of the Energy Policy Act of 1992 (42 U.S.C. 8262 et seq.); or

''(D) any applicable Executive order, including Executive Order No. 13123.

''(3) FEDERAL AGENCY.—The term 'Federal agency' means—

''(A) an Executive agency (as defined in section 105 of title 5, United States Code);

''(B) the United States Postal Service;

''(C) Congress and any other entity in the legislative branch; and

''(D) a Federal court and any other entity in the judicial branch.

''(b) ESTABLISHMENT OF BANK.—

''(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Federal Energy Bank', consisting of—

''(A) such amounts as are deposited in the Bank under paragraph (2);

''(B) such amounts as are repaid to the Bank under subsection (c)(2)(D); and

''(C) any interest earned on investment of amounts in the Bank under paragraph (3).

''(2) DEPOSITS IN BANK.—

''(A) IN GENERAL.—Subject to the availability of appropriations and to subparagraph (B), the Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2004 and in each fiscal year thereafter.

''(B) MAXIMUM AMOUNT IN BANK.—Deposits under subparagraph (a) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.

''(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(c) LOANS FROM THE BANK.—

''(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).

''(2) LOAN PROGRAM.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—In accordance with subsection (d), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).

''(ii) COMMENCEMENT OF OPERATIONS.—The Secretary may begin—

''(I) accepting applications for loans from the Bank in fiscal year 2003; and

''(II) making loans from the Bank in fiscal year 2004.

''(B) ENERGY SAVINGS PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.

''(C) PURPOSES OF LOAN.—

''(i) IN GENERAL.—A loan from the Bank may be used to pay—

''(I) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);

''(II) the costs of energy metering plan and metering equipment installed pursuant to section 543(e) or for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or

''(III) at the time of contracting, the costs of cofunding of an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of energy savings performance contract.

''(ii) LIMITATION.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

''(iii) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.—Not more than 25 percent of the amount on loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Orders)).

''(D) REPAYMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) through (v), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

''(ii) WAIVER OR REDUCTION OF INTEREST.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

''(iii) DETERMINATION OF INTEREST RATE.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fully fund the operations of the Bank.

''(iv) INSUFFICIENCY OF APPROPRIATIONS.—

''(I) REQUEST FOR APPROPRIATIONS.—As part of the budget request of the Federal agency for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

''(II) SUSPENSION OF REPAYMENT REQUIREMENT.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

''(E) FEDERAL AGENCY ENERGY BUDGETS.—Until a loan is repaid a Federal agency budget submitted by the President to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

''(F) NO RESCISSION OR REPROGRAMMING.— A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as permitted under guidelines and issued under subparagraph (G).

''(G) GUIDELINES.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

''(d) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the selection of projects to be awarded loans in accordance with paragraph (2).

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—The Secretary may make loans from the Bank only for a project that—

''(i) is technically feasible;

''(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

''(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

''(I) commission energy savings for new and existing Federal facilities;

''(II) monitor and improve energy efficiency management at existing Federal facilities; and

''(III) verify the energy savings under an energy savings performance contract under title VIII; and

(iv)(I) in the case of a renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

''(II) in the case of any other project, has a simple payback period of not more than 10 years.

''(B) PRIORITY.—In selecting projects, the Secretary shall give priority to projects that—

''(i) are a component of a comprehensive energy management project for a Federal facility; and

''(ii) are designed to significantly reduce the energy use of the Federal facility.

''(e) REPORTS AND AUDITS.—

''(1) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

''(A) states whether the project meets or fails to meet the energy savings projections for the project; and

''(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

''(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

''(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

''(A) the total receipts by the Bank;

''(B) the total amount of loans from the Bank to each Federal agency; and

''(C) the estimated cost and energy savings resulting from projects funded with loans from the Bank.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

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**SA 860.** Mr. DOMENICI (for Mr. BINGAMAN) proposed an amendment to amendment SA 840 proposed by Mr. DOMENICI (for himself and Mr. BINGAMAN) to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE XII—STATE ENERGY PROGRAMS

**SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.**

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''each of fiscal years 2002 through 2004'' and inserting ''fiscal years 2002 and 2003, and $3,400,000,000 for each of fiscal years 2004 through 2006.''.

**SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.**

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking ''125'' and inserting ''150'', and

(2) in paragraph (7)(C), by striking ''125'' and inserting ''150''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting '', $325,000,000 for fiscal year 2004, $400,000,000 for fiscal year 2005, and $500,000,000 for fiscal year 2006.''.

**SEC. 1203. STATE ENERGY PLANS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''STATE ENERGY EFFICIENCY GOALS

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting '', $100,000,000 for each of fiscal years 2004 and 2005 and $125,000,000 for fiscal year 2006.''.

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**SA 861.** Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 150, between lines 14 and 15, insert the following:

**SEC. 4____. PREVENTION OF MISUSE OF NUCLEAR MATERIAL AND TECHNOLOGY.**

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201 et seq.) is amended by adding at the end the following:

**''SEC. 170C. PREVENTION OF MISUSE OF NUCLEAR MATERIAL AND TECHNOLOGY.**

''(a) POLICY.—To successfully promote the development of nuclear energy as a safe and reliable source of electric energy, it is the policy of the United States to prevent any nuclear material, technology, component, substance, or technical information, or any related goods or services, from being misused or diverted from peaceful nuclear energy purposes.

''(b) PROHIBITION OF ISSUANCE OF CERTAIN EXPORT LICENSES.—Notwithstanding any other provision of law, no Federal agency shall issue any license, approval, or authorization for the export or reexport, or the transfer or retransfer, directly or indirectly, to any country the government of which is identified by the Secretary of State as engaged in state sponsorship of terrorist activities (including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism) of—

''(1) any special nuclear material or byproduct material;

''(2) any nuclear production facility or utilization facility; or

''(3) except as provided in subsection (c)(2), any nuclear component, technology, substance, or technical information, or any related goods or services, that could be used in a nuclear production facility or utilization facility.

''(c) NONAPPLICABILITY AND WAIVER.—

''(1) NONAPPLICABILITY.—Subsection (b) shall not apply to the country of Iraq.

''(2) WAIVER.—The President may waive the application of subsection (b)(3) to a country if the President determines and certifies to Congress that the waiver of that subsection—

''(A) is in the vial national security interests of the United States;

''(B) is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety; and

''(C) will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons or any materials or components of nuclear weapons.

''(d) REVOCATION.—Any license, approval, or authorization described in subsection (b) issued before the date of enactment of this section is revoked.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act (42 U.S.C. prec. 2011) is amended by adding at the end the items relating to chapter 14 the following:

''Sec. 170C. Prevention of misuse of nuclear material and technology.''.

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**SA 862.** Mr. GRASSLEY (for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, Ms. LANDRIEU, Mr. BYRD, Ms. COLLINS, and Mr. NELSON of Florida) proposed an amendment to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Relief for Working Families Tax Act of 2003''.

**TITLE I—CHILD TAX CREDIT**

**SEC. 101. 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) ADVANCE PAYMENT.—Subsection (b) of section 6429 of such Code (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 first parenthetical therein.''.

(3) EARNED INCOME INCLUDES COMBAT PAY.—Section 24(d)(1) of such Code is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a)(1) AND (a)(3).—The amendments made by subsections (a)(1) and (a)(3) shall apply to taxable years beginning after December 31, 2002.

(2) SUBSECTION (a)(2).—The amendments made by subsection (a)(2) 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. 102. REDUCTION IN MARRIAGE PENALTY IN CHILD TAX CREDIT.**

(a) IN GENERAL.—Section 24(b)(2) of the Internal Revenue Code of 1986 (defining threshold amount) is amended—

(1) by inserting ''($115,000 for taxable years beginning in 2008 or 2009, and $150,000 for taxable years beginning in 2010)'' after ''$110,000'', and

(2) by striking ''$55,000'' in subparagraph (C) and inserting ''½ of the amount in effect under subparagraph (A)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 103. APPLICATION OF EGTRRA SUNSET TO THIS SECTION.**

Each amendment made by this title shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

## TITLE II—UNIFORM DEFINITION OF CHILD

**SEC. 201. UNIFORM DEFINITION OF CHILD, ETC.**

Section 152 of the Internal Revenue Code of 1986 is amended to read as follows:

**''SEC. 152. DEPENDENT DEFINED.**

''(a) IN GENERAL.—For purposes of this subtitle, the term 'dependent' means—

''(1) a qualifying child, or

''(2) a qualifying relative.

''(b) EXCEPTIONS.—For purposes of this section—

''(1) DEPENDENTS INELIGIBLE.—If an individual is a dependent of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall be treated as having no dependents for any taxable year of such individual beginning in such calendar year.

''(2) MARRIED DEPENDENTS.—An individual shall not be treated as a dependent of a taxpayer under subsection (a) if such individual has made a joint return with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

''(3) CITIZENS OR NATIONALS OF OTHER COUNTRIES.—

''(A) IN GENERAL.—The term 'dependent' does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

''(B) EXCEPTION FOR ADOPTED CHILD.—Subparagraph (A) shall not exclude any child of a taxpayer (within the meaning of subsection (f)(1)(B)) from the definition of 'dependent' if—

''(i) for the taxable year of the taxpayer, the child's principal place of abode is the home of the taxpayer, and

''(ii) the taxpayer is a citizen or national of the United States.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

''(C) who meets the age requirements of paragraph (3), and

''(D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins.

''(2) RELATIONSHIP TEST.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if such individual is—

''(A) a child of the taxpayer or a descendant of such a child, or

''(B) a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative.

''(3) AGE REQUIREMENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C), an individual meets the requirements of this paragraph if such individual—

''(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins, or

''(ii) is a student who has not attained the age of 24 as of the close of such calendar year.

''(B) SPECIAL RULE FOR DISABLED.—In the case of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during such calendar year, the requirements of subparagraph (A) shall be treated as met with respect to such individual.

''(4) SPECIAL RULE RELATING TO 2 OR MORE CLAIMING QUALIFYING CHILD.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (e), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

''(i) a parent of the individual, or

''(ii) if clause (i) does not apply, the taxpayer with the highest adjusted gross income for such taxable year.

''(B) MORE THAN 1 PARENT CLAIMING QUALIFYING CHILD.—If the parents claiming any qualifying child do not file a joint return together, such child shall be treated as the qualifying child of—

''(i) the parent with whom the child resided for the longest period of time during the taxable year, or

''(ii) if the child resides with both parents for the same amount of time during such taxable year, the parent with the highest adjusted gross income.

''(d) QUALIFYING RELATIVE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying relative' means, with respect to any taxpayer for any taxable year, an individual—

''(A) who bears a relationship to the taxpayer described in paragraph (2),

''(B) whose gross income for the calendar year in which such taxable year begins is less than the exemption amount (as defined in section 151(d)),

''(C) with respect to whom the taxpayer provides over one-half of the individual's support for the calendar year in which such taxable year begins, and

''(D) who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.

''(2) RELATIONSHIP.—For purposes of paragraph (1)(A), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

''(A) A child or a descendant of a child.

''(B) A brother, sister, stepbrother, or stepsister.

''(C) The father or mother, or an ancestor of either.

''(D) A stepfather or stepmother.

''(E) A son or daughter of a brother or sister of the taxpayer.

''(F) A brother or sister of the father or mother of the taxpayer.

''(G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

''(H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as such individual's principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

''(3) SPECIAL RULE RELATING TO MULTIPLE SUPPORT AGREEMENTS.—For purposes of paragraph (1)(C), over one-half of the support of an individual for a calendar year shall be treated as received from the taxpayer if—

''(A) no one person contributed over one-half of such support,

''(B) over one-half of such support was received from 2 or more persons each of whom, but for the fact that any such person alone did not contribute over one-half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year,

''(C) the taxpayer contributed over 10 percent of such support, and

''(D) each person described in subparagraph (B) (other than the taxpayer) who contributed over 10 percent of such support files a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such person will not claim such individual as a dependent for any taxable year beginning in such calendar year.

''(4) SPECIAL RULE RELATING TO INCOME OF HANDICAPPED DEPENDENTS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the gross income of an individual who is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year shall not include income attributable to services performed by the individual at a sheltered workshop if—

''(i) the availability of medical care at such workshop is the principal reason for the individual's presence there, and

''(ii) the income arises solely from activities at such workshop which are incident to such medical care.

''(B) SHELTERED WORKSHOP DEFINED.—For purposes of subparagraph (A), the term 'sheltered workshop' means a school—

''(i) which provides special instruction or training designed to alleviate the disability of the individual, and

''(ii) which is operated by an organization described in section 501(c)(3) and exempt from tax under section 501(a), or by a State, a possession of the United States, any political subdivision of any of the foregoing, the United States, or the District of Columbia.

''(5) SPECIAL SUPPORT TEST IN CASE OF STUDENTS.—For purposes of paragraph (1)(C), in the case of an individual who is—

''(A) a child of the taxpayer, and

''(B) a student,

amounts received as scholarships for study at an educational organization described in section 170(b)(1)(A)(ii) shall not be taken into account in determining whether such individual received more than one-half of such individual's support from the taxpayer.

''(6) SPECIAL RULES FOR SUPPORT.—For purposes of this subsection—

''(A) payments to a spouse which are includible in the gross income of such spouse under section 71 or 682 shall not be treated as a payment by the payor spouse for the support of any dependent,

''(B) amounts expended for the support of a child or children shall be treated as received from the noncustodial parent (as defined in subsection (e)(3)(B)) to the extent that such parent provided amounts for such support, and

''(C) in the case of the remarriage of a parent, support of a child received from the parent's spouse shall be treated as received from the parent.

''(e) SPECIAL RULE FOR DIVORCED PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsection (c)(4) or (d)(1)(C), if—

''(A) a child receives over one-half of the child's support during the calendar year from the child's parents—

''(i) who are divorced or legally separated under a decree of divorce or separate maintenance,

''(ii) who are separated under a written separation agreement, or

''(iii) who live apart at all times during the last 6 months of the calendar year, and

''(B) such child is in the custody of 1 or both of the child's parents for more than ½ of the calendar year,

such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) are met.

''(2) REQUIREMENTS.—For purposes of paragraph (1), the requirements described in this paragraph are met if—

''(A) a decree of divorce or separate maintenance or written separation agreement between the parents applicable to the taxable year beginning in such calendar year provides that—

''(i) the noncustodial parent shall be entitled to any deduction allowable under section 151 for such child, or

''(ii) the custodial parent will sign a written declaration (in such manner and form as the Secretary may prescribe) that such parent will not claim such child as a dependent for such taxable year, and

''(B) in the case of such an agreement executed before January 1, 1985, the noncustodial parent provides at least $600 for the support of such child during such calendar year.

''(3) CUSTODIAL PARENT AND NONCUSTODIAL PARENT.—For purposes of this subsection—

''(A) CUSTODIAL PARENT.—The term 'custodial parent' means the parent with whom a child shared the same principal place of abode for the greater portion of the calendar year.

''(B) NONCUSTODIAL PARENT.—The term 'noncustodial parent' means the parent who is not the custodial parent.

''(4) EXCEPTION FOR MULTIPLE-SUPPORT AGREEMENTS.—This subsection shall not apply in any case where over one-half of the support of the child is treated as having been received from a taxpayer under the provision of subsection (d)(3).

''(f) OTHER DEFINITIONS AND RULES.—For purposes of this section—

''(1) CHILD DEFINED.—

''(A) IN GENERAL.—The term 'child' means an individual who is—

''(i) a son, daughter, stepson, or stepdaughter of the taxpayer, or

''(ii) an eligible foster child of the taxpayer.

''(B) ADOPTED CHILD.—In determining whether any of the relationships specified in subparagraph (A)(i) or paragraph (4) exists, a legally adopted individual of the taxpayer, or an individual who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child of such individual by blood.

''(C) ELIGIBLE FOSTER CHILD.—For purposes of subparagraph (A)(ii), the term 'eligible foster child' means an individual who is placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

''(2) STUDENT DEFINED.—The term 'student' means an individual who during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins—

''(A) is a full-time student at an educational organization described in section 170(b)(1)(A)(ii), or

''(B) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational organization described in section 170(b)(1)(A)(ii) or of a State or political subdivision of a State.

''(3) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.

''(4) BROTHER AND SISTER.—The terms 'brother' and 'sister' include a brother or sister by the half blood.

''(5) TREATMENT OF MISSING CHILDREN.—

''(A) IN GENERAL.—Solely for the purposes referred to in subparagraph (B), a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who had, for the taxable year in which the kidnapping occurred, the same principal place of abode as the taxpayer for more than one-half of the portion of such year before the date of the kidnapping,

shall be treated as meeting the requirement of subsection (c)(1)(B) with respect to a taxpayer for all taxable years ending during the period that the individual is kidnapped.

''(B) PURPOSES.—Subparagraph (A) shall apply solely for purposes of determining—

''(i) the deduction under section 151(c),

''(ii) the credit under section 24 (relating to child tax credit),

''(iii) whether an individual is a surviving spouse or a head of a household (as such terms are defined in section 2), and

''(iv) the earned income credit under section 32.

''(C) COMPARABLE TREATMENT OF CERTAIN QUALIFYING RELATIVES.—For purposes of this section, a child of the taxpayer—

''(i) who is presumed by law enforcement authorities to have been kidnapped by someone who is not a member of the family of such child or the taxpayer, and

''(ii) who was (without regard to this paragraph) a qualifying relative of the taxpayer for the portion of the taxable year before the date of the kidnapping,

shall be treated as a qualifying relative of the taxpayer for all taxable years ending during the period that the child is kidnapped.

''(D) TERMINATION OF TREATMENT.—Subparagraphs (A) and (C) shall cease to apply as of the first taxable year of the taxpayer beginning after the calendar year in which there is a determination that the child is dead (or, if earlier, in which the child would have attained age 18).

''(6) CROSS REFERENCES.—

**''For provision treating child as dependent of both parents for purposes of certain provisions, see sections 105(b), 132(h)(2)(B), and 213(d)(5).''.**

**SEC. 202. MODIFICATIONS OF DEFINITION OF HEAD OF HOUSEHOLD.**

(a) HEAD OF HOUSEHOLD.—Clause (i) of section 2(b)(1)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child—

''(I) is married at the close of the taxpayer's taxable year, and

''(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)3), or both, or''.

(b) CONFORMING AMENDMENTS.—

(1) Section 2(b)(2) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(2) Clauses (i) and (ii) of section 2(b)(3)(B) of such Code are amended to read as follows:

''(i) subparagraph (H) of section 152(d)(2), or

''(ii) paragraph (3) of section 152(d).''.

**SEC. 203. MODIFICATIONS OF DEPENDENT CARE CREDIT.**

(a) IN GENERAL.—Section 21(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''In the case of an individual who maintains a household which includes as a member one or more qualifying individuals (as defined in subsection (b)(1))'' and inserting ''In the case of an individual for which there are 1 or more qualifying individuals (as defined in subsection (b)(1)) with respect to such individual''.

(b) QUALIFYING INDIVIDUAL.—Paragraph (1) of section 21(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) QUALIFYING INDIVIDUAL.—The term 'qualifying individual' means—

''(A) a dependent of the taxpayer (as defined in section 152(a)(1)) who has not attained age 13,

''(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year, or

''(C) the spouse of the taxpayer, if the spouse is physically or mentally incapable of caring for himself or herself and who has the same principal place of abode as the taxpayer for more than one-half of such taxable year.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 21(e) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) PLACE OF ABODE.—An individual shall not be treated as having the same principal place of abode of the taxpayer if at any time during the taxable year of the taxpayer the relationship between the individual and the taxpayer is in violation of local law.''.

**SEC. 204. MODIFICATIONS OF CHILD TAX CREDIT.**

(a) IN GENERAL.—Paragraph (1) of section 24(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17.''.

(b) CONFORMING AMENDMENT.—Section 24(c)(2) of the Internal Revenue Code of 1986 is amended by striking ''the first sentence of section 152(b)(3)'' and inserting ''subparagraph (A) of section 152(b)(3)''.

**SEC. 205. MODIFICATIONS OF EARNED INCOME CREDIT.**

(a) QUALIFYING CHILD.—Paragraph (3) of section 32(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) QUALIFYING CHILD.—

''(A) IN GENERAL.—The term 'qualifying child' means a qualifying child of the taxpayer (as defined in section 152(c), determined without regard to paragraph (1)(D) thereof and section 152(e)).

''(B) MARRIED INDIVIDUAL.—The term 'qualifying child' shall not include an individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for section 152(e)).

''(C) PLACE OF ABODE.—For purposes of subparagraph (A), the requirements of section 152(c)(1)(B) shall be met only if the principal place of abode is in the United States.

''(D) IDENTIFICATION REQUIREMENTS.—

''(i) IN GENERAL.—A qualifying child shall not be taken into account under subsection (b) unless the taxpayer includes the name, age, and TIN of the qualifying child on the return of tax for the taxable year.

''(ii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 32(c)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (C), (D), (E), and (F), respectively.

(2) Section 32(c)(4) of such Code is amended by striking ''(3)(E)'' and inserting ''(3)(C)''.

(3) Section 32(m) of such Code is amended by striking ''subsections (c)(1)(F)'' and inserting ''subsections (c)(1)(E)''.

**SEC. 206. MODIFICATIONS OF DEDUCTION FOR PERSONAL EXEMPTION FOR DEPENDENTS.**

Subsection (c) of section 151 of the Internal Revenue Code of 1986 is amended to read as follows:

''(c) ADDITIONAL EXEMPTION FOR DEPENDENTS.—An exemption of the exemption amount for each individual who is a dependent (as defined in section 152) of the taxpayer for the taxable year.''.

**SEC. 207. TECHNICAL AND CONFORMING AMENDMENTS.**

(1) Section 2(a)(1)(B)(i) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(2) Section 21(e)(5) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''paragraph (2) or (4) of'' in subparagraph (A), and

(B) by striking ''within the meaning of section 152(e)(1)'' and inserting ''as defined in section 152(e)(3)(A)''.

(3) Section 21(e)(6)(B) of such Code is amended by striking ''section 151(c)(3)'' and inserting ''section 152(f)(1)''.

(4) Section 25B(c)(2)(B) of such Code is amended by striking ''151(c)(4)'' and inserting ''152(f)(2)''.

(5)(A) Subparagraphs (A) and (B) of section 51(i)(1) of such Code are each amended by striking ''paragraphs (1) through (8) of section 152(a)'' both places it appears and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(B) Section 51(i)(1)(C) of such Code is amended by striking ''152(a)(9)'' and inserting ''152(d)(2)(H)''.

(6) Section 72(t)(2)(D)(i)(III) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(7) Section 72(t)(7)(A)(iii) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(8) Section 42(i)(3)(D)(ii)(I) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(9) Subsections (b) and (c)(1) of section 105 of such Code are amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(10) Section 120(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(11) Section 125(e)(1)(D) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(12) Section 129(c)(2) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(13) The first sentence of section 132(h)(2)(B) of such Code is amended by striking ''151(c)(3)'' and inserting ''152(f)(1)''.

(14) Section 153 of such Code is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 170(g)(1) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(16) Section 170(g)(3) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(17) Section 213(a) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(18) The second sentence of section 213(d)(11) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(19) Section 220(d)(2)(A) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(20) Section 221(d)(4) of such Code is amended by inserting ''(determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof)'' after ''section 152''.

(21) Section 529(e)(2)(B) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(22) Section 2032A(c)(7)(D) of such Code is amended by striking ''section 151(c)(4)'' and inserting ''section 152(f)(2)''.

(23) Section 2057(d)(2)(B) of such Code is amended by inserting '', determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof'' after ''section 152''.

(24) Section 7701(a)(17) of such Code is amended by striking ''152(b)(4), 682,'' and inserting ''682''.

(25) Section 7702B(f)(2)(C)(iii) of such Code is amended by striking ''paragraphs (1) through (8) of section 152(a)'' and inserting ''subparagraphs (A) through (G) of section 152(d)(2)''.

(26) Section 7703(b)(1) of such Code is amended—

(A) by striking ''151(c)(3)'' and inserting ''152(f)(1)'', and

(B) by striking ''paragraph (2) or (4) of''.

**SEC. 208. EFFECTIVE DATE.**

The amendments made by this title shall apply to taxable years beginning after December 31, 2003.

**TITLE III—CUSTOMS USER FEES**

**SEC. 301. EXTENSION OF CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''September 30, 2003'' and inserting ''March 31, 2010''.

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**SA 863.** Mr. GRASSLEY (for himself and Mrs. LINCOLN) submitted an amendment intended to be proposed by him to the bill H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; which was ordered to lie on the table; as follows:

Amend the title as to read: 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.

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**SA 864.** Mr. CAMPBELL proposed an amendment to the bill S. 14, to enhance the energy security of the United States, and for other purposes; as follows:

Page 101, line 1, strike ''electrify Indian tribal land'' and all that follows through page 128, line 24, and insert:

''(4) electrify Indian tribal land and the homes of tribal members.''

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking ''Section'' and inserting ''Sec.''; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

''Sec. 213. Establishment of policy for National Nuclear Security Administration.
''Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
''Sec. 215. Office of Counterintelligence.
''Sec. 216. Office of Intelligence.
''Sec. 217. Office of Indian Energy Policy and Programs

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

**SEC. 303. INDIAN ENERGY.**

(a) Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI—INDIAN ENERGY

**''SEC. 2601. DEFINITIONS.**

''For purposes of this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(1) in trust by the United States for the benefit of an Indian tribe;

(ii) by an Indian tribe, subject to restriction by the United States against alienation; or

''(iii) by a dependent Indian community; and

''(C) land conveyed to a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment;

''(C) a former reservation in the State of Oklahoma;

''(D) a parcel of land owned by a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(E) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—.

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(5) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(6) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(7) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(8) The term 'Secretary' means the Secretary of the Interior.

''(9) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which

is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other guarantee authorized by sections 2602 or 2603 of this title.

''(10) The term 'tribal land' means any land or interests in land owned by any Indian tribe, band, nation, pueblo, community, rancheria, colony or other group, title to which is held in trust by the United States or which is subject to a restriction against alienation imposed by the United States.

''(11) The term 'vertical integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission facility), on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land:

**''SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.**

''(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

''(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

''(2) In carrying out the Program, the Secretary shall—

''(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land; and to properly account for resulting energy production and revenues;

''(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the vertical integration of energy resources, and to process, use, or develop those energy resources, on Indian land, and

''(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development and vertical integration or energy resources on Indian land.

''(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2004 through 2014.

''(b) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—

''(1) The Director shall establish programs to assist Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this section, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this section.

''(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(4) The Secretary of Energy may promulgate such regulations as necessary to carry out this subsection.

''(5) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2004 through 2011.

''(c) LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

''(2) A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary of Energy; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary may promulgate such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

''(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to the Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(d) INDIAN ENERGY PREFERENCE.—

''(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

''(2) In carrying out this subsection, a Federal agency or department shall not—

''(A) pay more than the prevailing market price for an energy product or byproduct; and

''(B) obtain less than prevailing market terms and conditions.''.

**''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.**

''(a) GRANTS.—The Secretary may provide to Indian tribes and tribal energy resource development organizations, on an annual basis, grants for use in developing, administering, implementing, and enforcing tribal laws (including regulations) governing the development and management of energy resources on Indian land.

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used by an Indian tribe or tribal energy resource development organization for—

''(1) the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) the development and enforcement of tribal laws and the development of technical infrastructure to protect the environment under applicable law; or

''(4) the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—To the maximum extent practicable, the Secretary and the Secretary of Energy shall make available to Indian tribes and tribal energy resource development organizations scientific and technical data for use in the development and management of energy resources on Indian land.

**''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.**

''(a) LEASES AND AGREEMENTS.—Subject to the provisions of this section—

''(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy development, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of energy resources on tribal land; and

''(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land; or a facility to process or refine energy resources developed on tribal land; and

''(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

''(A) the lease or business agreement is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(B) the term of the lease or business agreement does not exceed—

''(i) 30 years; or

''(ii) in the case of a lease for the production of oil and gas resources, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without specific approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including an annual trust asset evaluation of the activities of the Indian tribe conducted in accordance with the agreement).

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On promulgation of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1) (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

''(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

''(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe; and

''(ii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(III) address amendments and renewals;

''(IV) address consideration for the lease, business agreement, or right-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States concerning potential off-reservation impacts associated with the lease, business agreement, or right-of-way; and

''(XI) describe the remedies for breach of the lease, agreement, or right-of-way.

''(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

''(iv) sufficient administrative support and technical capability to carry out the environmental review process.

''(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

''(i) provisions requiring the Secretary to conduct an annual trust asset evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources on tribal land by the Indian tribe; and

''(ii) in the case of a finding by the Secretary of imminent jeopardy to a physical trust asset, provisions authorizing the Secretary to reassume responsibility for activities associated with the development of energy resources on tribal land.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act (42 U.S.C. 4321 et seq) shall be limited to the direct effects of that approval.

''(4) If the Secretary disapproves a tribal enemy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to subsection (e)(8), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and.

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payment to be made directly to the Indian tribe, documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under applicable law.

''(6)(A) Nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including those which derive from the trust relationship or from any treaties, Executive Orders, or agreements between the United States and any Indian tribe.

''(B) The Secretary shall continue to have a trust obligation to ensure that the rights of an Indian tribe are protected in the event of a violation of federal law or the terms of any lease, business agreement or right-of-way under this section by any other party to any such lease, business agreement or right-of-way.

''(C) Notwithstanding subparagraph (A), the United States shall not be liable to any party (including any Indian tribe) for any of the terms of, or any losses resulting from the terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved under subsection (e)(2).

''(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to subsection (e)(8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved under this subsection.

''(C) If the Secretary determines that an Indian tribe is not in compliance with a tribal energy resource agreement approved under this subsection, the Secretary shall take such action as is necessary to compel compliance, including—

''(i) suspending a lease, business agreement, or right-of-way under this section until an Indian tribe is in compliance with the approved tribal energy resource agreement; and

''(ii) rescinding approval of the tribal energy resource agreement and reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way associated with an energy pipeline or distribution line described in subsections (a) and (b).

''(D) If the Secretary seeks to compel compliance of an Indian tribe with an approved tribal energy resource agreement under subparagraph (C)(ii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violation together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(ii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(E)(i) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations promulgated by the Secretary.

''(ii) The decision of the Secretary with respect to an appeal described in clause (i), after any agency appeal provided for by regulation, shall constitute a final agency action.

''(8) Not later than 180 days after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall promulgate regulations that implement the provisions of this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe; and

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind an approved tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection.

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environmental law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

**''SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS**

''(a) DEFINITIONS.—In this section:

''(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

''(2) The term 'power marketing administration' means—

''(A) the Bonneville Power Administration;

''(B) the Western Area Power Administration; and

''(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

''(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

''(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes.

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

''(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary of Energy shall submit to the Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

''(2) identifies—

''(A) the quantity of power allocated to Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to facilitate the use of Federal power by Indian tribes.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

**''SEC. 2606. INDIAN MINERAL DEVELOPMENT REVIEW.**

''(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2003, the Secretary shall submit to the Congress a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

**''SEC. 2607. WIND AND HYDROPOWER FEASIBILITY STUDY.**

''(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

''(b) SCOPE OF STUDY.—The study shall—

''(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

''(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;

''(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

''(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

''(5) include an independent tribal engineer as a study team member.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

''(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the blend of wind and hydropower;

''(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

''(3) recommendations for a demonstration project that could be carried out by the Western Area Power Administration in partnership with an Indian tribal government or tribal energy resource development organization to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

''(4) an identification of—

''(A) the economic and environmental costs or benefits to be realized through such a Federal-tribal partnership; and

''(B) the manner in which such a partnership could contribute to the energy security of the United States.

''(d) FUNDING.—

''(1) There is authorized to be appropriated to carry out this section $500,000, to remain available until expended.

''(2) Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

(b) CONFORMIING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by striking items relating to Title XXVI, and inserting:

''Sec. 2601. Definitions.
''Sec. 2602. Indian tribal energy resource development.
''Sec. 2603. Indian tribal energy resource regulation.
''Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
''Sec. 2605. Federal Power Marketing Administrations.
''Sec. 2606. Indian mineral development review.
''Sec. 2607. Wind and hydropower feasibility study.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 5, 2003, at 10 a.m. to conduct an oversight hearing on ''Reauthorization of the Defense Production Act.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Title XI, on Thursday, June 5, 2003, at 2:30 p.m., in Room SR–253.

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

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Thursday, June 5, 2003, TBA, to mark up a revenue title to S. 824, the Aviation Investment and Revitalization Vision Act.

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

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 Thursday, June 5, 2003 at 1:30 p.m. to hold a hearing on Life Inside North Korea.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 5, 2003, at 10:30 a.m. for a nomination hearing to consider the nominations of C. Stewart Verdery, Jr., to be Assistant Secretary for Policy and Planning, Border and Transportation Security Directorate, Department of Homeland Security; Michael J. Garcia to be Assistant Secretary for the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and Joe D. Whitly to be General Counsel, Department of Homeland Security.

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

COMMITTEE ON THE JUDICIARY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 5, 2003, at 9:30 a.m. in Dirksen Room 226.

I. NOMINATIONS

R. Hewitt Pate to be Assistant Attorney General, Antitrust Division, U.S. Department of Justice; David B. Rivkin to the Foreign Claims Settlement Commission; Richard C. Wesley to be United States Circuit Judge for the Second Circuit; J. Ronnie Greer to be United States District Judge for the Eastern District of Tennessee; Thomas M. Hardiman to be United States District Judge for the Western District of Pennsylvania; Mark R. Kravitz to be United States District Judge for the District of Connecticut; John A. Woodcock to be United States District Judge for the District of Maine.

II. BILLS

S. Res. 116, A resolution commemorating the life, achievements and contributions of Al Lerner.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 5, 2003, at 2:00 p.m., to conduct a hearing on Senate Rule XXII and proposals to amend this rule.

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

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to meet on Thursday, June 5 at 9:30 a.m. to conduct a hearing regarding S. 485, the Clear Skies bill, to examine emissions-control technologies and utility-sector investment issues.

The hearing will take place in SD 406.

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation and Merchant Marine be authorized to meet on Thursday, June 5, 2003, on Intercity Passenger Rail Finance at 10 a.m. in Room SR–253.

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

## PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Jerry Perez, a legislative fellow in the office of Senator LEAHY, be given the privilege of the floor during the remainder of the debate on S. 14.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that John Gaginis be granted floor privilege today.

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

Mr. AKAKA. Mr. President, I ask unanimous consent that Barbara Peichel, my legislative fellow, be allowed floor privileges during the remainder of today's session.

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

## UNANIMOUS CONSENT AGREEMENT—NOMINATION OF MICHAEL CHERTOFF

Mr. BENNETT. As in executive session, I ask unanimous consent that at 5:15 on Monday, June 9, the Senate proceed to executive session for the consideration of Calendar No. 201, the nomination of Michael Chertoff to be U.S. circuit judge for the Third Circuit; provided further that there then be 30 minutes for debate equally divided in the usual form prior to a vote on the confirmation of the nomination, with no intervening action or debate. I further ask consent that following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Reserving the right to object, Mr. President, this will be the 128th judge that this Senate has approved during the term of this President. This will be the 25th circuit judge that has been approved. I want the record to make sure everyone understands that, 128 to 2. Two have been held up.

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

Mr. BENNETT. Mr. President, I would make a comment before I proceed to the next consent request. With respect to Mr. Chertoff, I became well acquainted with Mr. Chertoff when he served as counsel to the special committee created by Senate resolution to investigate the Whitewater matter. I found him competent, direct, thorough, well prepared, and a delightful human being. I probably will not get into the debate, the amount of time being limited, but I want the record to show how highly I esteem him and how enthusiastically I will vote to confirm him for the circuit court position to which he has been nominated.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar, Calendar No. 203. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

Mr. REID. No objection.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

Peter D. Keisler, of Maryland, to be an Assistant Attorney General.

## LEGISLATIVE SESSION

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

## COMMEMORATING LIFE, ACHIEVEMENTS, AND CONTRIBUTIONS OF AL LERNER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 122, S. Res. 116.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 116) commemorating the life, achievements, and contributions of Al Lerner.

There being no objection, the Senate proceeded to consider the resolution.

Mr. VOINOVICH. Mr. President, I rise today to honor Alfred Lerner. Al, as he was called by those who knew him best, was a man of great success and wealth but also great compassion and charity.

Al was born in New York City, graduated from Columbia College and proudly served in the Marine Corps as an officer and pilot from 1955 through 1957. The son of Russian immigrants, Al Lerner had an amazing sense of patriotism and was so proud to accept the Ellis Island Medal in honor of his immigrant heritage and individual achievements in 2002.

My personal relationship with Al developed because of the fondness we shared for the city of Cleveland, and Cleveland is a better place because of Al Lerner. His generosity was seen in well known ways such as his contributions to Rainbow Babies and Children's Hospital, where the Lerner Research Institute was founded, and to the Cleveland Clinic. In fact, Al Lerner's $100,000,000 contribution to the Cleveland Clinic was one of the largest donations to academic medicine in the history of the United States. Al gave so much of himself to these institutions, serving as president and trustee of the Cleveland Clinic Foundation and establishing the Lerner Research Institute at the Clinic to conduct research of new treatments for cancer, coronary artery disease and AIDS.

Al Lerner also understood how important professional football is to the city of Cleveland, and due in large part to his business savvy, Lerner and his partner, Carmen Policy, were able to reestablish a football team in Cleveland. He was subsequently appointed chairman of the National Football League Finance Committee, and I am confident that the Cleveland Browns' 2002 playoff appearance, just 4 years after returning to the league, had a great deal to do with Al's leadership

and guidance. I am not sure Cleveland would have its Browns today without Al Lerner's dedication and determination.

Despite his amazing success as the founder, chairman, and chief executive of MBNA Corporation, Al Lerner remained grounded. He helped raise funds through the company and the Cleveland Browns, for the ''Cleveland Brown Hero Fund'' to aid families from the New York City Fire and Police Departments who suffered the loss of a parent in the tragic September 11, 2001, terrorist attacks. Al also answered President Bush's call in the aftermath of September 11, and was a member of the President's Foreign Advisory Board.

Throughout his lifetime, many of Al's other achievements could also be observed in quieter ways that were never heralded. His dedication to his family was remarkable. He married his high school sweetheart and best friend, Norma. They shared 47 glorious years together and raised two children, Randy and Nancy. My wife Janet and I talked often about how Al and Norma seemed to love each other and genuinely enjoyed each other's company. Perhaps the greatest contribution that the two of them made was the strong example of a good marriage for their children, seven grandchildren, and anyone who know Al and Norma Lerner.

I am honored to have known and worked with Al Lerner and am confident that his legacy will remain an example of hard work, philanthropy, and genuine kindness for generations to come.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The resolution (S. Res. 116) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 116), with its preamble, reads as follows:

S. RES. 116

Whereas Alfred Lerner (''Al'' to those who knew him best) was a successful, humble, compassionate, and well respected member of his family and community whose life was devoted to civic involvement and efforts to improve the quality of education and health care available to his fellow citizens;

Whereas Al Lerner was born in Brooklyn, New York in 1933, graduated from Brooklyn Technical High School in 1951, and received a B.A. from Columbia College in 1955;

Whereas Al Lerner was a Marine Corps officer and pilot from 1955 through 1957, displaying his love of country by wearing his Marine Corps cap long after finishing his tour of duty, and later was a director of the Marine Corps Law Enforcement Foundation;

Whereas Al Lerner was the son of Russian immigrants, and in 2002 received the Ellis Island Medal of Honor, which celebrates immigrant heritage and individual achievements;

Whereas Al Lerner and his high school sweetheart, best friend, and partner in life, Norma Lerner, shared 47 years of marriage and were deeply committed to their 2 children, Randy and Nancy;

Whereas Al and Norma Lerner made extremely generous contributions to local and national charities, including a contribution of $10,000,000 in 1993 to Rainbow Babies and Children's Hospital in Cleveland, a donation of $16,000,000 to support construction of the Lerner Research Institute, and a donation of $100,000,000 to the Cleveland Clinic—one of the largest donations to academic medicine in the history of the United States;

Whereas Al Lerner served as president and trustee of the Cleveland Clinic Foundation where the Lerner Research Institute was established to conduct research of new treatments for cancer, coronary artery disease, and AIDS;

Whereas Al Lerner, along with his business partner Carmen Policy, reestablished a National Football League team in Northern Ohio when he purchased the expansion Cleveland Browns football organization in 1998, worked hard to make the people of Cleveland and Northern Ohio proud of their football team, and was subsequently appointed chairman of the National Football League Finance Committee;

Whereas the Cleveland Browns, on the strength of Al Lerner's leadership, reached the National Football League playoffs following the 2002 season, only 4 years after returning to the league;

Whereas Al Lerner served as founder, chairman, and chief executive of MBNA Corporation, which employs thousands of people in Ohio and is the Nation's largest issuer of independent credit cards;

Whereas Al Lerner served as vice chairman, trustee, and benefactor of Columbia College, which is now known as Columbia University, and also served as a trustee for Case Western Reserve University and New York Presbyterian Hospital;

Whereas Al Lerner helped raise funds, through his affiliation with MBNA and the Cleveland Browns, for the ''Cleveland Browns Hero Fund'' to aid families from the New York City Fire and Police Departments who suffered the loss of a parent in the tragic September 11, 2001, terrorist attacks;

Whereas Al Lerner was appointed in 2001 by President Bush as 1 of 15 members of the President's Foreign Intelligence Advisory Board, which advises the President concerning the quality and adequacy of intelligence collection, intelligence analysis and estimates, counter-intelligence, and other intelligence activities;

Whereas Al Lerner is survived by his wife, partner, and best friend, Norma, their son Randy, their daughter Nancy, and 7 grandchildren; and

Whereas Al Lerner passed away on October 23, 2002, and the contributions he made to his family, his community, and his Nation will not be forgotten: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors the life, achievements, and contributions of Alfred Lerner; and

(2) extends its deepest sympathies to the family of Alfred Lerner for the loss of a great and generous man.

## COMMENDING CLEMSON UNIVERSITY TIGERS MEN'S GOLF TEAM

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 161, which was submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 161) commending the Clemson University Tigers men's golf team for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 161

Whereas on Friday, May 30, 2003, the Clemson University Tigers men's golf team won the 2003 NCAA Division I Men's Golf Championship, the first National Championship for the Clemson men's golf team;

Whereas the Tigers finished the Championship with a four-round total of 1191 strokes, for 39 shots over par, beating the second place Oklahoma State University Cowboys by two strokes;

Whereas the Tigers won the National Championship on the home course of Oklahoma State University, one of the most decorated golf schools in the Nation;

Whereas the Clemson golf team was the first in NCAA history to win its conference championship, a NCAA regional title, and the National Championship in the same year;

Whereas the Tigers started the year and ended the year as the number-one ranked team in the Nation;

Whereas the Tigers finished the season with a 128-8-3 record against opponents ranked in the top 25 teams in the country, which amounts to an incredible winning percentage of 93 percent, by far the best in the Nation and the best in Clemson history;

Whereas all of the Tigers players who participated in the NCAA Championship are native-born South Carolinians;

Whereas players D.J. Trahan, Jack Ferguson, and Matt Hendrix were honored as All-Americans for the 2002-03 season;

Whereas Head Coach Larry Penley won the Golf Coaches Association of America's Dave Williams Award as the National Coach of the Year;

Whereas the Clemson University men's golf team has displayed outstanding dedication, teamwork, and sportsmanship throughout the season in achieving collegiate golf's highest honor; and

Whereas the Tigers have brought pride and honor to the State of South Carolina: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Clemson University Tigers for winning the 2003 National Collegiate Athletic Association Division I Men's Golf Championship;

(2) recognizes the achievements of all the team's players, coaches, and staff and invites them to the United States Capitol Building to be honored in an appropriate manner; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Clemson University for appropriate display and to transmit an enrolled copy of this resolution to each coach and member of the 2003 NCAA Division I Men's Golf Championship team from Clemson University.

## ORDERS FOR MONDAY, JUNE 9, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon, Monday, June 9; I further ask that following the prayer and the 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 1 p.m. with the time equally divided between the two leaders or their designees; provided that at 1 p.m. the Senate resume consideration of S. 14, the Energy bill.

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

## PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will reconvene on Monday. On Monday, the Senate will resume consideration of S. 14, the Energy bill. The chairman and ranking member will be here and are encouraging Members to come forward with their amendments. In addition, we will continue to try to reach an agreement to limit amendments to the Energy bill. Next week, we will have a busy session as the Senate continues to make progress on this important legislation.

As a reminder to all Senators, on behalf of the leader, I announce that the next rollcall vote will occur at 5:45 on Monday in relation to the confirmation of Michael Chertoff to be a United States circuit court judge.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. I ask unanimous consent that the order for the quorum call be rescinded.

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

## APPOINTMENT OF CONFEREES—H.R. 1308

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees on the tax bill on the part of the Senate: Mr. GRASSLEY, Mr. NICKLES, Mr. LOTT, Mr. BAUCUS, and Mrs. LINCOLN.

## ADJOURNMENT UNTIL MONDAY, JUNE 9, 2003

Mr. BENNETT. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:47 p.m., adjourned until Monday, June 9, 2003, at 12 noon.

## NOMINATIONS

Executive nominations received by the Senate June 5, 2003:

### DEPARTMENT OF JUSTICE

KARIN J. IMMERGUT, OF OREGON, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF OREGON FOR THE TERM OF FOUR YEARS, VICE MICHAEL W. MOSMAN.

LANCE ROBERT OLSON, OF IOWA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE JOHN EDWARD QUINN.

### IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

*To be lieutenant*

MARY ANN C. GOSLING, 0000

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. RAYMOND K. ALEXANDER, 0000

### IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

JAMES R. BURKHART, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

CHARLES M. BELISLE, 0000
GREGORY J. BIERNACKI, 0000
JOHN R. MULVEY, 0000
WILLIAM S. RIGGINS JR., 0000
DANIEL M. SKOTTE, 0000
BRETT A. WYRICK, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

*To be colonel*

GLENN D. ADDISON, 0000
ALAN J. BARBER, 0000
JAMES E. BECK JR., 0000
CRAIG W. BLANKENSTEIN, 0000
KEVIN W. BRADLEY, 0000
JOSEPH J. BRANDEMUEHL, 0000
GARY L. BRINNER, 0000
DONALD E. CARMEANS, 0000
KENT S. COKER, 0000
JOHN J. CONOLEY III, 0000
WILLIAM J. CRISLER JR., 0000
MICHAEL L. CUNNIFF, 0000
CHARLES R. DAUGHERTY JR., 0000
JOHN M. DELTORO, 0000
JAMES O. EIFERT, 0000
ROGER E. ENGELBERTSON, 0000
JON F. FAGO, 0000
KELVIN G. FINDLAY, 0000
ANTHONY P. GERMAN, 0000
MARGARET A. GIDEON, 0000
PATRICK D. GINAVAN, 0000
RONALD E. GIONTA, 0000
STEVEN D. GREGG, 0000
ROBERT A. HAMRICK, 0000
DAVID C. HARMON, 0000
KENNETH M. HATCHER, 0000
SAMUEL C. HEADY, 0000
DANIEL E. HENDERSON, 0000
MICHAEL D. HEPNER, 0000
DONALD L. HOLLIS, 0000
RODNEY L. HORN, 0000
DALE M. HOWARD, 0000
JOHN P. HRONEK II, 0000
EDWARD W. JOHNSON, 0000
NORMAN B. JOHNSON, 0000
DONALD E. JONES, 0000
TARO K. JONES, 0000
EARL K. JUSKOWIAK, 0000
SCOTT L. KELLY, 0000
WILLIAM T. KETTERER, 0000
WOODWARD D. LAMAR JR., 0000
FRANK D. LANDES, 0000
MICHAEL J. LOPINTO, 0000
KAREN E. LOVE, 0000
TIMOTHY M. LYNCH, 0000
CRAIG D. MCCORD, 0000
THOMAS C. MCGINLEY, 0000
DONALD K. MCKINION, 0000
CHARLES S. MCMILLAN JR., 0000
DAVID M. MCMINN, 0000
MICHAEL A. MEYER, 0000
FREDERICK R. MICLON JR., 0000
RICHARD A. MITCHELL, 0000
WILLIAM T. MITCHELL, 0000
HARRY D. MONTGOMERY JR., 0000
KATHLEEN M. PATTERSON, 0000
HOWARD X. PLOUFFE, 0000
DEAN A. PLOWMAN, 0000
BRUCE W. PRUNK, 0000
JOHN W. PUTTRE, 0000
KENNETH C. RAMAGE, 0000
LEON S. RICE, 0000
HARRY M. ROBERTS, 0000
CLARK T. ROGERS, 0000
RUSSELL A. RUSHE, 0000
ANDREW E. SALAS, 0000
ANTHONY E. SCHIAVI, 0000
JAMES W. SCHROEDER, 0000
CHARLES L. SMITH, 0000
DAVID J. SMOKER, 0000
JOHN H. SPENCER JR., 0000
SCOTT K. STACY, 0000
GARY STOPA, 0000
JAMES R. SUMMERS, 0000
WARREN E. THOMAS, 0000
THOMAS F. TRALONGO, 0000
JEFFREY R. TUCKER, 0000
DANIEL C. VANWYK, 0000
ERIC W. VOLLMECKE, 0000
BRIAN L. WEBSTER, 0000
RICHARD D. WILLIAMS, 0000
MICHAEL D. WILSON, 0000
JAMES C. WITHAM, 0000
WAYNE A. WRIGHT, 0000
DANIEL J. ZACHMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

THOMAS K. HUNTER JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

JEFFREY J. KING, 0000

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

JAMES A. DECAMP, 0000

THE FOLLOWING NAMED OFFICER TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

TIMOTHY H. SUGHRUE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

LESLIE J. MITKOS JR., 0000
BERRIS D. SAMPLES, 0000

THE FOLLOWING NAMED OFFICER TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

PATRICIA J. MCDANIEL, 0000
NICHOLAS K. STRAVELAKIS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

SCOTT D. KOTHENBEUTEL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be major*

GLENN T. BESSINGER, 0000

## CONFIRMATION

Executive nomination confirmed by the Senate June 5, 2003:

### DEPARTMENT OF JUSTICE

PETER D. KEISLER, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.