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Senate

The Senate met at 10 a.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

The PRESIDING OFFICER. Today's prayer will be by Rev. Leonard B. Jackson, Associate Minister of the First African Methodist Episcopal Church, Los Angeles, CA.

PRAYER

The guest Chaplain offered the following prayer:

Eternal Father, from differing ways we come to this Senate Chamber in manifold thoughts, hopes, and fears, but together we join our hearts as one to ask that You hear our humble prayers:

God of our weary years, God of our silent tears, You have brought us thus far on our way; cast Your shadow of love upon this Senate. Lord, grant us guidance that we may not betray our stewardship, neither mistaking the nature of our obligations nor taking for granted our charge. As we perform our sworn duty, may we stand with You, work for You, and bear with You the heavy yoke of righteousness and truth.

Father, our petition today is that You will bless the trailblazers who have paved the way and laid the foundation of our great Nation. Lord, alone we are not worthy but we can do all things through Him who strengthens us. Lord, we don't know what tomorrow holds, but we know the hand that holds tomorrow. Please keep us forever in the path we pray, so all people may share the reality of one nation under God, with liberty and justice for all.

God bless America.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 7, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

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

THE GUEST CHAPLAIN

Mrs. BOXER. Madam President, I am so delighted today to welcome Reverend Jackson to our Senate family. Senator FEINSTEIN and I are so very proud of him and of the First African Methodist Episcopal Church of Los Angeles. Anyone who has visited the First African Methodist Episcopal Church of Los Angeles comes away uplifted and comes away in many ways a changed person. It is an ecumenical experience, if I might say that, because what the Reverend said today is what guides that church—that all of us should be righteous and seek justice and seek the truth. Of course, if we did that every day in this Senate and justice prevailed and truth prevailed and righteousness prevailed, this country would be on the best course.

I thank him from the bottom of my heart for that message which he gave us so quickly, but it is a very deep message which I hope we will all take to heart.

Welcome, Reverend Jackson.

Thank you, Madam President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Madam President, this morning the Senate will again resume consideration of the energy bill. There will be rollcall votes on amendments throughout the day. We understand that the first amendment will be offered by Senator VOINOVICH dealing with Price-Anderson. That should not take too long. We hope we can complete that early on. Senator BINGAMAN will then offer the next amendment.

We hope to make significant progress on this bill today and tomorrow and complete the legislation next week.

RESERVATION OF LEADER TIME

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

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

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

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SMITH of Oregon. Madam President, I ask unanimous consent to speak for 2, maybe 3 minutes as in morning business.

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

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

Mr. SMITH of Oregon. Madam President, I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2983 TO AMENDMENT NO. 2917, AS FURTHER MODIFIED

Mr. VOINOVICH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH], for himself, Mr. BINGAMAN, Mr. SMITH of New Hampshire, Mr. DOMENICI, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. HAGEL, Mr. CRAPO, Mr. THOMAS, Mr. INHOFE, Mr. THOMPSON, Mr. BOND, Mr. CAMPBELL, Mr. FRIST, Mr. KYL, and Mr. CRAIG, proposes an amendment numbered 2983 to amendment No. 2917.

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

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

The amendment is as follows:

(Purpose: To reauthorize the Price-Anderson Act)

On page 115, strike line 5 and all that follows through page 119, line 10 and insert the following:

Subtitle A—Price-Anderson Act Reauthorization

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2002''.

SEC. 502. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 503. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Seciton 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 2002, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 504. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Seciton 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 505. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 506. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 507. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a (b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d. (1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties assessed under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

SEC. 508. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 509. EFFECTIVE DATE.

The amendments made by sections 503(a) and 504 do not apply to any nuclear incident that occurs before the date of the enactment of this subtitle.

Mr. VOINOVICH. Madam President, I rise today to offer the Price-Anderson reauthorization bill as an amendment to the Energy Policy Act. Last year, as the former chairman of the Nuclear Safety Subcommittee, I introduced the Price-Anderson reauthorization bill, S. 1360, that reauthorizes the insurance program for commercial nuclear reactors.

The Price-Anderson Act was first passed back in 1957 and has been renewed three times since then. The current authorization expires on August 1 of this year.

This amendment provides the insurance program for commercial nuclear powerplants and Department of Energy contractor employees. In my State of Ohio, this is very important for the contractor employees who are currently working at the Mound and Fernald facilities, former sites of nuclear facilities of the Department of Energy.

This is the type of must-pass legislation that keeps the trains of Government running on time.

I think it is important to note that during the previous administration, both the Department of Energy and the

Nuclear Regulatory Commission issued reports to Congress recommending the reauthorization of Price-Anderson.

The DOE and the NRC reports also called for a doubling of the annual premium paid by the nuclear reactors from $10 million to 20 million.

This recommendation was made prior to the relicensing process. At that time, the Nuclear Regulatory Commission projected that up to half of our nuclear reactors would be retired instead of being relicensed. We have something like 103 nuclear reactors out there.

However, thanks to regulatory improvements made in the process, largely due to the oversight of the Nuclear Safety Subcommittee, the NRC believes that most of our nuclear reactors will be in fact relicensed. Therefore, the NRC issued a statement last year revising their projections and recommending that the annual premium not be increased. This amendment follows those recommendations.

It is important for the American public to understand how the Price-Anderson liability program works. First of all, it is important to understand it is not a Federal subsidy. The nuclear industry actually funds the program. Each nuclear powerplant purchases liability insurance to cover the first $200 million from private insurers for immediate response in the case of an accident. If the costs exceed $200 million and additional funds are needed, all the other nuclear reactors—and there are 103 of them—contribute up to $88 million each. That totals $9.3 billion.

These funds are contributed by other reactors in increments of $10 million per year. If more than the $9.3 billion would be needed, Congress could then go back to the industry and demand a larger contribution.

I know of no other industry in which all of the competitors agree up front to pay for the mistakes or acts of God that impact upon any one company.

In addition, I know of no facilities of any type anywhere in the country which are insured for $9.3 billion. It is incredible.

It is also important to note for the American public that the industry does something else that is very unusual. It waives its traditional tort defenses so that the fund begins making payments immediately instead of fighting out claims in the courts. If we had some kind of a nuclear disaster somewhere, as we did at Three Mile Island, immediately the insurance companies start paying out claims. As a matter of fact, after Three Mile Island, claims offices were on the site within 24 hours. It provides more insurance coverage for Americans and provides the coverage up front.

America's nuclear energy industry currently provides approximately 20 percent of our energy, while fossil fuels, such as oil, coal, and natural gas, provide the bulk of the remainder. Nuclear energy is particularly used in the northeast part of the United States.

Nuclear power is a safe and reliable energy source. It is also a zero-emission source of energy.

As I discussed in the Senate on Tuesday, just since the nuclear energy has prevented 62 million tons of sulfur dioxide, a key component of acid rain, and 32 million tons of nitrogen oxide, a precursor to ozone, from being released into the atmosphere. It has probably contributed more to a reduction in emissions than any other source of energy but for solar and wind and hydroelectric.

This has had a tremendous positive effect on the environment and public health. In my view and in the view of many, coal and nuclear power have been inappropriately demonized over the last few years. These characterizations are patently unfair if we look at the record.

Both are efficient and cost-effective sources of energy, and given our current energy consumption rates, we are going to be dependent upon them for the foreseeable future.

The truth is, we are not meeting our energy needs currently domestically. And if we look at 20-year projections, we are going to need another 30 percent production of energy if we are going to be competitive.

We are taking steps to make coal a cleaner burning fuel. We should also do whatever we can to promote a safe and efficient nuclear energy industry for our Nation and encourage the development of new nuclear reactors such as modular reactors which we have been discussing of late. Reauthorizing the Price-Anderson Act is a major step in that direction.

I thank my colleagues for cosponsoring this amendment: Senators BINGAMAN, BOB SMITH, INHOFE, MURKOWSKI, DOMENICI, LANDRIEU, HAGEL, CRAPO, THOMAS, BOND, CAMPBELL, and FRIST. I urge all of my colleagues to support this amendment. This should not be something that is extremely controversial. It is long overdue. It is something we have had since 1957. We should get on with it and make it part of Senator DASCHLE's energy legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I commend the Senator for offering this amendment. I am cosponsoring the amendment. Title V of the underlying bill we are debating renews the provisions of the Price-Anderson Act that relate to Department of Energy contractors, but it does not renew those that relate to NRC licensees.

The reason is that jurisdiction over the contractor provisions was in the Energy Committee, which was where we were largely developing this bill. The jurisdiction over the NRC licensee provisions is in the Environment Committee that Senator SMITH chaired. Some members of the Environment Committee asked us not to include provisions that were under its jurisdiction in this substitute. The pending amendment Senator VOINOVICH has offered now provides a substitute for the Price-Anderson provisions in the underlying bill.

It repeats the provisions that renew DOE contractor portions of Price-Anderson that are already there, and in addition, it adds the new provisions related to the NRC licensee part of the act.

Let me give a short summary of what the pending amendment would do. Section 502 of the amendment extends the NRC's indemnification authority for another 10 years. That has been recommended by the Nuclear Regulatory Commission, and it is part of what Senator VOINOVICH is proposing. It extends the indemnification authority of the Department of Energy indefinitely. That is also consistent with the 1998 report of the Department of Energy.

Section 503 of the amendment raises the liability limit for DOE contractors and hence the amount that DOE indemnifies its contractors up to $10 billion, which would be adjusted in the future for inflation.

Under current law, the liability limit for DOE contractors is tied to the maximum liability of Nuclear Regulatory Commission licensees, which is currently at $9 billion.

Section 504 increases the liability limits and indemnification for accidents involving government-owned nuclear facilities or devices located outside the United States from the $100 million, where it presently is, to $500 million. This increase also was recommended by the Department of Energy. It is consistent with international nuclear liability standards.

Section 505 requires both the Department of Energy and the Nuclear Regulatory Commission to submit new reports on the need to continue or modify the act in 2008.

Section 506 requires the Secretary of Energy to adjust the $10 billion liability limit every 5 years for inflation. This is consistent also with the provision in existing law that requires the Nuclear Regulatory Commission to adjust the limit for Nuclear Regulatory Commission licensees.

Section 507 repeals two provisions in current law that exempt nonprofit Department of Energy contractors from civil penalties for nuclear safety violations.

Section 507 subjects nonprofit contractors to set civil penalties. It limits the total amount of those penalties to the fee the contractor receives in any year under the contract.

Finally, section 508 provides two or more so-called ''modular'' reactors that are located at one site should be treated as a single nuclear powerplant for purposes of assessing premiums under the Price-Anderson Act. This provision has been added to allow for the use of some of the new advanced technology reactor designs that make use of several small reactor modules to do the work of a single large nuclear

reactor. The provision will permit the NRC to treat a collection of these modules at a single site as a single reactor for Price-Anderson purposes.

In summary, the Price-Anderson Act has served this nation well for 45 years, by enabling utilities to generate 20 percent of our Nation's electricity with nuclear power, universities to conduct important nuclear research, and corporations to build nuclear weapons for our national defense without the threat of unlimited liability.

At the same time, the act has ensured that the public will be compensated in the event of a nuclear accident, that adequate funds will be available to pay claims, and that victims will be able to recover through an efficient no-fault liability system, which waives many of the legal obstacles that would confront victims in the absence of the act.

The important pending amendment renews this important law with a minimum number of changes, and in ways consistent with the strong recommendations we have received from the two agencies charged with administering it. I urge its adoption.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Madam President, I rise in very strong support of the Voinovich-Bingaman Price-Anderson amendment.

Senator VOINOVICH has long been a leader at the EPW Committee on nuclear issues. I am proud to join him as a cosponsor of this amendment. Last year, Senator VOINOVICH introduced S. 1360 to reauthorize Price-Anderson for NRC licensees—a bill of which I was an original cosponsor, as the ranking member of the Environment and Public Works Committee. I am also pleased to be joining my colleagues on both the Energy Committee and on my own committee in cosponsoring this amendment. I especially thank Senator BINGAMAN for his cooperation with us on this issue.

Price-Anderson addresses two classes of nuclear facilities: commercial nuclear reactors and Federal nuclear facilities operated by ''DOE contractors.'' It combines both NRC licensee and DOE contractor provisions of Price-Anderson.

I want to speak for a couple of minutes to the provisions of the amendment that deal with NRC licensees, as that is where the EPW Committee has focused its efforts. It does two very simple things. No. 1, it reauthorizes Price-Anderson for NRC licensees for an additional 10 years—consistent with NRC recommendations. Secondly, the amendment recognizes that new nuclear technologies—technologies that provide smaller, modular, cost-effective, and even safer reactors—are on the horizon. That is the future. This amendment allows for that new technology to come forth and to be used.

For the purposes of secondary protection requirements, this amendment treats modular reactor facilities containing modules of 100 to 300 megawatts, up to a total of 1,300 megawatts, as a single facility.

These modular units—now being developed—are the future of nuclear power, and it is important that Price-Anderson recognize the difference between these smaller modular units and the current larger facilities. Again, this legislation—this amendment—will allow for this modular concept to take hold and bring us into the future with nuclear power.

The background has been stated on Price-Anderson by my colleagues, but just briefly to summarize, it was a law passed in 1957 in order to provide immediate compensation in the event of a nuclear accident.

Price-Anderson is the best mechanism for providing the highest level of compensation in the shortest period of time, without having to put victims through an arduous and protracted legal process.

Equally important, it is the best deal for the taxpayer. With Price-Anderson, if there were a nuclear accident or incident, up to $9.5 billion would be available to compensate any victims. Not one dime of that money would come from taxpayers. It comes from a combination of insurance coverage and the industry itself—the entire nuclear industry pooling their collective resources—and this is compensation without having a lengthy judicial process to determine liability or culpability. So the law requires the insured and the insurers to waive most standard legal defenses. Fault does not need to be established. That is very important. Absent Price-Anderson, victims would have to rely on the court system, and damages would effectively be limited by the assets of a single company.

It is unlikely that any one company, on its own, would ever be capable of paying out $9.5 billion in damages in the case of an accident. So the bottom line is that without Price-Anderson there would be less money available and it would take years for the dollars to work their way through the courts and then to those who need immediate assistance. That assumes there would be something left after the lawyers have taken their share. We don't know whether that would be the case or not. It is likely that the taxpayer, via Congress, would already have stepped in and provided whatever financial assistance was needed. The events of September 11 showed how quickly Congress can act in a disaster situation.

Price-Anderson is a good deal for the taxpayers, for the industry, and for victims seeking damages.

I understand there are those who don't like nuclear energy and will see the Price-Anderson debate as a means to stop nuclear power. I respect the rights and integrity of those who hold this view. I don't think they are right. We will have a lot of energy needs in the coming decades, and nuclear power can provide them cleanly and efficiently.

There are enormous benefits to nuclear power. The majority of energy generated in New Hampshire is from nuclear power from the Seabrook nuclear powerplant—about 60 percent of it to be exact. I wonder where we would be today for our energy needs had that reactor not been built, in spite of the controversy and hard times we had to get it built. Seabrook Station has proven to be a safe, reliable source of power, not only for New Hampshire but for a large part of New England.

These are great benefits. They are tremendous benefits. It can't be overlooked. I have spent the better part of 2 years working to come up with a bipartisan plan for reducing utility emissions without compromising our long-term energy security. In fact, Senator VOINOVICH has been a valued partner in that effort.

Nuclear power allows us to generate enormous amounts of energy at low cost and with zero emissions. I know the issue of the waste comes up and it is very controversial; that is an issue we are going to have to confront. But when you are talking about emissions, this nuclear power is safe and efficient. It allows us to generate this power, as I said, at low cost with zero emissions, no SO_x, NO_x, mercury, and no carbon dioxide. Zero.

Nuclear provides 20 percent of our Nation's energy production, with no emissions. We need to be able to not have that diminished further as these powerplants get older and older. One way to do that is with this modular concept for which we provide. If we want clean air and energy security, nuclear has to be a part of any reasonable energy plan.

We should be encouraging the development of new, more effective and safe nuclear technologies. I am not saying this to the exclusion of other sources of power—renewables such as water, wind, solar, and others; we are not excluding those. We want to continue to do research there. I want to make it clear from this Senator's position, it is not only about nuclear power, it is all sources of power that can be efficient, clean, and produce what we need.

At a minimum, we ought not to be discouraging this kind of technology and what this nuclear industry can do. If we don't reauthorize Price-Anderson, we effectively kill all the new promising technologies that are the next generation of emissions-free power production. We can't afford to do that.

This amendment recognizes the recommendations made by the NRC, and they should be adopted. Price-Anderson enjoys strong bipartisan support in this body, as well as on the other side of the Capitol in the House.

Again, I thank Senator VOINOVICH and Senator BINGAMAN for their leadership. It has been a pleasure to work with them and Senator INHOFE on nuclear issues in the committee. They deserve a great deal of credit—Senators

VOINOVICH and INHOFE—for the work they have done. I particularly thank my friends on the Energy Committee for their collective effort in bringing this bipartisan amendment to the floor—in particular, Senators MURKOWSKI, DOMENICI and, again, Senator BINGAMAN.

Madam President, I urge my colleagues to support this bipartisan amendment to reauthorize the Price-Anderson Act. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Madam President, I join my colleague from New Hampshire in thanking Senator VOINOVICH, Senator INHOFE, a good number of folks on our side of the aisle, and certainly a good number on the Democratic side of the aisle for crafting what I think is truly a bipartisan amendment to a necessary and important mix of our energy portfolio in this country.

As you know, the Price-Anderson Act provides a substantial amount of the necessary insurance protection for the commercial sector to deal with nuclear energy in our country.

The Price-Anderson Act removed the deterrent to private sector participation in nuclear activities when there was a substantial threat of liability.

As we know, the historic management of our nuclear facilities on the private side, the commercial side of the equation has proven to be very successful and very safe throughout their operation.

The kind of protection we have offered in no way has ever deterred or lessened the desire or the responsibility of good management. In fact, the Nuclear Regulatory Commission has not only ensured that by its constant and vigilant oversight—and certainly the private sector in operating these reactors for the benefit of the country has known that—but has demonstrated that very clearly. It is truly one of the great success stories of energy generation in our country that is not often told.

Why? Because when we talk nuclear, there are automatic reactions and some risks are argued even though those risks have never effectively played out in an area of effective regulation, quality management of the kind we have seen historically within the nuclear industry of this country.

Price-Anderson is an act that has been working well since its origination in 1957. We will need nuclear energy as we meet the growing energy needs of our country. My colleague from New Hampshire was just talking about clean energy and its importance. There is no cleaner energy than that which is produced by a nuclear reactor and electrical generator. That has clearly demonstrated itself historically.

All I can say today is, thank goodness that 20 percent of our energy basket in this country is nuclear. I wish it were more. If it were more, I think we would have less concern today about the climate change issue and other issues such as greenhouse gases released into the environment. That is going to push us, as it should, toward ever-increasing higher levels of technology and the application of that technology to make cleaner fuels.

While doing that, many of us in this body and the other body have recognized the value of advancing nuclear reactor design. Over the last several years, Senator DOMENICI from New Mexico, chairing the Appropriations Energy Subcommittee, and I have worked to increase budgets to allow for that kind of experimentation and development.

The administration in its new budget has come forth with a proposal called 2010 to invest money in the new technologies of nuclear reactors, to get that technology to the marketplace and to the private sector and to allow an ever-increasing amount of our energy portfolio to become nuclear generated.

As a result, reauthorization of the Price-Anderson Act is absolutely critical because without it, and without that kind of protection, the reality of expanding that energy base simply would not happen.

As we know, just in the last 3 weeks the President has proposed a new and dramatic direction for climate change in our country with the bringing together of science, the application of new computer models, and the idea of not picking winners and losers but allowing the great technology and the human mind in this country to lead the world to a cleaner environment.

We cannot get there and have an abundance of energy that will drive this wonderful economy of ours and create the jobs that it can and has created without nuclear energy as a part of it. There is no technology today that builds at those levels of commercial power production without nuclear energy being a part of it and an increasing part of that overall energy basket.

That is why we are here today. I think that is why we have arrived at a bipartisan approach to this issue. Some of my colleagues on the other side of the aisle who a decade ago were archcritics of nuclear energy are quietly saying today: We recognize that new technology in this area, new reactor design, has to come about if we are going to lead the world and have safer and more abundant forms of energy. That is why this overall energy bill is critical, with all of the new approaches that we bring, along with assuring current levels of hydrocarbon production and new levels of hydrocarbon production, and, at the same time, clearly technology and the application of that brings us to a cleaner environment that can be and must be abundant in energy.

I do appreciate the opportunity to speak briefly on the reauthorization of the Price-Anderson Act. It is an important part of any national energy policy for our country. I am confident it can pass because it has been brought before this body in a bipartisan effort.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JEFFORDS. Mr. President, I want to express my concern about the provisions of this amendment, and state my reasons for opposing it.

As Chairman of the Committee on Environment and Public Works, which has jurisdiction over the licensing and regulation by the Nuclear Regulatory Commission of the Nation's commercial nuclear power plants, I have a very strong interest in the application of the provisions of Price-Anderson.

Under the Atomic Energy Act of 1954, the Nuclear Regulatory Commission has the obligation to assure the safety and security of our Nation's nuclear power plants, and to oversee compensation to the public in the event of a catastrophic accident. This is the most serious of responsibilities.

My State of Vermont receives much of its power from the Vermont Yankee Nuclear Power Plant. While I am supportive of nuclear power and the many benefits it brings, I am deeply and personally aware of the potential dangers to the public that a nuclear power plant could pose, should something go wrong.

Since the events of September 11, of course, intense scrutiny has been given to security at nuclear plants, and chairman of the EPW Committee, I am committed to ensuring that our obligations to protect the public are fully met. Because this amendment fails to satisfy that responsibility,I must oppose it.

The Price-Anderson Act establishes a system of liability, and compensation to the general public for damages in the event of a nuclear accident, an ''extraordinary nuclear occurrence'' in the language of the Atomic Energy Act. The current language provides that every commercial reactor having a rated capacity of 100,000 electrical kilowatts or more must obtain insurance as provided in the act.

Section 508 of the amendment would make an exception for modular reactors, which are small reactors in the 100 to 110 kilowatt range, that must be clustered together in order to be economically viable. The amendment would treat them as a group of units comprising a single nuclear reactor. This would prevent each module from being treated, for purposes of liability coverage under Price-Anderson, as an individual reactor. Without this protection, construction of these modular reactors would not in all likelihood be economically viable.

The safety and performance of these reactors is still a matter of considerable speculation. I am not satisfied that these issues have been sufficiently reviewed within my committee or elsewhere to justify encouraging their continued development at this time. Particularly with the events of September 11 heavy in our hearts and in our minds, I believe we must act with due caution in authorizing activities which we are not fully satisfied meet our obligations for protection of the public health and safety.

Along those same lines, there are a number of issues relating to the adequacy of Price-Anderson that should be given greater scrutiny following the events of September 11. We must determine whether liability limits established under the Act are sufficient, given the potential for terrorist attack as we now perceive it. In so doing, we must carefully examine what are likely to be the full scale impacts to the public from a terrorist attack resulting in an ''extraordinary nuclear occurrence.''

We have requested this information from the Nuclear Regulatory Commission, but have not yet received a full response. I intend to work with my colleagues to develop language to address some of these concerns. I do not believe the amendment adequately addresses these issues, and for that reason, I will oppose it.

AMENDMENT NO. 2984 TO AMENDMENT NO. 2983

Mr. REID. Madam President, I send an amendment to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2984 to amendment No. 2983.

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

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

The amendment is as follows:

In lieu of the matter to be inserted, insert the following:

SEC. 5____. FINANCIAL PROTECTION FOR LICENSEES.

(a) STANDARD DEFERRED PREMIUM.—Section 170b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended in the third sentence by striking ''$63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year'' and inserting ''$88,000,000 (subject to adjustment for inflation under subsection t.), but not more than $20,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''.

(b) FINANCIAL HARDSHIP.—Section 170b.(2)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(2)(A)) is amended by striking ''paragraph (1)'' and all that follows and inserting ''paragraph (1) for any facility if more than 1 nuclear incident occurs in any 1 calendar year.''.

(c) NEW LICENSES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) by striking ''The Commission'' and inserting the following:

''(1) LICENSES ISSUED ON OR BEFORE AUGUST 1, 2002.—The Commission''; and

(2) by adding at the end the following:

''(2) LICENSES ISSUED AFTER AUGUST 1, 2002.—After August 1, 2002, as a condition to receiving a license for a utilization facility under this Act, the applicant, before receiving the license, shall obtain insurance coverage from the private insurance market for the full potential liability (including the public liability and any other liability) of the person that might arise as a result of a nuclear incident at the utilization facility.

SEC. 5____. GUARANTEE OF DEFERRED PREMIUM; FINANCIAL QUALIFICATIONS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5) GUARANTEE OF DEFERRED PREMIUM.—

''(A) CONDITION OF INDEMNIFICATION.—Not later than 180 days after the date of enactment of this paragraph, and not less frequently than each year thereafter, the Commission, in consultation with the Securities and Exchange Commission, shall, as a condition of indemnification, require each licensee to demonstrate that the licensee has the financial ability to pay the full potential retrospective premium for each reactor through 1 or more of—

''(i) a surety bond;

''(ii) a letter of credit or loan;

''(iii) an insurance policy; or

''(iv) maintenance of an escrow deposit of government securities in reserves, a trust, or an equivalent instrument.

''(B) REORGANIZATION PROCEEDINGS.—If a licensee or creditors of a licensee file a petition under chapter 11 of title 11, United States Code, for reorganization of the licensee, the Commission—

''(i) shall review the ability of the licensee to—

''(I) pay the full amount of prospective and standard deferred premiums; and

''(II) ensure that adequate funds will be available for safe operation of the licensed facility; and

''(ii) if the Commission determines that the licensee is unable to meet the requirements of clause (i), shall not renew any indemnification of the licensee under this section.

''(6) FINANCIAL QUALIFICATIONS.—

''(A) IN GENERAL.—The Commission, in consultation with the Securities and Exchange Commission, shall establish criteria and procedures for determination of the minimum financial qualifications for new licensees (including license transferees) to ensure that the new licensee has the resources and instruments necessary to—

''(i) operate safely if it becomes necessary to shut down a reactor for 12 months or longer; and

''(ii) ensure payment of prospective and deferred premiums under this subsection.

''(B) CONDITION.—A license shall be conditioned on meeting and maintaining the minimum financial qualifications established under subparagraph (A).''.

SEC. 5____. PRESIDENTIAL COMMISSION ON INCIDENT CONSEQUENCES.

Section 170(l) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(l)) is amended—

(1) in paragraph (1), by striking ''1988'' and inserting ''2002'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''not less than 7 and not more than 11 members'' and inserting ''6, 8, 10, or 12 members''; and

(B) in subparagraph (B), by striking ''not more than a mere majority of the members are of the same political party'' and inserting ''there are equal numbers of members of each major political party''; and

(3) by striking paragraph (3) and inserting the following:

''(3) DUTIES.—

''(A) IN GENERAL.—The study commission shall conduct a comprehensive study of the economic, public health, and environmental impacts of nuclear incidents that may result in a full breach of containment and uncontained meltdown at a facility built in accordance with an existing design or a proposed design.

''(B) INPUTS.—The matters to be studied under subparagraph (A) include—

''(i) for each existing and proposed facility—

''(I) the public health effects; and

''(II) the economic costs attributable to public health effects, property damage, environmental damage, and evacuation and resettlement of affected populations;

of a worst-case nuclear incident; and

''(ii) the ability of the licensee of each existing or proposed facility to pay the standard deferred premium for a potential occurrence at each covered facility of the licensee and at a facility that is not covered by the licensee.

''(C) SENSITIVITY ANALYSIS.—

''(i) IN GENERAL.—In studying the matters under subparagraph (B)(i), the study commission shall conduct a sensitivity analysis based on various modeling input assumptions to determine the maximum potential consequences of a worst-case nuclear incident.

''(ii) ASSUMPTIONS.—The assumptions on which the sensitivity analysis is based shall include assumptions regarding—

''(I) nuclear incident scenarios;

''(II) weather patterns;

''(III) traffic patterns; and

''(IV) human behavior that may have an effect on evacuation of persons threatened by a nuclear incident.''.

SEC. 5____. ACTS OF TERRORISM.

Section 11q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended—

(1) by striking ''q. The term'' and inserting the following:

''q. NUCLEAR INCIDENT.—

''(1) IN GENERAL.—The term''; and

(2) by adding at the end the following:

''(2) OCCURRENCES.—

''(A) IN GENERAL.—In paragraph (1), the term 'occurrence' includes an act that the President determines to have been an act of domestic terrorism or international terrorism (as those terms are defined in section 2331 of title 18, United States Code).

''(B) NO JUDICIAL REVIEW.—A determination of the President under subparagraph (A) shall not be subject to judicial review.''.

SEC. 5____. TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.

Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

''(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

''(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

''(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.''.

Mr. REID. Madam President, the Price-Anderson Act was created nearly 50 years ago to stimulate the fledgling nuclear power industry by shielding owners from the full cost of an accident. The nuclear industry is now a mature electric industry and is no longer in need of liability protection.

The Price-Anderson Act has actually led to a decrease in the amount of private insurance available instead of increasing it. In the 1950s, the private insurance industry was willing to insure an accident for $50 million despite limited experience with the new technology. Today, the private insurance industry only provides $200 million in insurance. I say only, Madam President. Think about that. One accident, think what it would do.

On public radio today, there was a segment that dealt with your State, New York. What would happen if a dirty bomb were dropped on New York? What is a dirty bomb? A dirty bomb could be TNT surrounded by the same piece of equipment that is used to irradiate food. That little piece of equipment would cause 1 out of 100 people in New York City to develop cancer.

Madam President, $200 million sounds like a lot of money, but it is not very much money when we talk about the damage nuclear power can cause.

Today, Price-Anderson serves to shield the nuclear power industry from the true costs of producing power, providing an unfair economic advantage over other traditional and alternative electrical sources. For example, wind has a tax credit—or, if we extend it, will have and has had one—solar, geothermal, nothing; biomass, nothing; but yet we give this sweetheart deal to nuclear power. The nuclear power industry must assure compensation to the public in the event of an accident, as any other business. The nuclear power industry must not shirk its responsibility.

Although an event we hope is unlikely, we are also hopeful that an accident never occurs. We must acknowledge the possibility of a catastrophic event. We know that the Titanic was unsinkable but, of course, it sank on its first voyage.

To address the shortcomings I have spoken about, and more, my amendment would modernize the Price-Anderson coverage for existing reactors and would require new reactors to obtain private insurance to cover the full amount of a nuclear accident. It would raise the maximum annual contribution for reactor owners from $10 million to $20 million. The Nuclear Regulatory Commission recommended this increase in 1998 and then backed down.

My amendment also would require each reactor owner to guarantee the full financial commitment of each reactor using hard money resources such as surety bonds, letters of credit, private insurance, escrow deposit accounts. Currently, the NRC requires only a 3-month cashflow statement to demonstrate the reactor owner can pay $10 million. Based upon Enron accounting and Andersen accounting, this is not the way to do it.

My amendment would establish a Presidential commission to examine the public health and environmental consequences of a catastrophic accident. My amendment would protect the Price-Anderson payments for victims if the owner of a reactor filed for bankruptcy.

Finally, my amendment would require the President to determine if an intentional act against a nuclear powerplant was an act of terrorism covered under Price-Anderson.

Together, these amendments make Price-Anderson a viable system, perhaps, or at least a more viable system, for existing reactors and take away the training wheels for the next generation of nuclear powerplants so they can succeed on their own merits. Taken together, this amendment will let the nuclear industry stand on its own two feet. Taken together, these amendments will protect the environment and the American people for generations to come.

This is a very serious issue with which we are dealing. A resident of the Chair's State, Christy Brinkley, who is a famous woman—not only because of how she looks but how she thinks—has become really involved in things nuclear. She has testified at hearings in Washington.

Our committee, of which the Presiding Officer is a member, held a hearing on Price-Anderson. We do not have all the jurisdiction of Price-Anderson. The Energy Committee that is handling this bill has some of the jurisdiction. But if there were ever things legislative that the Environment Committee should deal with, it would be nuclear power. Christy Brinkley is one of many who recognize the problems involved.

Every environmental—I should not say every environmental group; there may be a few missing, but most environmental groups in Washington signed a letter supporting the amendment I have offered, recognizing that it is important Price-Anderson be changed. It is not fair the way things now are. Why should they have the benefit of government handouts, really, when other electricity generators do not? My amendment would give financial protection for licensees. It would be a guarantee of preferred premium. There would be financial qualifications. We would have a Presidential commission on incident consequences.

Of course, the section clarifies acts of terrorism involving nuclear licensees would be covered under Price-Anderson, but this section directs the President to determine whether an attack on a nuclear powerplant is an act of terrorism or an act of war for the purposes of paying claims for public liability.

The act and regulations under Price-Anderson are really flawed. Most operators meet the current provisions through a loophole. That is to make sure they are financially sound to respond to what largess the Federal Government has given them. But even there they ''Enron'' us. The acting regulations are flawed in this regard. Most operators meet the current provisions through a loophole by providing only an annual certified financial statement, which is essentially an auditor's statement. The public deserves, especially in light of what has happened since the Enron debacle, more protection than that offered by a potentially misleading certified financial statement, particularly, as I have mentioned, after the Enron mess involving its financial auditor, Arthur Andersen.

The amendment I have submitted would ensure real financial safeguards such as a bond, a letter of credit, or a loan. Escrow funds, or even insurance, would be the only measure of a nuclear operator's ability to meet its financial obligations to the public.

Under the present legislation, I repeat, all that is needed is an annual certified financial statement showing there is a cashflow or something can be generated, not then but within 3 months. All operators who propose to build new plants to produce electricity from nuclear power, particularly in the context of deregulated wholesale electricity markets, should be expected to incorporate the cost of obtaining insurance, the economics of generating electricity, but not under Price-Anderson. Many of these companies are owned by limited liability corporations, thinly capitalized, highly leveraged, legally structured to avoid exposing their parent corporate entity to liability in the event of insolvency and, of course, in the event of accident.

This amendment establishes minimal financial qualifications to ensure operators can meet their monetary obligations to the public in the event of an accident or terrorist attack. This amendment is supported by the U.S. PIRG, the Environmental Defense Fund, Union of Concerned Scientists, Defenders of Wildlife, Sierra Club, Friends of the Earth, Nuclear Information Resources, League of Conservation Voters, Taxpayers for Common Sense, National Environmental Trust, National Resources Defense Council, Public Citizens Critical Mass, STAR, Safe Energy Communications Council, and Greenpeace.

A 1992 analysis of energy subsidies by the U.S. Department of Energy indicates a Federal regulation that continues to have a cost-reducing effect on the nuclear power industry is simply unfair. These liability limits provide a subsidy to the nuclear industry to the degree private insurance premiums paid by operators of individual plants are reduced.

In 1983—almost 20 years ago—the NRC concluded the liability limits were sufficiently significant to constitute a subsidy, and it has really been magnified during the last 19 years. However, a quantification of the amount of subsidy was not attempted at that time.

One of the questions raised is: Are acts of terrorism covered by Price-Anderson? The Nuclear Regulatory Commission indicated, in response to questions from the same hearing I have talked about earlier, on January 23, courts would likely have to settle the question. We had leading scholars present from the legal academic world, and they said it would lead to significant delay or even termination of victim compensation.

Are victims guaranteed to receive payments from reactors that file chapter XI bankruptcy? In the same hearing we had in January, the Nuclear Regulatory Commission stated that the NRC could potentially face a conflict with other claims in a bankruptcy proceeding if there were an accident sufficient to trigger these industry payments. The NRC would presumably require a licensee to pay the assessment, but the bankruptcy court could order the licensee to pay it. The NRC also indicated it would support legislation to address this concern.

In the Economist magazine, they have a very in-depth article about nuclear power generally. Among other things in this long article of May 19 of last year, they talk about when costing nuclear power, it is essential to remember the scope, scale, and subtlety of the subsidy it receives. Liability insurance is a good example of this subsidy. The American industry's official position is there is no subsidy involved in Price-Anderson. To do that, you would have to be without any common sense, let alone academic prowess.

Since there is no subsidy involved, why not let the act lapse when it comes up for renewal next year? What we were told by our Vice President is that it needs to be renewed; if not, nobody will invest in nuclear powerplants.

That answers the question.

In the end, the article continues, nuclear energy's future may be skewed by the same sword that is making it fashionable today, the deregulation of electricity markets.

Why is that? Because, Madam President, right now nuclear power is the most expensive, even with the subsidies. Yet the article continues: Liberalization is also exposing the true economics of new plants and is aiming a fierce spotlight at the hefty subsidies that nuclear power has long enjoyed. As these fade, the industry once again will be brought down to earth.

Now, this is not me speaking. This is from the Economist magazine. They say these are significant subsidies and once they are attached, nuclear power will no longer be in vogue.

The New York Times published an article entitled ''Hard Questions On Nuclear Power,'' written last year. Among other things, they say the Congress will need to take a close look at whether it should renew one of the industry's economic underpinnings, the so-called Price-Anderson Act, that limits companies' liability in the event of an accident. If the industry is safe, they may not need such subsidized protection.

A lot of this has come to light following September 11, and whether we have to be more concerned about acts of terrorism. I know the Presiding Officer, this Senator, and the junior Senator from Connecticut, Mr. LIEBERMAN, have looked closely at the safety of nuclear powerplants. He is right. They have different standards at different plants, different companies, different private contractors. If someone going through a baggage checkpoint is examined by someone who works for the Federal Government, should we not have a system whereby nuclear powerplants have Federal employees? The answer is yes. They should not have rent-a-cops determining the safety of those facilities.

Today, thinly capitalized, limited liability corporations operate nearly half of the Nation's nuclear reactors. Taxpayers, I suggest, by default, shoulder secondary insurance costs whenever it is determined insurance claims would constitute undue hardship.

It is reported the NRC did not require the company purchasing the single largest fleet of 16 reactors to provide adequate evidence of financial stability as a condition of granting a license. Some advocates of Price-Anderson argue that because the Government indemnity has never been used, we don't need to worry about it. Price-Anderson is not a subsidy, they say. However, every legal scholar has said it is. Price-Anderson allows utilities to commit less capital to insuring nuclear plants so that the act results in a reallocation of resources away from more highly valued uses, so it is indeed a subsidy. Think of its advantage over solar, geothermal, biomass, clean coal, and certainly natural gas.

Despite continuing claims concerning the safety of nuclear power, the amount of private liability insurance available has actually declined in real terms since 1957. The reason is they figured ways to get around that. The Nuclear Regulatory Commission report states it is unlikely that the amount of available liability insurance would increase much beyond the $200 million level without strong pressure from outside the insurance industry. The obvious question is, What could be expected with repeal of Price-Anderson? One could argue, as Richard Howell does, that the more likely result is that sufficient insurance will be provided to maintain the viability of the industry.

These companies make a lot of money. As every other business, they will buy insurance to cover their liability. Why should the Federal Government have to provide that? Utilities needing more liability insurance would have an incentive to accept stricter safety standards from insurance companies. An increase in the role of the insurance industry would be a welcome development by regulators and an economic incentive for safe operating methods and not relying on the Federal Government to give them a subsidy.

If Price-Anderson were allowed to expire, the determination for what sort of tort liability, strict liability, or negligence to which the plants are subject reverts to States. We have been debating in the Senate for the many years I have been here whether or not we will have a national standard for product liability. The answer is no. We let the States determine that. That is the way it should be.

AMENDMENT NO. 2984, WITHDRAWN

I will withdraw my amendment. I hope people will vote against this amendment. I know there will be people wanting to vote for this simply because the two managers of the legislation support this legislation. I have the greatest respect for my friend from New Mexico. He has been somebody I have looked up to the entire time I have been in the Senate. I will continue to look up to him even though he is wrong on this issue. He is simply wrong. Price-Anderson needs to be changed.

I hope Senators vote against this mischievous and unworthy amendment. It is not good for the country. It is not good for the country for so many reasons, not the least of which is the liability aspect of it, not the least of which the Federal Government should get out of subsidizing nuclear power. But also, if we got rid of this amendment, people living near nuclear powerplants would know there is sufficient insurance to take care of their family if something went wrong.

I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER (Mr. CARPER). Without objection, the amendment is withdrawn.

The amendment (No. 2984) was withdrawn.

Mr. REID. I ask for the yeas and nays on the Voinovich amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There does not appear to be a sufficient second.

Mr. VOINOVICH. Mr. President, I will mention that I have the highest regard for Senator REID. Much of what he just discussed came up in the committee hearing we had. Perhaps the Presiding Officer was at the meeting.

Mr. REID. Could I ask my friend to yield for a brief second?

I will ask for the yeas and nays on the Senator's amendment. It is my understanding everyone wants to vote on it. We did not get a second from the Republicans.

I ask for the yeas and nays on the Voinovich amendment No. 2983.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. I apologize to the majority whip and the manager of the bill. I apologize. I have not been active in the discussion this morning. But as I understand it, the Senator from Nevada offered a second degree which he intends to withdraw—or is it withdrawn? It is withdrawn, so we are on Price-Anderson. I certainly support the call for the yeas and nays.

It is my understanding the majority side will introduce the next amendment. At this time I wonder if they will indicate what that amendment might be.

Mr. BINGAMAN. Mr. President, in response to my friend from Alaska, once the debate is concluded on the Price-Anderson amendment Senator VOINOVICH has offered, it is our intent to set that aside and go to an amendment on hydraulic fracturing, which I would offer. I think Senator INHOFE and various other Senators are cosponsoring that.

Then I believe it is the whip's intent to have us stack a couple of votes on those two issues right after lunch.

Mr. REID. If the Senator will yield for a minute, we are now showing to the minority the proposal. We have two votes at 2 o'clock, with the time between now and 2 o'clock to be divided to speak on both amendments, Price-Anderson and also the hydraulic fracturing. We would have a vote on both those. We are not in a position to offer that as a unanimous consent agreement because we have to clear it with the two leaders, but that is the intention.

Mr. MURKOWSKI. Mr. President, what I am concerned about is the whip indicated 2 o'clock. Will we break for lunch or is it the intention to go right through?

I just have been alerted there are a couple of our Members who are going to want to speak on the fracturing amendment. Unless there is any extended debate, I am certainly willing to agree to a vote at 2 o'clock. Obviously, we are about through with Price-Anderson.

Mr. REID. If the Senator from Alaska will yield, I think we are just about finished on Price-Anderson. The Senator from Ohio wants to speak, and maybe the Senator from New Mexico, briefly, on it. But I think we will have quite a bit of time on fracturing.

I will propound that at a subsequent time.

Mr. MURKOWSKI. I assure the whip we want to work with him. We have a couple of more Members, I am advised, who want to speak very briefly on Price-Anderson. We are going to urge them to come here now and speak, and then we will have no objection to moving to the fracturing.

Mr. REID. If the Senator will yield, it doesn't matter if they come now or later. The agreement will be that during this next period of time they can speak on either amendment.

Mr. MURKOWSKI. Either amendment; that is certainly fair enough.

I am going to make a short statement on Price-Anderson. Since the second degree has been withdrawn, I will not belabor that other than to say I am very pleased the Senator from Nevada saw fit to withdraw it because had his amendment prevailed, clearly it would have basically amounted to the demise of the nuclear industry from the standpoint of any future facilities being built, because that is the whole justification of Price-Anderson. I will put that behind me and simply support speaking of the Price-Anderson reauthorization amendment.

I think Congress has been derelict in not resolving this issue some time ago. It is an important issue, to encourage further development of our nuclear industry.

For those who are critical of the nuclear industry, I remind you it has an extraordinary safety record, considering the hyperpublicity given to almost any irregularity associated with the operation of the plants.

The point is, to a large degree the system has worked. Any mechanical function has a certain degree of exposure. So you back it up with checks and balances. When you talk about Three Mile Island and the mistakes that were made, the reality is the system worked. If you talk about what happened in Chernobyl, you recognize human activity overrode the systems, which is just what happened when the *Exxon Valdez* went on the rocks. It was human activity—inattentive, in spite of the bells and whistles—that simply allowed this ship in a 10.5-mile-wide channel to hit a rock.

My point is I think the nuclear industry in this country deserves a fair assessment of its extraordinary record. As a consequence, I think we must recognize the significant contribution nuclear energy makes.

It is emission free. As we look at concern over global warming/emission reductions, the one area that generates tremendous potential, even further than the 20 percent of the electric power generation that comes from nuclear energy, is the nuclear industry.

The critics who would like to see this industry simply go away and not expand have to come up with an alternative, other than conservation, because conservation is simply not enough. Conservation will not pick up for the 20 percent of our energy mix that comes from nuclear energy. So we must continue to recognize the nuclear industry is going to play a greater role in the future if we want to meet our energy needs and protect our air quality.

It is interesting to look on occasion at what the Joneses do. In France, obviously, nuclear power has been accepted. It is the area of technology that has the highest recognition in the higher educational system of France. The Japanese are moving towards greater dependence on nuclear energy because of the significant advantages associated with that.

One of the problems, of course, is the nuclear waste issue. We will be getting into that at a later time. But I think it represents the frustration here in the United States with our nuclear industry, not being able to come to grips with what we do with the waste that is generated by the reactors that, of course, are subject to yearly examination when their fuel rods are removed. The question is, What is done with that high-level waste and how is it stored? It is not designed to be permanently stored necessarily in casks. We even embarked on an effort to try to find a repository. The solution appears to have been a selection in Nevada, at Yucca Mountain.

I think it should be recognized we have expended some $7 billion of taxpayers' money on this repository at Yucca Mountain in Nevada. I think we should also recognize the ratepayers have paid, for this nuclear power, into a special fund, which was supposed to fund the construction of a site, that expended approximately $11 billion. So the Federal Government entered into a contractual relationship to take that waste in 1998.

Mr. President, 1998 has come and gone and the Federal Government has not lived up to the terms of its contractual agreements. It is in violation of its contract. As a consequence, litigation associated with suits filed against the Federal Government are somewhere in the area of $40 billion. As we simply put off the decisionmaking process, what to do with this waste, clearly the liability to the taxpayer continues. So we simply have to come to grips with this issue.

I am pleased to say this administration is facing it head on with a series of steps and procedures that will eventually get us to a final decision on how and on what terms this waste is stored, so we can get on with a clear bridge, if you will, to what we are going to do with the waste. That will, to a large degree, address the expansion of nuclear energy in this country because we are not going to expand nuclear production, nuclear energy, until we resolve what to do with that waste.

It is important we get this issue behind us. But an important part of this, indeed, is Price-Anderson because that supplies, if you will, the necessary underwriting by the Federal Government of catastrophic exposure.

Solid nuclear baseload power provides our grids with stability and reliability. In California alone, nuclear

supplies about 16 percent of the energy. Without it, last summer the California energy situation would have faced a collapse. High natural gas prices and low uranium prices help to make electricity produced by nuclear some of the cheapest in the country. Perhaps someday we might reach the fabled ''too cheap to meter'' goal. I am not sure that is going to happen, but nevertheless it is a reasonable objective.

We have had, as I have indicated, safe and efficient operation of U.S. plants. They are operating at record efficiencies as they have recognized the procedural efficiencies.

The point is that they are very efficient, and as a consequence they have become very attractive investments. We have seen more concentration by utility companies picking up some of the newer and more efficient plants.

In 1999, U.S. nuclear reactors achieved close to 90 percent efficiency. The total efficiency increase during the nineties at the existing plants was the equivalent to approximately 23 1,000-megawatt powerplants. I think that is pretty significant. During the 1990s, a 10-year period of existing plants, the equivalent efficiency was 23 1,000-megawatt powerplants. I think that more or less speaks for itself relative to the advantages and attractiveness of nuclear power. Keep in mind that this is clean, it is nonemitting generation.

With that efficiency, the industry is on an upswing. Four or five years ago, you wouldn't have thought you would hear talk about buying and selling plants, or even building new plants. Today the discussion is occurring.

By the end of the 2002, the Chicago-based Exxon corporation will have invested a total of $25 million in a South African venture to build a pebble bed modular reactor.

I see my friend from New Mexico, the senior Senator, in the Chamber. He is very familiar with this particular technology, which I think provides greater attractiveness for the nuclear industry.

If we ever hope to achieve energy security and energy independence in this country, we cannot abandon the nuclear option which is an important and integral part of our energy mix. Our economy depends on nuclear energy. Our national security depends on nuclear energy. Our environment depends on nuclear energy. And our future, to a large degree, depends on nuclear energy.

Critical to the future continuation of this industry is Price-Anderson. I have been a strong advocate of reauthorization of Price-Anderson. Senator BINGAMAN and I have worked together with our staff to agree on language in the last Congress to renew the Price-Anderson Act. Both of our comprehensive energy bills introduced in the first session of this Congress contain the same language based on recommendations from the Department of Energy and the Nuclear Regulatory Commission. Renewal of the act was supported by the last administration. Renewal of the act was also one of President Bush's 105 recommendations in the national energy policy. For over 40 years, the act has ensured ample insurance for the industry, and it will provide a mechanism for the prompt payment to victims in the unlikely event of a nuclear exposure of some kind. Renewal of this act is necessary if we are to continue nuclear energy, new plants, and ensure the relicensing of our existing plants.

I don't understand really why the majority leader excluded the NRC licensees from the substitute. But this amendment is going to rectify that oversight.

I am very pleased to see the level of support on the floor of the Senate. I thank the Senator from Ohio, Mr. VOINOVICH, for his leadership in this area, and Senator DOMENICI and Senator BINGAMAN, chairman of the Energy Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am very pleased that early in the discussion of the energy bill an amendment on Price-Anderson extension is before the Senate. I am also very pleased that it has so many cosponsors and that it is very bipartisan, in particular on the issue of nuclear power and its role in America and the world's future. If we are looking for the energy of the future and if we are looking to have clean air, obviously nuclear power has to be looked at.

I am grateful that today Senator BINGAMAN, the manager of the bill and chairman of the committee, is a cosponsor of the Voinovich amendment. It also has a number of other Senators as cosponsors, all of whom from time to time have expressed great interest in nuclear energy.

I also would like to commend the manager of the bill, even though we didn't mark up all the way through the committee. Senator BINGAMAN's staff, the majority staff, are fully aware of the nuclear power issues that confront our country.

If there are Senators who wonder why there are not a series of amendments on nuclear power and its future that are going to be offered—there will be two or three—it is because this bill contains general type language that will permit nuclear power to be a player in the future. If, in fact, there are utility companies here and elsewhere in the world privately and publicly owned that want to produce nuclear power because of its efficiency and, equally important, because clean electricity is produced, and if we are worried about underdeveloped countries developing and using a lot of energy, and because America needs more energy over the next 20 or 30 years, it is good that we have not locked out the option of nuclear energy.

There are some things that could be said about nuclear power in terms of the shortage we have found ourselves in. Just the past year, we found that of all the power sources in the country, the cheapest after hydropower is, and has been for some time, nuclear power. Per unit of electricity, the cheapest power generation of any major size in America has been nuclear power.

Nuclear powerplants have gone without incident or accident for years. As a matter of fact, they have increased productive capacity in the neighborhood of from 70 to 75 percent of capacity to the low 90s for this entire period of time when we needed more energy because we were in the position as a nation of being sort of ambivalent about our energy supply. We weren't quite sure where we were going.

There are also some exciting occurrences in terms of the next generation of nuclear powerplants. Perhaps before we finish we will have time to discuss events that are occurring around the world. Even American companies are thinking about nuclear plants in terms of future supply of electricity.

The future is very bright. New technology will make nuclear power safer, if that can be. It will make it cheaper. It will permit us to locate nuclear powerplants more easily. They won't have to be the large-megawatt plants. They can be small and rather mobile plants built much more easily than in the past, and with far less permit time with the kind of work we have to do in that regard.

Already the United States is ahead of the crisis. We have begun to build back into our Department of Energy some significant nuclear activities. We have had an Energy Department during the last 25 years when the Department was acting as if it were embarrassed about nuclear power and didn't even want it to be part of the Department of Energy. It is back, and we are now spending some money every year to help generate enthusiasm among engineers and those who would join the corps of experts in physics and chemistry and the like who will work on nuclear powerplants in the future.

In producing this bill, Senator BINGAMAN took many of the things we had appropriated and made them permanent law with reference to the future of nuclear power.

I will insert in the RECORD at a later time, rather than itemize them now, the numerous areas where the bill already takes into consideration the need for us to put nuclear power on a neutral footing with other kinds of power and to see if we can't come out winners both as to energy and as to the environment.

So I want to state my very strong support for the renewal of Price-Anderson, which is going to expire later this year—I think in August. It has been extended by Congress three times since becoming law in 1957. Price-Anderson provides a framework for payment of public liability claims for any accident at a commercial nuclear powerplant. This law is vital to ensure that our taxpayers continue to receive the benefits

of nuclear energy and allows the industry to consider the construction of new plants.

The Price-Anderson amendment, as it is structured—the one that is pending—takes care of and provides coverage for future plants. Some have wanted to cover the past but not the future. I am very pleased, and am certain that those who think there is a new day for the production of energy in the United States ahead, and that it might involve nuclear power, are also strongly supportive and delighted that this amendment is the broad amendment that also covers the future, not just the past.

Many bills pending before the Senate incorporate renewal of Price-Anderson. As I indicated, I have introduced a bill, S. 472, which contained renewal provisions. I was very pleased that 18 cosponsors joined me in that bill. Earlier bills from Senator BINGAMAN and Senator MURKOWSKI had also incorporated renewal.

This renewal amendment should enjoy strong bipartisan support in the Senate. I am very pleased that it will receive strong support because that in and of itself sends a signal that was not around 10 or 15 years ago when we thought we had an abundance of energy and the supply was not a problem. There was a small cadre of those who did not like nor want us involved in nuclear power. They prevailed. It would appear that we are moving in the direction of a neutral approach and that nuclear power will have to prove itself alongside all the other energy sources as being efficient and safe and the kind of power that we would truly like to have in our country, and it would be good for the world.

In addition to coverage of commercial nuclear plants, Price-Anderson enables companies to accept the challenges that are involved in the cleanup of past nuclear weapons activities without charging the Government for insurance for coverage of very large possible, although highly unlikely, claims. It assures the availability of funds to provide prompt compensation to any member of the public who is harmed by nuclear activities. Without renewal, no new nuclear powerplants would be covered and progress on the cleanup of weapons activities could indeed be seriously jeopardized.

That will not be the case once we have reported out a bill. Hopefully, before this year ends, the Senate and the House will find a way to do that.

Since taxpayer funds are not used to pay claims resulting from a nuclear incident, there is no ''subsidy'' to industry, as some claim. Over the last 43 years of Price-Anderson protection, the insurance pools, never the Federal Government, have paid claims totaling $180 million. Price-Anderson, with its risk-pooling among all nuclear companies, provides a far greater measure of certainty to the public for any liabilities that any one company could provide.

Again, I appreciate Senator BINGAMAN's work on the basic bill, the underlying bill, as it pertains to nuclear power and various activities that will bring it into the future and line itself up along with other major energy sources not only for America but for the world.

One area involves the appropriate treatment for nonprofit contractors. We have agreed that these contractors should have some degree of liability, but we have carefully limited their liability to the fee they are receiving at the time of any penalty. Without such a limitation, nonprofits could undertake a contracting role with the Department, but they would have to charge excessive fees to the Government and, obviously, would not be awarded any kind of work.

There is a second provision for the treatment of modular reactors. When Price-Anderson was first drafted, it was assumed that all commercial reactors would be very large, maybe 1,000 megawatts or even more. But lately, there is growing interest in very small powerplants that might utilize modular construction and deliver much less power, perhaps only 100 megawatts per module.

These small plants have some very interesting features, of which the most important is the ability to make them absolutely safe against meltdown incidents. Yes, that is a reality. That is what those who are inventing and putting together these new modular constructed powerplants, with new technology, will be able to do. They will not, by their own physics, be able to have a meltdown.

I appreciate that this version of an extended Price-Anderson law provides equitable treatment for modular reactors to ensure that the act becomes viable in the future and is not a disincentive to considering new technology of the kind that is exciting many people.

The renewal of Price-Anderson is one of the key actions needed to ensure that nuclear energy continues to provide clean, safe power for our Nation.

Again, I am grateful for the leadership shown by the chairman of the committee. I am hoping that before this year is out, we will come out of conference with a Price-Anderson that is intact and that contains the language that is before the Senate today. We will have done something worthwhile.

For those who wonder if anything is happening on this energy bill that is good and healthy and salutary and futuristic, I hope they will join us in saying that we did one thing, and it became less and less controversial, that is to extend the underpinnings, in terms of liability coverage, the underpinnings of nuclear power for today and nuclear power for the future.

I yield the floor and thank the Chair for recognition.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that Senator LINCOLN be added as a cosponsor of this amendment.

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

Mr. VOINOVICH. I think it is significant, Mr. President, that the two Senators from New Mexico—one a Republican and one a Democrat—are both cosponsors of this amendment. I do not believe there is anyone in this country who speaks out more eloquently on behalf of nuclear power than Senator DOMENICI. This has been a cause of his for many years. I think it is important that he underscored the fact that not only does this deal with the nuclear power industry, but it also deals specifically with the cleanup of over 100 DOE facilities; that without this legislation the contractors would not be willing to go forward with the work they are now doing at those facilities. And it also provides a situation so that in the event that new reactors come on board—that is, more nuclear power facilities are built—that it would include those new facilities.

Before I conclude on this amendment, I would like to point out and clarify the fact that the $10 million this bill continues to be asked for is adequate to get the job done.

With the Presiding Officer's permission, I would like to read from the testimony of William F. Kane, who is the Deputy Executive Director for Reactor Programs because I think, in a nutshell, he can clarify to our colleagues just exactly what this is about.

In his testimony on January 23rd, he said:

> Further developments in the electric generating industry since the 1998 report to Congress have led the Commission to review its 1998 recommendations and to reevaluate its recommendation that Congress consider increasing the annual installment to $20 million. There is now a heightened interest in extending the operating life for most, if not all, of the currently operating power reactors, and some power companies are now examining whether they wish to submit applications for new reactors or complete construction of reactors that have been deferred. As a result, contrary to our former recommendations, the commission does not believe there is now justification for raising the maximum annual retrospective premium of $10 million. The level is adequate and does not need to be changed.

He went on to say:

> In summing up, I would like to leave these thoughts with you: To date, the United States Government has not paid a penny for claims against nuclear power licensees. In the event a serious accident were to occur, over $9 billion would be available to pay compensation for any personal injury or offsite property damage. The money will come from insurance policies bought by the industry and from retrospective premiums that will be paid by the industry. If these funds are inadequate, Congress will be called upon to decide what action is needed to provide assistance to those harmed. We believe the public is protected by the broad base of prompt funding. The Price-Anderson Act further aids the public by establishing important procedural reforms for claims arising from nuclear accidents. It channels liabilities to the licensee, establishes a single Federal form for all claims, eliminates the need

to prove fault, requires waivers of other significant defenses, makes prompt settlements possible, and if litigation is needed, establishes the legal management process to assure fairness and equity and distribution of damages.

That lays it out in a nutshell in terms of why it is that we need to reauthorize Price-Anderson.

It is my understanding the Senator from New Mexico will be introducing another amendment. For the Members of the Senate, those who still would like to speak on Price-Anderson will be able to continue to do that, as well as those who will be supporting Senator BINGAMAN's amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, just a couple of other words about the Price-Anderson amendment: First, I thank my colleague from New Mexico for his kind words about provisions that are included in this bill. He has authored many of those provisions, particularly the ones related to nuclear power, and he has been a tireless advocate for peaceful use of nuclear power in this country for many years. We are all well aware of that.

We have included in the bill those provisions he suggested which clearly do contemplate and envision continued contributions by the nuclear power industry to our energy needs. That is certainly my purpose and, I know, the purpose of Senator VOINOVICH as well. We were talking in one of the asides about the fact that the Price-Anderson Act was originally proposed by Representative Price from Illinois, Mel Price, and also by Senator Clinton Anderson from New Mexico. It has served the country well for 45 years, as we have indicated before. We think it is important that it continue to do so.

Mr. President, I ask unanimous consent that the amendment be set aside, and it be in order for me to send another amendment to the desk for consideration.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Reserving the right to object, I would like to ask the Senator from New Mexico, could I have maybe 2 minutes to say something about Price-Anderson? I am anxious to get to the next amendment.

Mr. BINGAMAN. I withdraw my request, Mr. President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have been talking about a complete energy policy for America. This is a bipartisan effort. I tried to get the Reagan administration to do it, then the Bush administration, the Clinton administration. None of them had done it. Now we have an opportunity to do it. An essential part of that is going to be nuclear energy. Maybe it has been said before, but I only want to put into the RECORD that after going through this long arduous thing on ambient air and the problems of other forms of energy, each year the U.S. nuclear powerplants prevent 5.1 million tons of sulphur dioxide, 2.4 million tons of nitrogen oxide, and 164 million metric tons of carbon from entering the earth's surface.

Consequently, there are many people who were out protesting against nuclear energy just 20 years ago who now realize this is an abundant and safe and cheap form of energy.

It is necessary in order to do that to have the Price-Anderson Act reauthorized.

I yield the floor

AMENDMENT NO. 2986 TO AMENDMENT NO. 2917

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

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

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. BAUCUS, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CONRAD, Mr. DORGAN, Mr. INHOFE, Ms. LANDRIEU, Mrs. LINCOLN, and Mr. THOMAS, proposes an amendment numbered 2986 to amendment No. 2917.

Mr. BINGAMAN. 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 study whether there is a need to regulate hydraulic fracturing))

At the end of title VI, add the following new section:

"SEC. 610. HYDRAULIC FRACTURING.

''Section 1421 of the Safe Drinking Water Act (42 U.S.C. Sec. 300h) is amended by adding at the end the following:

''(e) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—

(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.—

''(A) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, and within specific regions, States, or portions of States.

''(B) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.

''(C) STUDY ELEMENTS.—The study conducted under subparagraph (A) shall, at a minimum, examine and make findings as to whether—

''(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, states or portions of States;

''(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and

''(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.

''(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation.

''(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (1)(B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

''(ii) At the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a state. Subparagraph (4) of this subsection shall apply to any such determination by the Administrator.

''(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking her broad study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

''(2) INDEPENDENT SCIENTIFIC REVIEW.—

''(A) IN GENERAL.—Prior to the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.

''(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on the—

''(i) findings related to the study conducted by the Administrator under paragraph (1);

''(ii) the scientific and technical basis for such findings; and

''(iii) recommendations, if any, for modifying the findings of the study.

''(3) REGULATORY DETERMINATION.—

''(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed or accumulated in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either:

''(i) that regulation of hydraulic fracturing under this part is necessary to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State; or

''(ii) that regulation described under clause (i) is unnecessary.

''(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

''(4) PROMULGATION OF REGULATIONS.—

''(A) REGULATION NECESSARY.—If the Administrator determines under paragraph (3) that regulation by hydraulic fracturing

under this part is necessary to ensure that hydraulic fracturing does not endanger underground drinking water sources on a nationwide basis, or within a specific region, State or portions of a State, the Administrator shall, within 6 months after the issuance of that determination, and after public notice and opportunity for comment, promulgate regulations under section 1421 (42 U.S.C. 300h) to ensure that hydraulic fracturing will not endanger such underground sources of drinking water. However, for purposes of the Administrator's approval or disapproval under section 1422 of any State underground injection control program for regulating hydraulic fracturing, a State at any time may make the alternative demonstration provided for in section 1425 of this title.

''(B) REGULATION UNNECESSARY.—The Administrator shall not regulate or require States to regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This provision shall not apply to any State which has a program for the regulation of hydraulic fracturing that was approved by the Administrator under this part prior to the effective date of this subsection.

''(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

''(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term 'hydraulic fracturing' means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

''(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 300i).''.

Mr. BINGAMAN. Mr. President, this is a bipartisan amendment offered by myself, Senator INHOFE from Oklahoma, and by various other of our colleagues—Senators BAUCUS, BOND, BREAUX, CAMPBELL, CONRAD, DORGAN, LANDRIEU, LINCOLN, and THOMAS. I thank my colleagues.

The proposed amendment concerns hydraulic fracturing. That is a valuable tool in reducing our dependence on foreign energy supplies. It is one that the oil and gas industry uses on a very regular basis. It is necessary if we are to develop the majority of our onshore natural gas wells. Hydraulically fractured wells produce about 10 trillion cubic feet of natural gas annually. Through injecting fluids under high pressure, hydraulic fracturing creates pathways for gas to flow to the well.

The amendment I have sent to the desk and have offered sets up a study process to determine whether high fracturing should be regulated by the Federal Government under the Safe Drinking Water Act. Let me give the context for this proposed amendment.

States already have the authority to regulate hydraulic fracturing. They do that through measures such as requiring casing or lining of oil and gas wells where those wells cross through aquifers. The State regulatory programs have been effective to date. And although there have been over a million hydraulic fracturing jobs conducted in the last 5 years, there have been zero confirmed instances of hydraulic fracturing contaminating drinking water. There is not one time that contamination has been established.

Where no one has been able to confirm any harm from hydraulic fracturing, it is sensible to study whether there is a real problem before we rush forward to impose additional Federal regulation. That is precisely what the amendment I have sent to the desk would do.

The Environmental Protection Agency must first study whether hydraulic fracturing has any effects on underground sources of drinking water. After that, the National Academy of Sciences, as an independent scientific body, would review EPA's study. Then based upon all the evidence, EPA must determine whether in addition to State regulation, Federal regulation of hydraulic fracturing under the Safe Drinking Water Act is necessary to protect underground sources of drinking water.

While the study is being prepared, States would fully retain their own existing programs and EPA would fully retain its emergency powers to prevent any contamination of drinking water that would immediately threaten public health.

The proposed amendment's reliance on existing State programs while a study is prepared has received extensive bipartisan support. It has received that support both in the Senate but also in the executive branch. During both the previous administration, the Clinton administration, and the current administration, the EPA has maintained that Federal regulation of hydraulic fracturing is not required.

In fact, the previous administration's EPA argued in Federal court—I quote from one of their briefs:

> Alabama is appropriately regulating production of methane via hydraulic fracturing. There is no need for EPA to supplant these efforts.

The previous administration's EPA also cited the absence of any evidence that hydraulic fracturing has harmed drinking water and Alabama's close regulation of hydraulic fracturing in denying a 1994 petition to impose Federal regulations on Alabama.

Mr. President, let me at this point submit for the record a letter from Carol Browner, then the head of the EPA, sent to David Ludder, general counsel for the Legal Environmental Assistance Foundation. This is a 1995 letter in which she says:

> EPA does not regulate—and does not believe it is legally required to regulate—the hydraulic fracturing of methane gas production wells under its UIC program.

Continuing the quotation:

> There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or endangerment of underground sources of drinking water.

I ask unanimous consent that that letter be printed in the RECORD at the end of my statement.

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

(See Exhibit 1.)

Mr. BINGAMAN. Mr. President, a cautionary word. We will need to use hydraulic fracturing of gas wells over the next decade. An unneeded regulation of hydraulic fracturing could make some of these wells uneconomical to produce and could defeat our important efforts to increase our energy independence—particularly as it relates to natural gas.

My proposed amendment would sensibly allow hydraulic fracturing to assist efforts to increase our energy independence, while studying whether there is any known environmental harm that would require Federal regulation. For this reason, I urge my colleagues to vote for this amendment.

I yield the floor.

EXHIBIT 1

EPA,
Washington, DC, May 5, 1995.

DAVID A. LUDDER, Esq.,
General Counsel, Legal Environmental Assistance Foundation, Inc., Tallahassee, FL.

DEAR MR. LUDDER: The Environmental Protection Agency (EPA) has received and carefully reviewed your May 3, 1994, Petition for Promulgation of a Rule Withdrawing Approval of Alabama's Underground Injection Control (UIC) Program. Based on that review, I have determined that Alabama's implementation of its UIC Program is consistent with the requirements of the Safe Drinking Water Act (42 U.S.C. §300h, et seq.) and EPA's UIC regulations (40 C.F.R. Part 145). EPA does not regulate—and does not believe it is legally required to regulate—the hydraulic fracturing of methane gas production wells under its UIC Program.

There is no evidence that the hydraulic fracturing at issue has resulted in any contamination or endangerment of underground sources of drinking water (USDW). Repeated testing, conducted between May of 1989 and March of 1993, of the drinking water well which was the subject of this petition failed to show any chemicals that would indicate the presence of fracturing fluids. The well was also sampled for drinking water quality and no constituents exceeding drinking water standards were detected. Moreover, given the horizontal and vertical distance between the drinking water well and the closest methane gas production wells, the possibility of contamination or endangerment of USDWs in the area is extremely remote. Hydraulic fracturing is closely regulated by the Alabama State Oil and Gas Board, which requires that operators obtain authorization prior to all fracturing activities.

Accordingly, I have decided to deny your petition. Enclosed you will find a detailed response to each contention in your petition, which further explains the basis for this denial.

Sincerely,

CAROL M. BROWNER.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first of all, I ask that Senator TIM HUTCHINSON and Senator VOINOVICH be added as cosponsors of this amendment and the Price-Anderson amendment.

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

Mr. INHOFE. Mr. President, first of all, I thank my colleague from New Mexico. I am happy to join him in proposing this amendment. I think it is very important for a number of reasons. I just came from the Senate Armed Services Committee, where we had all four of the chiefs of the services. We were talking about this war that we are prosecuting right now. We were talking about the Nation's security.

I can remember all the way back in the 1980s, when then-Secretary of the Interior Don Hodel and I went around the country and talked about the fact that an energy policy is something that is important to our Nation's security. It is a national security issue, not an energy issue. Consequently—and I said this a minute ago—this has not been a partisan thing. We tried to get President Reagan to come up with an energy policy. He would not do it. I thought George ''the first,'' coming from the oil fields, would have one, but he didn't do it either. The last administration didn't do it.

A national energy policy is really necessary for national security reasons. Right now, we are dependent upon foreign countries for 57 percent of our energy supply—something that is not acceptable, particularly right now in a time of war.

Where does this issue of hydraulic fracturing come in? I am from Oklahoma, and I understand we have a tremendous reserve down there in terms of marginal production. I started many years ago—probably before many fellow Members were born—in the oil fields in cable tool rigs—something they used before rotaries—the pounding method. I realized at that time how much this meant to the country and how much our shallow production meant.

When we talk about energy policy, we talk about nuclear, as we did in the last amendment, and we talk about ANWR—and it is necessary to get into some of the deep stuff.

In terms of marginal production—wells that have 15 barrels a day, or less, and a comparable amount for gas wells—this has a tremendous prospect to be an important ingredient in a national energy policy. If we had all of the gas wells that have been plugged in the last 10 years, or oil wells that have been plugged, producing today—marginal wells, producing 15 barrels or less—it would equal more than what we are currently importing from Saudi Arabia. So it is necessary to have these wells.

How does hydraulic fracturing fit into this equation? This system has been used—I remember using it myself—since the 1940s. In the 1940s, we had a system of injection in order to get maximum production in both oil and gas wells. Not one time in that period of time—after over a million wells have used this process—has there been any kind of damage to the environment. In the last 15 years, there have been over 100,000 wells using this, with no damage to the environment.

As the Senator from New Mexico points out, this is not a partisan thing. The Clinton administration supported this, the Bush administration supports this, and Carol Browner supported this when I served as chairman of one of the subcommittees of the Environment and Public Works Committee. This is necessary to have, and it does no harm to the environment.

I am honored to join my colleague, Senator BINGAMAN, in supporting this amendment and in saying this is a necessary part of the national energy policy.

I ask unanimous consent that a letter from Carl Smith Assistant Secretary, Office of Fossil Energy, of the Department of Energy be printed in the RECORD.

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

DEPARTMENT OF ENERGY,
Washington, DC, March 7, 2002.

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Senate considers legislation to address our growing dependence on imported oil and to consider ways to promote the production on of our domestic energy resources, I am concerned that the impact of possible restrictions on the use of hydraulic fracturing, the most commonly used technique to stimulate domestic oil and gas wells, may not be well known or fully understood. Therefore, I thought it would be useful to provide you with some information on the essential role this technology plays in today's oil and gas industry.

Hydraulic fracturing is used on approximately two thirds of the onshore gas wells drilled in the United States today and since its inception in 1947, it has enabled the production of over eight billion barrels of North American oil reserves that otherwise would have been unrecovered. It is estimated that hydraulically fractured gas wells produce 10 Tcf of natural gas annually, or nearly sixty percent of the gas produced from domestic gas wells. Further, production of one of our fastest growing sources of onshore natural gas supplies, coalbed methane, would be seriously diminished if hydraulic fracturing was unavailable. Approximately seventy-five percent of the 1.5 Tcf of coal bed methane produced annually comes from wells that were hydraulically fractured.

I would also point out that hydraulic fracturing offers several environmental benefits. By increasing the production of oil and gas from reservoirs that have lower flow rates, hydraulic fracturing reduces the number of wells needed to deplete the reservoir, thereby protecting the environment by minimizing the waste volumes and surface disturbance associated with oil and gas drilling. Also, by increasing the amount of methane recovered from mineable coal seams prior to the start of mining activities, hydraulic fracturing promotes coal mine safety and lowers the amount of methane gas that escapes during mining operations, a significant source of greenhouse gas emissions.

On August 24, 2000, while still Secretary of Energy for the State of Oklahoma, I had the opportunity to raise these points at a workshop held here in Washington by the Environmental Protection Agency (EPA). Also speaking at that workshop was Tom Stewart, Executive Vice President of the Ohio Oil and Gas Association. I managed to find a copy of his remarks on the internet and I thought you might be interested in them. They mirrored many of the comments I heard from my colleagues during the workshop. Tom noted that, ''With very limited exceptions, hydraulic fracturing was used to complete over 55,000 Ohio wells drilled since 1970. Exploitation of the tight Clinton sand would not have been possible without fracturing. The hydraulic fracturing process made the modern Ohio oil and gas industry.''

In September 2001, the Department of Energy's concern with the impact of proposed restriction on the use of hydraulic fracturing, led the Office of Fossil Energy to ask the National Energy Technology Laboratory's Strategic Center for Natural Gas to conduct a study on, ''Quantifying the Impact of Hydraulic Fracturing in Meeting U.S. Natural Gas Supply Requirements''. The number and types of stimulation treatments (hydraulic fracturing) will be quantified, treatment costs will be identified, and natural gas production and price relationships will be reviewed and projected. Results of this study will be available in May of this year but I anticipate that some useful information regarding the important role of hydraulic fracturing will be available over the next few weeks. I will provide this information to you as it becomes available.

I welcome the opportunity to bring this very important matter to your attention. If you need more information or have any questions please contact Peter Lagiovane of my office. He can be reached at, 202–586–8116 or via email at, *peter.lagiovane@hq.doe.gov*.

Sincerely,

CARL MICHAEL SMITH,
Office of Fossil Energy.

Mr. INHOFE. I yield the floor.

Mr. JEFFORDS. Mr. President, I wish to express my opposition and deep concern to the amendment being offered from my good friend from New Mexico, Senator BINGAMAN.

This amendment would prohibit the Environmental Protection Agency from regulating hydraulic fracturing, an oil and gas operation which the U.S. Court of Appeals for the 11th Circuit has held should be regulated under the Safe Drinking Water Act. As chairman of the Committee on Environment and Public Works, which has jurisdiction over the Safe Drinking Water Act, I am very disappointed that this matter is being added to the Energy bill without my committee having held hearings on the matter. Hydraulic fracturing is a method for stimulating recovery of natural gas and coalbed methane by fracturing rock formations through the injection of highly pressurized water treated with various additives. There is substantial question as to the nature of these additives—which are not closely regulated under most state and Federal laws—and whether they have the potential to migrate to public sources of drinking water when hydraulic fracturing occurs.

The amendment would in essence overturn the finding by the Court of Appeals that hydraulic fracturing must be regulated under the Safe Drinking Water Act. The amendment would require EPA to conduct a study to determine whether hydraulic fracturing would contaminate groundwater. Only after completing the study would EPA

be free to regulate the activity and protect drinking water wells, unless during the interim the EPA found emergency circumstances. I do not believe the record provides ample support for a conclusion that little harm will occur during the course of this study, and the EPA should not be barred from regulating hydraulic fracturing until the study is completed. Further, I do not believe the EPA should be the sole determiner of whether these activities should ultimately be regulaed. That issue is properly within the realm of Congress to decide. Such a decision should be made after the benefit of full congressional review. That has not occurred here.

This is not a question of blocking oil and gas development. Oil and gas development has been proceeding briskly within the State of Alabama since the EPA instituted new regulations under the Safe Drinking Water Act for hydraulic fracturing operations, pursuant to the order of the court. Nobody has gone out of business. The industry simply objects to additional costs they are incurring, costs which appear to be relatively minor, and which are directed solely to helping protect the adequacy of the public's drinking water supplies. This matter is squarely within the jurisdiction of the Committee on Environment and Public Works, and as chairman, I must object to inclusion of this amendment within the energy bill, without the matter being properly examined and dealt with within the committee.

For the above reasons, I oppose the amendment.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the time until 2 p.m. today be for debate with respect to the following amendments: the pending Voinovich amendment No. 2983, and a Bingaman or designee amendment regarding hydraulic fracturing to be offered; with the time to be equally divided and controlled with respect to these amendments; that there be no second-degree amendments in order prior to a vote in relation to these amendments; that the votes with respect to these amendments occur in the order offered; and that if an amendment is not disposed of, the Senate continue the vote sequence which was not disposed of previously.

Before asking that the request be agreed to, I yield to my friend from New Mexico for sending a modification to the desk.

AMENDMENT NO. 2986, AS MODIFIED

Mr. BINGAMAN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment (No. 2986), as modified, is as follows:

At the end of title VI, add the following new section:

"SEC. 610. HYDRAULIC FRACTURING.

''Section 1421 of the Safe Drinking Water Act (42 U.S.C. Sec. 300h) is amended by adding at the end the following:

''(e) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—

''(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.—

''(A) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, and within specific regions, States, or portions of States.

''(B) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.

''(C) STUDY ELEMENTS.—The study conducted under subparagraph (A) shall, at a minimum, examine and make findings as to whether—

''(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, states or portions of States;

''(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and

''(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.

''(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation.

''(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (1)(B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

''(ii) At the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a state. Subparagraph (4) of this subsection shall apply to any such determination by the Administrator.

''(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking her broad study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

''(2) INDEPENDENT SCIENTIFIC REVIEW.—

''(A) IN GENERAL.—Prior to the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.

''(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on the—

''(i) findings related to the study conducted by the Administrator under paragraph (1);

''(ii) the scientific and technical basis for such findings; and

''(iii) recommendations, if any, for modifying the findings of the study.

''(3) REGULATORY DETERMINATION.—

''(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed or accumulated in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either:

''(i) that regulation of hydraulic fracturing under this part is necessary to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State; or

''(ii) that regulation described under clause (i) is unnecessary.

''(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

''(4) PROMULGATION OF REGULATIONS.—

''(A) REGULATION NECESSARY.—If the Administrator determines under paragraph (3) that regulation by hydraulic fracturing under this part is necessary to ensure that hydraulic fracturing does not endanger underground drinking water sources on a nationwide basis, or within a specific region, State or portions of a State, the Administrator shall, within 6 months after the issuance of that determination, and after public notice and opportunity for comment, promulgate regulations under section 1421 (42 U.S.C. 300h) to ensure that hydraulic fracturing will not endanger such underground sources of drinking water. However, for purposes of the Administrator's approval or disapproval under section 1422 of any State underground injection control program for regulating hydraulic fracturing, a State at any time may make the alternative demonstration provided for in section 1425 of this title.

''(B) REGULATION UNNECESSARY.—The Administrator shall not regulate or require States to regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This provision shall not apply to any State which has a program for the regulation of hydraulic fracturing that was approved by the Administrator under this part prior to the effective date of this subsection.

''(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

''(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term 'hydraulic fracturing' means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

''(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 300i).

''SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000 for fiscal year 2003, to remain available until expended, for a grant to the State of Alabama to assist in the implementation of its regulatory program under section 1425 of the Safe Drinking Water Act.''.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. REID. Mr. President, for Members, we have until 2 p.m. today to debate these two amendments. We have been told other people want to speak on Price-Anderson, and certainly others want to talk about hydraulic fracturing. We also have some people who have indicated to me and others that they wish to do so. This would be an appropriate time to do that.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. I yield the Senator from Alabama 5 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Chair and I thank Senator INHOFE for giving me this time. I particularly thank Senator INHOFE and Senator BINGAMAN for their leadership in moving forward on the hydraulic fracturing issue.

The purpose of this bill is to help us produce more energy, and cleaner energy, to meet our energy needs more at home from our domestic sources, but also to do it in a cleaner way. There are a lot of things we can do to make that happen.

One significant and important event is to deal with the hydraulic fracturing issue. I believe we can make some progress. This is a process that is used for the production of coalbed methane. They use high-pressure water, carbon dioxide and sand to create microscopic fractures in coal seams, and that releases the methane that is in that coal seam. That is the basic process.

Of course, carbon dioxide is readily available in the atmosphere. It is not a pollutant, the sand is not a pollutant, and water is not a pollutant. They have never believed that this process in any way was a polluting enterprise.

Most States in which hydraulic fracturing is used—including my State of Alabama—have implemented regulations to ensure that hydraulic fracturing continues to be used in a safe manner. The technique has been used safely by coalbed methane oil and gas producers for over 15 years, and there has never been a single event of contamination to underground drinking sources.

The history of this issue is kind of simple. Currently, EPA has directed the state of Alabama to regulate hydraulic fracturing under the Safe Drinking Water Act. Neither EPA nor Congress ever intended to be regulating this procedure. However, in 1995 a lawsuit was filed against EPA.

This was Carol Browner's EPA, which was very aggressive in regulating anything that needed to be regulated. They claimed that the hydraulic fracturing in Alabama should be regulated under not an obscure but a significant rule called the Underground Injection Control Program that was established by the Safe Drinking Water Act.

The Underground Injection Control Program was designed to regulate the disposal of hazardous waste underground, but fluids and sand used in hydraulic fracturing certainly are not hazardous waste.

The lawsuit was filed and the EPA defended it. They said we should not be regulating this. They defended it in court: It did not fit within the purposes of the UIC Program, and that the State of Alabama already sufficiently regulated the process, and the procedure itself posed little risk to underground drinking water sources or to the environment.

In 1997, the Eleventh Circuit Court of Appeals, in analyzing the statute written by Congress, found that the language in the statute, whether Congress intended to cover it or not, reading the plain wording, covered injection of carbon dioxide and sand in the ground and it is covered by the Safe Drinking Water Act. We have been trying to do something about this situation for quite some time. It has been a burdensome process.

Congress has come up with a number of ideas. The EPA pretty well indicated at the beginning they supported fixing this problem, and we have moved forward on it. I believe this compromise which Senator BINGAMAN and Senator INHOFE have talked about—a thorough scientific review—will show that there is no environmental degradation whatsoever. Once that is done, we can fix this process and get it back into the normal scheme of things.

This is a big impact on my State. We are the second-largest producer of coalbed methane in the country. It is a process that started in Alabama. The technology was developed in Alabama. I guess that is why they picked on our State to file the lawsuit. As a result, this has had a significant adverse impact on the State of Alabama.

We have had 300 new hydraulic fracturing proposals submitted since the lawsuit.

The PRESIDING OFFICER (Mr. CLELAND). The Senator's time has expired.

Mr. SESSIONS. I ask I be allowed 2 additional minutes.

Mr. BINGAMAN. Mr. President, I yield another 5 minutes to the Senator.

Mr. SESSIONS. Mr. President, I thank the Senator. That is very generous.

It has fallen particularly hard on the Alabama Department of Environmental Management whose budget is strapped at this time. Their financial problems have made a lot of news, frankly. Since this is a matter of national importance, I believe it is appropriate that Alabama, which is the State most adversely impacted at this time within the Eleventh Circuit where the court ruling applies, be given some compensation toward the cost of administering and reviewing these 300-plus proposals.

I am pleased we were able to work out an agreement that $100,000 will be authorized for that purpose. I am pleased Senator BINGAMAN and Senator INHOFE, as I understand it, have agreed that if this continues to be a problem or if there is sound evidence that additional moneys are required to do this—more than the $100,000 that will be approved—they will consider that in conference as we move forward with the bill.

Methane is one of the cleanest of all burning fuels. Methane produces good energy and, at the same time, it is very clean energy. The fact that we can draw the cleanest of all burning fuels from land within the United States is a good thing that we should be promoting. This is the kind of energy production that should be promoted in the country. I am glad we are moving forward finally to get this settled so we can enhance the production of coalbed methane throughout the country. It will be a good step forward.

In conclusion, this is a new source. Every Btu of energy we take from gas, or from gasoline and oil, that we purchase from outside our country is a drain on the wealth of this country. It generates economic activity in the country from which we purchase it. It does not generate economic activity in the United States. It is a net transfer of American wealth. That is why I believe this is not just an oil industry issue, this is not a big business issue, this is not simply an environmental or non-environmental issue. I believe we need to increase energy production in America because it is a matter of economic importance. It generates jobs and wealth in our country, not in Venezuela and the kind of government they have there, or Saudi Arabia, or Iraq. It creates wealth in the United States. It keeps our dollars here. It generates jobs here.

To me, there is no more worthwhile energy production than one of the cleanest of all: Coalbed methane. I am pleased we are moving forward, even though it is going to take a little longer than I would like, to get this regulatory matter settled and to enhance this production. It will be good for America.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Alabama. We have been working on this for a long time. For 4 years, we have actually had an amendment that would accomplish this. The approach we are taking now is the right approach because it is letting scientists decide, not people who come to this Chamber and say hysterically there is going to be harm done to the environment. We can look at history, and, as we have said several

times before, of the over 1 million of these processes that have taken place, there is not one bit of evidence of a problem to the environment.

I have a letter from the Ground Water Protection Council. It is a group of EPAs throughout America. They strongly endorse this amendment.

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

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

GWPC,
Oklahoma City, OK, March 7, 2002.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The Ground Water Protection Council (GWPC) strongly encourages you to support the Bingaman-Inhofe Hydraulic Fracturing Amendment.

The GWPC is a national association of state agencies who regulate the nation's ground water and underground injection control programs. Our members and Board of Directors are professional geologists, hydrologist, geo-chemists and petroleum engineers.

As the state agencies charged with protecting the nation's ground water supplies and regulating the oil and gas industry, we are very concerned that failure to pass the amendment would result in an additional and unnecessary regulatory burden on both states and the industries they regulate, with no environmental benefit.

We are aware of a March 6, 2002 letter to you opposing the Bingaman-Inhofe Hydraulic Fracturing Amendment and have the following comments:

In no state is the oil and gas industry exempt from the requirements of the Safe Drinking Water Act. A number of activities conducted as part of oil and gas exploration and production are regulated under the UIC program, including injection of produced water and some related wastes. Hydraulic fracturing is fundamentally different because it is part of the well completion process, does not ''dispose of fluids'' and is of short duration, with most of the fluids being immediately removed.

Fracturing fluids do not contain MTBE. Fracturing fluids may contain small amounts of other hazardous chemicals but constituents such as benzene do not appear in fluids that would be used in fracturing shallow formations. Such fluids are used in deeper formations that are usually thousands of feet below the strata that drinking water wells actually tap into.

Any ''regulatory rollback'' would occur only after careful EPA study and only if EPA determined, based on the study and the peer review by NAS, that federal regulation of hydraulic fracturing is not necessary.

The letter ignores the fact that states already regulate underground injection and hydraulic fracturing. In fact, the ''exclusive deal'' for the oil industry that is alleged in the letter was in actually a recognition by Congress in 1980 that states were already effectively regulating oil and gas exploration and production activities and had done so for years. Congress further recognized that it did not make sense to change these effective state programs by making the states comply with redundant federal regulations.

The letter alleges that hydraulic fracturing threatens underground sources of drinking water. The letter does not allege that hydraulic fracturing has actually resulted in adverse impacts to USDWs because no such impacts have ever been confirmed.

The proposed amendment would not ''overturn two Court of Appeals decisions.'' It certainly would not overturn LEAF II. In fact, it codifies LEAF II. It doesn't even overturn LEAF I, but would allow EPA to determine that the current state/EPA regulatory partnership is working effectively and that additional federal regulation is not necessary

The proposed amendments would not ''fully suspend'' regulation of hydraulic fracturing. Current state regulations would be unaffected and remain in force.

On behalf of the Ground Water Protection Council, we again urge you to support the Hydraulic Fracturing Amendment.

Sincerely,

MICHEL J. PAQUE,
GWPC Executive Director.

Mr. INHOFE. Mr. President, again, we are saying let's not get emotional about this. Let's not come up with all kinds of accusations. Instead, let's let science decide. Right now, scientific studies subjected to an independent peer review is an appropriate way to determine if Federal regulation of hydraulic fracturing is necessary. The required National Academy of Sciences review of EPA's findings approves an independent verification of the study's results. When the study does come in, it does not necessarily mean EPA has to follow the dictates, the results of this study, but they can and they may decide to do another study. At least we are letting the scientists make a decision as to who is right.

I cannot overemphasize, as the Senator from Alabama talked about how clean natural gas is, how clean it is. That is not even debatable. It is in such plentiful supply. We need this.

Eighty percent of the wells that are done have to use this technique in order to produce the natural gas that is necessary to fully utilize that source. So I think this is a very balanced approach, and it is certainly bipartisan.

I applaud our Senator from New Mexico, along with others who have joined us in supporting this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I also commend the Senator from Alabama for his effort in this regard. I do think his proposed modification of our amendment makes a good deal of sense, and we were very pleased to accept that. He does have some peculiar problems in Alabama in trying to implement their regulatory program, and I think clearly we want to see that State succeed. That is his objective as well. So I am glad we could accommodate that concern.

I yield the floor.

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. BINGAMAN. 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. BINGAMAN. Mr. President, I ask unanimous consent that the time during the quorum call be counted equally against all the Senators who are controlling time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I would like to share some thoughts as we move toward a vote on the Price-Anderson nuclear liability amendment that will be coming up later this afternoon. It is an important amendment. It represents an extension of current policy, and it is something we should do. The reason we should do that, I am so firmly convinced, is that nuclear power is an important component of our national energy mix. One out of every five times Americans turn on their light bulbs, one out every five times Americans turn on their refrigerators, or turn on anything else, one out every five times Americans use electricity, that electricity is produced thanks to nuclear power.

Currently, 20 percent of our supply comes from nuclear power. I think it is time for us to consider not only maintaining that but actually increasing that percentage. The Palo Verde Nuclear Generation Station in Arizona, for example, generates more electricity annually than any other power plant of any kind, including coal, oil, natural gas, and hydropower. We simply have to realize the potential of this energy source and join many of the other leading nations in the world in continuing to implement nuclear as a major component of our energy mix.

The Energy Information Agency predicts a 30-percent increase in the demand for electricity in this country by the year 2015—a 30-percent increase in demand over the current level. Twenty percent of our power today comes from nuclear power. France produces over 60 percent from nuclear. Japan produces nearly 50 percent of its electricity from nuclear power sources. In 10 countries, there are 29 nuclear plants currently under construction. The United States has none. We should be following suit. We simply do not need to allow the rest of the world to get ahead of us on the question of producing power by nuclear energy.

I have enjoyed visiting our nuclear plants in Alabama. The Tennessee Valley Authority is setting records for safety, reliability, and productivity at their Browns Ferry plant. They have 1,000-plus employees making high wages and producing a steady source of energy 24 hours a day. They have the time to shut down those plants for refurbishing, and the cost has been reduced quite significantly. It is an important part of our energy mix.

Shortly after I came to the Senate, I attended the 44th Annual Session of

the North Atlantic Assembly in Scotland. Members of parliaments from throughout the North Atlantic nations attended. At that meeting, the Ambassador to the United Nations International Energy Agency appointed by President Clinton, John B. Ritch, III, stated in his presentation that electricity demands will double in the world by 2050 and the one technology capable of meeting a large baseload with negligible greenhouse emissions is nuclear power.

He added:

In the century ahead, mankind must place great reliance on harnessing the nuclear genie and using it to maximum effect, if our needs are to be met and our security preserved.

In fact, he went into some detail about the cost and the benefits of alternative sources of power. He concluded that they all have some benefit but that none can even come close to meeting this huge surge in demand the world is going to be facing in the decades to come.

Nuclear energy is a clean source of energy. It is environmentally friendly. I am astounded we have the debate that we have over whether or not nuclear energy is a positive thing for the environment. It most certainly is. Nothing else can produce this kind of source of power with no air pollution from it.

We would never have air as clean as we have today if we dropped all our nuclear plants and started producing that energy with coal or oil. We could not come close to that. According to a study conducted by Energy Resources International, nuclear energy has prevented the release into the atmosphere of 219 million tons of sulfur dioxide, 98 million tons of nitrogen oxide, and 2 billion tons of carbon dioxide since 1973.

Annually, nuclear power prevents the release of 5.1 million tons of sulfur dioxide, 2.4 million tons of nitrogen oxide, and 33 million metric tons of carbon.

In Alabama, there are currently two nuclear powerplants: Browns Ferry and Farley. In 1999, those powerplants avoided the release of approximately 163,000 tons of sulfur dioxide emissions, 90,000 tons of nitrogen oxide emissions, and 6.8 million metric tons of carbon emissions.

The building blocks of ozone, that we know is not a good thing in our atmosphere, as we have created it in manmade quantities—an irritant to our lungs, a health risk to children and the elderly—are not emitted at all by nuclear powerplants. Ozone precursors are fossil fuel produced.

Implementing nuclear energy is the only way we can meet our projected energy demand while simultaneously reducing the release of sulfur dioxide and nitrous oxides. Furthermore, nuclear energy does not emit carbon dioxide, which is what people blame for global warming. That is a matter I think people cannot dispute.

It strikes me as hypocritical that those who complain most and express the most fear about global climate change are, in general—but not always—the same people who are against nuclear power. Many of these people, I believe, unfortunately, are not rational on this subject. People have referred to them as ''nuke kooks.'' But, whatever, they are obsessed with blocking nuclear power.

A few years ago the American Society of Mechanical Engineers, a reputable professional organization composed of innovative individuals, engineers, who design solutions to meet our energy needs, issued a paper regarding climate change. In the paper, they made numerous statements regarding the importance of nuclear to our energy mix. They stated:

It is unlikely, however, that a worldwide, stable atmospheric carbon dioxide concentration—

That is, a stable amount of carbon dioxide in the air—

can be reached without the use of nuclear, renewable, and biomass energy for electric power generation.

Our legislation significantly promotes biomass and renewable energy. There is little in this bill to really increase nuclear power.

I continue to quote:

Assuming that the historical trend continues in which electricity consumption follows economic growth, it becomes essential that the U.S. environmental policies include retention of existing nuclear power generation capacity. Indeed, these policies should include development and implementation of additional nuclear power reactors to meet a growing demand for electricity. . . .

Looking at this matter objectively, just at the overall picture of our energy demands, it is clear to me that nuclear energy is the only viable solution to meeting both our energy demands and our environmental objectives. It will produce power required to meet our energy needs in a safe and environmentally friendly way.

People say: It is risky. It is dangerous. The people who live near the nuclear reactors in Alabama with whom I meet and talk are very strong supporters of nuclear power. The overwhelming majority of Americans favor nuclear power. They favor the expansion of nuclear power.

But let's talk about the safety record.

The nuclear energy sector has, in any way you look at it, a stellar safety record. We have not lost one life in this country—ever—as a result of a nuclear power accident in the history of this country. How many people have we lost in accidents with trucks and trains carrying coal, or with pipelines carrying natural gas, or in coal mines, or in other ways where lives are lost in the production of other unclean sources of energy, the kind of sources of energy that produce NOx and SOx and the kind of adverse exposures to health that come from fossil fuels? So we have those kinds of unhealthy actions, too, in addition to just the safety factor in producing the energy.

The main reason the nuclear industry is so safe is that it is overseen—originally by the Atomic Energy Commission and now the Nuclear Regulatory Commission. As a member of the Environment and Public Works Committee at the time, we had a number of hearings about the oversight by NRC. They are meticulously reviewing and monitoring nuclear plants all over America. They do that on a constant basis. They are exceeding other countries in the cost of their supervision and in the minutiae of it. But we have not had any accidents.

We had the problem at Three Mile Island. A major sea change has occurred since then. A recent study has shown that no one suffered injury from the Three Mile Island accident, even though, if you asked Americans, they would probably think people were injured from it. But a scientific study has indicated there were no injuries, whatsoever, as a result of that accident.

But since then, we have learned and we have stepped up, even to a much higher degree, our supervision by the Nuclear Regulatory Commission of nuclear plants. I do not believe we will see that ever happen again. I believe we would react so much better, if anything were to begin to happen like that, that we would not see that kind of event occur again.

We are also looking at new and special ways to produce nuclear power, new kinds of reactors where it would be impossible to have a nuclear reactor explosion or break.

Last June, at the Economic Club of Chicago, in a major address, Alan Greenspan, Chairman of the Federal Reserve Board—the architect, I suppose, of our economy—talking about what America needed to do, made this statement:

Given the steps that have been taken over the years to make nuclear energy safer, and the obvious environmental advantages it has in terms of reducing emissions, the time has come for us to consider whether or not we can overcome the impediments to tapping its potential more fully.

Doesn't he always have a nice way of saying those things?

I think it is time for us to consider the impediments to the expansion of nuclear energy. I agree with him, especially in light of our goal of cleaning up our air.

Every year, the Federal Government provides tax credits and financial incentives for solar cells and wind turbines and biomass sources. I supported many of those. We are not providing anything here for nuclear energy. I think we need to consider that.

Many people have objected, saying, you have no place to put nuclear waste, and this is, somehow, the Achilles' heel of nuclear power. They act as if the amount of nuclear waste would cover the entire State of Rhode Island, I suppose, and that nuclear waste is so hazardous, if you move it on a rail or truck, it could blow up and kill us all.

The truth is, if a truck loaded with nuclear waste were to roll over or a train were to roll over, as Senator MURKOWSKI says, it does not blow up, it does not flow off into the air; you just pick it back up, put it on the track, and send it off.

We can move nuclear waste. There is no danger in that. It is an irrational thing that we have created this idea that somehow it is greatly disastrous and risky to move nuclear waste to an acceptable site to store it.

I applaud the work of the Secretary of Energy, Spence Abraham, a former Member of this body, and President Bush who are moving forward with a decision on Yucca Mountain to store this waste. It is the culmination of decades of scientific study, consultation with science and environmental advisers, and meetings with leaders and citizens in Nevada. Finding a safe and central repository is mandated by a law passed years ago, and it is also necessary for America's homeland security. For example, 40 percent of our Navy's fleet is powered by nuclear power. The lack of a repository drives up the cost of nuclear power, rendering this clean power generation less economical than it would be and less competitive.

Certainly one of the main reasons we are not building new plants today is because of the waste problem. Of course, those who oppose nuclear energy, I strongly believe—and a fair person would agree—have used this as a tool to attack nuclear power and not allow us to proceed in a rational way.

Nuclear materials are now stored in 131 aboveground facilities in 39 States in America; 161 million Americans live within 75 miles of these sites. One central site in the Nevada desert, where we exploded nuclear bombs on the surface when we were first learning how to make nuclear bombs, provides much more protection for America, much more security, and is much cheaper than keeping all these other sites that have been ongoing.

Nobody has ever been injured from the 131 sites we now have. They are going to bury it in the ground, spending billions of dollars paid for by the nuclear energy companies, part of the rates they charge, to fund this site. We need to use that. We have the ability to solve this problem, to move ahead with it. The only objection I can see, other than some of the people in Nevada that oppose it, is that it would relieve an objection, it would remove an objection that the antinuclear supporters have used to hide behind in their opposition to nuclear power.

This nuclear liability amendment we will be voting on this afternoon is critical to helping us maintain, not expand but maintain our current clean source of 20 percent of our electricity. We ought to pass that. We ought to open our eyes to the possibilities for the world for the expansion of nuclear power.

It has been said that the lifespan of human beings on this globe who have ready access to nuclear power electricity is twice that of countries where it is not readily available. Electricity is one of the great discoveries in the history of mankind. If you don't think so, what would it be like to have to cook by fire every day or wash your clothes in the river? It is an energy system that has done so much for the world.

We have large portions of this world—think about India, China, South America, not nearly at full capacity on electricity—that could use much more electricity. How are we going to produce it? What will happen to our global warming theorists when they start using coal and other fossil fuels in huge numbers to meet their growing demands for power around the world? Do they think they are not going to expand their electricity? How could we ask them not to? How could we ask a poor country where people are dying at 40 and 45 years of age, with all the adverse consequences, not counting the quality of life, to not expand their energy? They are not going to be able to do it solely with solar and windmills and biomass. It is just not there; the numbers are not there.

Yes, we can do conservation. Yes, we can reduce our use. Yes, we could be more efficient. I visited an Alabama plant not long ago that makes refrigerators. That product they produce uses one-half the electricity of one of the same size used 10 years ago, but you can't go much lower. It takes a certain amount of electricity to run a refrigerator. We have a limit on how much we can conserve.

In fact, many of our better and easier steps toward improving efficiency have already been found. We are using them. The new steps to make ourselves more energy efficient are out there. Many more can be done. But they will not make as big an impact as the ones we have already undertaken. That is the law of science.

It would be an error of colossal proportions for our environment, for safe energy, and for low-cost power, if we do not deal with the question of nuclear liability. I believe we will do that. I am confident we will pass it later on this afternoon.

We also need to, as a nation, shake off the misinformation about nuclear power. Look at it. Consider the fact that we lost not one life in America as a result of the production of nuclear power, that we have not lost any lives as a result of breathing pollutants, as we probably have, as we certainly have, from coal and other plants, as a result of breathing the air around nuclear plants.

This is a good environmental issue. It is a good energy issue. It has the potential to move us forward. We need to be thinking about the great potential to make the plants that are more modern and more efficient and even more safe than today. In fact, some can be designed that make it impossible to release radioactive material.

I know we will be voting later on this afternoon on this amendment. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). 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. Mr. President, I ask unanimous consent that the vote that is now scheduled for 2 o'clock today be rescheduled for 2:15 p.m. under the same conditions of the previous unanimous consent agreement, and the only change I request is between the first and second vote there be 2 minutes equally divided for those who wish to speak on the amendment.

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

Mr. REID. 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. SESSIONS. 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. SESSIONS. Mr. President, I have some further comments specifically addressing the Price-Anderson insurance program for nuclear powerplants that we will be voting on a little later this afternoon, maybe around 2:15. Making some points about the details of it, 45 years ago the nuclear power industry said if they were going to go forward with this new source of power, they wanted to be able to develop an insurance program that would work and that would assure the communities in which they are building these plants they would be operated safely, and if something bad occurred that everybody would be compensated.

Those communities have been confident in that process ever since, but the act does expire and it is time for us to extend it. It would be a terrible mistake if we did not. It would cause quite a bit of heartburn.

I will share a few thoughts about how this insurance program works. I believe people would feel good about it and want to go forward with it. The average business in America that does the things they do every day may have products on their premises that are somewhat dangerous. If a terrorist or somebody blows it up and it kills people, it is not their fault. They are not liable. They did not do anything wrong. They were not negligent. They were not irresponsible. They were not reckless, and they did business in a safe way.

Of course, the nuclear power industry operates precisely the way the Nuclear Regulatory Commission tells them to

operate, in a safe fashion. At any rate, they are doing what they can to comply with the law and the regulations, and they have had this insurance policy. Each plant has a $200 million policy for which they are personally responsible. If anything happens, they carry their own $200 million policy. The entire industry has come together and pooled up to $9 billion of a policy, and this is sort of structured by the Price-Anderson Act, and it is all paid for by the nuclear power industry.

Above that, if something were to happen so badly above that, then the Federal Government would have liability to pay under Price-Anderson. That is what our American communities have had a right to expect. They were told that when the plants were built, and we need to continue that policy today. We certainly do not need to stop it. I believe the votes are there, and we will pass an extension of Price-Anderson. It would be a bad thing, cause unnecessary heartburn, would be a breach of the fundamental promises of the Federal Government that we do that if we did not extend it, and also it could weaken the nuclear power industry, further containing any hope of expansion of this 20 percent of our electric-generating capacity that produces no pollution.

As I noted earlier, the U.S. nuclear powerplants prevent 5.1 million tons of sulfur dioxide from being emitted into the atmosphere, 2.4 million tons of nitrogen oxide, NO_x, and 164 metric tons of carbon from entering the Earth's atmosphere. That is the kind of thing they do on a regular basis, producing power cleanly and safely for the benefit of humankind throughout this country.

For over 45 years, Price-Anderson has provided a guaranteed compensation to the public in the event a nuclear accident were to occur. It provided coverage for precautionary evacuations and out-of-pocket expenses, reducing delays that are inherent in any kind of lawsuit that would have been filed, maybe taking years. It guaranteed prompt payment by the insurance companies; no lawsuits. You are liable. You accept strict liability, which is not the law, as I noted, for other businesses, and it consolidated the matters in a single Federal court so promptness and efficiency and fairness can occur. That is a good policy. We ought not to end it now.

It is important for safe and clean power to be continued to be produced for America, and I believe we will have a strong vote in favor of it this afternoon. Thus, I note there is concern by people, but even in Three Mile Island the total amount expended was less than $200 million, compensating everybody and doing all the things necessary to test and examine and make sure the community was safe; $191 million. That would all be covered by that insurance company's own policy, that power company's own policy. If it went above that, up to $9 billion, then the industry would pay for it. Only above that would the taxpayers have any risk. I think it is a good bargain for America. It is a sound program. We ought to continue it.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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. Mr. President, I was with Senator LOTT during the lunch hour and was not able to hear all the remarks of the Senator from Alabama, my friend, Mr. SESSIONS, but my staff did outline for me some of the things he said.

This is not the time and the place for a discussion, debate, on things nuclear in the true sense of the word. That time will come.

Price-Anderson points up the problems we have with nuclear power. If in fact nuclear power was such a good deal, why does it need a subsidy? Wouldn't any other utility love to have the Federal Government backing its liability? That is, in effect, what Price-Anderson does.

Many years ago, when nuclear power was an experiment and was in its infancy, and we, the Government, Congress, the President, decided to give it a shot in the arm to see if it would work, even back then everyone recognized the dangers of nuclear power. We have had since then Three Mile Island and other problems. It was simply a question that they could not get the places insured.

We are now told these places are so safe, there is no reason for the subsidy. If these places are so safe, they should be able to buy insurance. If they can't buy insurance, then the amendment I offered should have been followed; that is, there should be real, true accounting in determining liability of these companies. It is clear the nuclear power industry is now a mature electricity industry that no longer needs liability protection.

Price-Anderson has actually led to a decrease in the amount of private insurance available. In the 1950s the private insurance industry was willing to insure an accident for $50 million, despite experience with the new technology. Today, the private insurance industry only provides $200 million insurance. That does not keep up with inflation.

One of the things that is wrong with Price-Anderson is, how do they determine the $200 million that they have available in case there is an accident? What they should do is have a surety bond, a letter of credit, some type of escrow account, or perhaps government securities or insurance.

If there were ever an Enron example, it is this. They have a showing that they either have a cashflow or cash reserve that can be generated and would be available within 3 months. Not now—within 3 months. That is, as far as I am concerned, sheer foolishness.

I wasn't born yesterday. I know this amendment is going to be agreed to, but it should not be agreed to. I think nuclear power should stand on its own two feet. In Nevada, we are trying to develop large windmill factories to produce electricity. They are going to put up their own money. There is no Government assurance if somebody gets hurt out there the Government will pick up the expense. The same is true with solar, geothermal, biomass, coal, and natural gas. So Price-Anderson should fail.

As I have indicated earlier today, virtually every environmental group in America is opposed to this legislation.

I offered an amendment. I talked about it this morning. Every environmental group was in favor of my amendment. But we have a situation now where this amendment is being pushed forward. As I said in the presence of my friend, the junior Senator from New Mexico, I am disappointed he is cosponsoring this amendment. I think it is wrong. I think we should follow the Friends of the Earth, Sierra Club, Environmental Defense Fund, the Union of Concerned Scientists, Defenders of Wildlife, USPIRG, Safe Energy Communications Council, Natural Resources Defense Council, National Environmental Policy Act Trust, Nuclear Information Resource Service, League of Conservation Voters, Taxpayers for Common Sense, Public Citizens for Critical Mass, and STAR. These are entities that are concerned about the environment and they say Price-Anderson is not good for the environment.

So I hope Members will look closely at what they are doing. There will be a few votes against this. There should be a lot more. I am very disappointed that we cannot slow this down.

This bill is important legislation for the country, and I recognize that. I think the work we did yesterday was so important, to allow a pipeline to come from Alaska. That would have 50 million tons of steel to construct the pipeline. It would be 2,100 miles of pipe creating 400,000 jobs. That is what we should be doing.

About 40 trillion cubic feet of natural gas can come down that pipeline. That is big. Of course, this is relatively new. It wasn't many years ago that natural gas was just pumped out into the environment. It served no purpose. Now, of course, we use it to power many of our powerplants in America today.

As I said earlier, there is going to be a time in the next several months to talk in more detail about nuclear waste, but this is not the time or the place to do it. I look forward to a vote in approximately 20 minutes to take care of the matter that Senator BINGAMAN offered dealing with hydraulic fracturing, and also the amendment

dealing with the Price-Anderson legislation. I hope the Price-Anderson legislation gets a significant number of votes against it.

Mr. INHOFE. Mr. President, I ask how much time remains on both sides.

The PRESIDING OFFICER. The Senator from Oklahoma, on his side of the aisle, has no time remaining.

Mr. REID. If the Senator from Oklahoma wishes time, how much time does he wish?

The PRESIDING OFFICER. The Senator from Nevada has 21 minutes remaining.

Mr. INHOFE. Five minutes?

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. INHOFE. Mr. President, I thank the Senator from Nevada for giving me some of his time, particularly since we are not in agreement with each other on one of the two votes that will be taking place.

I spent 30 years of my life in the insurance business. I know the Chair knows a little bit about this business—he spent some time there, too. I think the Price-Anderson program as an insurance program is a good deal for the public. For over 45 years, Price-Anderson has provided immediate and substantial private compensation to the public in the event of a nuclear accident. It has provided coverage for precautionary evacuations, out-of-pocket expenses, has reduced delays that are inherent in court cases, and has consolidated all cases into a single Federal court.

I think it is also important to recognize it has never cost the Government any money. This is not a Government program.

Going back to my third point, if we didn't have something like this, then we would be dependent upon the tort system in this country. We are going to hear about the delays and the cost. This is one of the programs that has been successful for 45 years. When it gets down to some of the people who are opposing the program, they are actually opposed to nuclear energy.

I am old enough to remember back in the 1960s and 1970s, the hysteria that hit the streets when they were talking about nuclear energy and picketing and protesting. As the years went by, other problems came up with other forms of generation of energy.

We went through a long period of time during the Clinton administration with the EPA coming up with some ambient air targets that were not realistic. It created great problems. So we started talking about all the pollutants, emission problems, refineries—keeping in mind all during that discussion our refineries were at 100 percent capacity. Yet we were trying to add more and more problems to them with new source review and other programs, making it just a very expensive program.

During that time, a lot of the people who 20 years before had been picketing because they were opposed to nuclear energy, realized that nuclear energy is safe now, it is clean, and it is abundant.

The thing that I stress when we are talking about energy is we want all forms of energy—we want renewables, we want nuclear energy, we want fossil fuels, we want all the forms of energy because we do not want an energy crisis.

As far as nuclear energy is concerned, we are only dependent on that for 20 percent of our energy needs. France is 80 percent dependent. I think we will see in the future that percentage is going to have to go up until some of the renewables and other experimental systems come into play where we can depend on them for an abundance of energy. Until then, we are going to have to be using some of the energy sources that we know work and work today. Certainly this is one of them.

The assistant majority leader also mentioned we will have two votes starting at 2:15. The other is on hydraulic fracturing. I think it is important to talk about that in the same vein because there you are talking about natural gas. I am from Oklahoma. We know a little bit about natural gas. We know it is among the cleanest forms of energy out there. It is plentiful. It is inexpensive. But as far as being plentiful, one of the problems we are having is we have to be sure that we can maintain what we are doing right now in bringing natural gas out of the ground.

Right now, and for the next couple of years, we will be able to do that. However, because of the court decision that has already been discussed on the floor by a number of the Senators, we could be having a problem. The system, the procedure of hydraulic fracturing where you are forcing the natural gas or the oil out of the rock formations, is one that has been proven and has been used since the 1940s.

We are talking about 60 years we have been doing this. In 60 years and over 1 million wells where we have used this procedure, we have yet to have any environmental problem. So it kind of blows my mind there would be people, after 60 years of success, who would say there might be an environmental problem with it. There is no environmental problem with it.

The only problem right now is a court case for which we are going to have to go ahead and complete a study.

It is important for all my colleagues to realize on this vote today all we are talking about is completing the study that is underway right now. The EPA does not have to follow the guidelines of that study. They can authorize another study. But this amendment is to at least let science step in and say: Since there has not been a problem before, here are the risks of a problem in the future. If there is not a problem, we need to go ahead and eliminate that obstacle so we will be able to continue using that system.

Mr. President, 80 percent of the wells right now—and it is a higher percentage when you go to my State of Oklahoma because most of those are marginal wells, wells with 15 barrels a day or less—but 80 percent of them are going to have to use hydraulic fracturing. That system is necessary in order to come up with the natural gas we need.

Mr. REID. Mr. President, I started out my legal career as an attorney for insurance companies. I did lots of trial work representing insurers in automobile accidents, hospitals, and hotels. I have some knowledge of insurance. I have no question that Price-Anderson gives the nuclear generators a subsidy and an unfair advantage.

Having said that, I want to comment briefly on some of the things my friend from Alabama said, I am told, about nuclear power and the high-level nuclear repository that is being contemplated in Nevada.

First of all, the GAO said there are 292 scientific investigative reports for which the Department of Energy is waiting. It wasn't time to go forward with that.

In addition to that, the Nuclear Waste Technical Review Board, led by the prominent American scientist, Jared Cohon, who was dean of the forestry department at Yale and is now president of Carnegie Mellon, and his group have said that the science at Yucca Mountain is poor.

I think before we get into a long debate here on the floor, which we are not going to do—I said there will be another time to do that—Leader GEPHARDT issued a statement just 2 days ago decrying the Department of Energy's action recently dealing with nuclear waste saying that, among other things, St. Louis passed a resolution saying nuclear waste should not be brought through their city. There are other things, and we will talk about those later.

I hope we can move forward generally on this legislation. By tomorrow we will have spent a whole week on this. I am not certain how much more time Senator DASCHLE can afford to stay on this. We have debt limits, campaign finance, and a lot of other things to deal with. I hope those who believe this bill needs a lot more work will move forward as quickly as possible and do what they think in the way of amendments will improve this legislation, of course recognizing that a conference committee will take place. I think we should do everything we can to move this legislation as quickly as possible.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Madam President, I know our side is out of time. I would

like to ask if I could have a couple minutes.

Mr. REID. Madam President, does the Senator from North Dakota wish to speak prior to the vote at 2:15?

The Senator from Oklahoma may have 3 minutes. Will that be adequate?

Mr. INHOFE. That is fine.

Madam President, I respectfully disagree with what the Senator from Nevada said about the subsidy. The Federal Government does not use taxpayer money to pay claims in the event of a nuclear incident. There has been no subsidy in the 43 years of Price-Anderson protection. The nuclear insurance pool is not the Federal Government. It has paid a total of, I believe, $191 million in claims. The Price-Anderson Act ensures that full compensation will be available in the event of a nuclear attack. In the absence of the law, members of the public filing claims would need to overcome substantial obstacles of tort law for recovery. As we all know, that is very expensive and very time consuming.

I think the key here is that no public funds have ever been paid out. For that reason, there is no way one can say this is a subsidized program.

The Federal Government provides insurance mechanisms for losses associated with agricultural disasters, floods, banks, savings and loans; to pay for home mortgages, Social Security, Medicare, crime, and maritime accidents. It is not unusual for the Federal Government to do it. But under the current law, the limitation on liability exists for oil spills, bankruptcy, and workers compensation, but not in the case of nuclear accident. While it is very common for the Federal Government to expend moneys to underwrite and to be in the insurance business many times to compete with the insurance industry, in this case it isn't true. There is no subsidy involved.

I am sure my time has expired. 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. REID. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, what is the regular order?

The PRESIDING OFFICER. The Senate is to vote on amendment No. 2983.

Mr. BINGAMAN. Is that vote to occur immediately or is there time to speak?

The PRESIDING OFFICER. At 2:15.

Mr. BINGAMAN. I see Senator VOINOVICH.

That is the Price-Anderson amendment, I believe.

The PRESIDING OFFICER. The Senator is correct.

Mr. BINGAMAN. I thank the chair.

VOTE ON AMENDMENT NO. 2983

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to amendment No. 2983 offered by the Senator from Ohio. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—78

Akaka	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Bayh	Edwards	Mikulski
Bennett	Enzi	Miller
Bingaman	Fitzgerald	Murkowski
Bond	Frist	Murray
Breaux	Graham	Nelson (FL)
Brownback	Gramm	Nelson (NE)
Bunning	Grassley	Nickles
Burns	Gregg	Roberts
Byrd	Hagel	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Hutchison	Smith (OR)
Cleland	Inhofe	Specter
Cochran	Johnson	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Levin	Thurmond
Daschle	Lieberman	Torricelli
DeWine	Lincoln	Voinovich
Dodd	Lott	Warner

NAYS—21

Baucus	Feingold	Reed
Biden	Feinstein	Reid
Boxer	Harkin	Rockefeller
Clinton	Inouye	Schumer
Collins	Jeffords	Snowe
Dayton	Kerry	Wellstone
Ensign	Leahy	Wyden

NOT VOTING—1

Kennedy

The amendment (No. 2983) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2986, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there are now 2 minutes evenly divided prior to a vote on the Bingaman amendment No. 2986, as modified. Who yields time?

Mr. BINGAMAN. Madam President, I ask unanimous consent that Senator ROCKEFELLER be listed as a cosponsor of the amendment.

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

Mr. BINGAMAN. Madam President, this amendment sets up a study process to determine whether hydraulic fracturing should be regulated by the Federal Government under the Safe Drinking Water Act. It is a bipartisan amendment with many cosponsors. It is good policy. It is a policy that was supported by the Clinton administration. It is now supported by the current administration.

I yield the remainder of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, I ask unanimous consent that the following Senators be added as cosponsors: Senators ENZI, MURKOWSKI, SESSIONS, and NICKLES.

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

Mr. INHOFE. Madam President, I wish to add to the remarks of the Senator from New Mexico. This procedure is being used today. It has been used since the 1940s. Over 1 million wells have used hydraulic fracturing. There has never been any documented case of any environmental damage.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time in opposition?

Mr. MURKOWSKI. May I take the remainder of the time? I simply want to advise Senators that, indeed, this matter has been cleared by both the minority and majority, and we concur in its adoption. It is the right thing to do.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2986, as modified.

Mr. THOMAS. 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 legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

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

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—78

Akaka	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Edwards	McConnell
Baucus	Ensign	Miller
Bayh	Enzi	Murkowski
Bennett	Frist	Nelson (FL)
Bingaman	Graham	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sessions
Campbell	Helms	Shelby
Carnahan	Hollings	Smith (NH)
Carper	Hutchinson	Smith (OR)
Chafee	Hutchison	Snowe
Cleland	Inhofe	Specter
Cochran	Inouye	Stevens
Collins	Johnson	Thomas
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Levin	Voinovich
DeWine	Lincoln	Warner
Dodd	Lott	Wyden

NAYS—21

Biden	Feingold	Mikulski
Boxer	Feinstein	Murray
Cantwell	Fitzgerald	Reed
Clinton	Jeffords	Sarbanes
Corzine	Kerry	Schumer
Dayton	Leahy	Stabenow
Durbin	Lieberman	Wellstone

NOT VOTING—1

Kennedy

The amendment (No. 2986), as modified, was agreed to.

Mr. INHOFE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN. At this point, I believe Senator CRAIG has an amendment he wishes to offer that we can agree to and voice vote. Then I have amendments on behalf of Senator AKAKA that I would like to handle the same way.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 2987

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 2987.

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

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

The amendment is as follows:

(Purpose: To provide for multiple-year authorization for the fusion energy sciences program)

Strike subsection (e) of section 1254 and insert the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251, the following amounts are authorized for activities under this section and for activities of the Fusion Energy Science Program:

''(1) for fiscal year 2003, $335,000,000;

''(2) for fiscal year 2004, $349,000,000;

''(3) for fiscal year 2005, $362,000,000; and

''(4) for fiscal year 2006, $377,000,000.''.

Mr. CRAIG. Mr. President, this amendment authorizes outyear funding levels for the Department of Energy Fusion Energy Sciences Program.

I appreciate Chairman BINGAMAN incorporating provisions of my bill on fusion science research in the Daschle-Bingaman substitute bill. However, the Daschle-Bingaman substitute did not incorporate outyear funding authorizations for the Fusion Energy Sciences Program. This technical amendment authorizes funding for fiscal years 2003 through 2006.

While we grapple with short-term remedies to our energy problems, we need to stay focused on long-term investment in those areas which have the potential to help secure our energy future. I believe fusion energy has the potential.

I appreciate the support of the chairman on this issue. It is our understanding we might be able to voice vote this.

Mr. BINGAMAN. Mr. President, I support the amendment. I think this will improve the bill. I urge all Senators to support this amendment.

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

The amendment (No. 2987) was agreed to.

Mr. BINGAMAN. Mr. President, I am informed Senator MCCAIN is ready to offer his amendment.

AMENDMENT NO. 2979

Mr. MCCAIN. Mr. President, I call up amendment No. 2979 which is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. HOLLINGS, Mrs. MURRAY, Mr. BINGAMAN, Mr. BREAUX, Mr. SMITH of Oregon, Mr. DOMENICI, Mrs. HUTCHISON, and Mr. WYDEN, proposes an amendment numbered 2979.

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

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

(The amendment can be found in the RECORD of Tuesday, March 5, 2002, on page S 1542.)

Mr. MCCAIN. Mr. President, I understand the Senator from Alaska has a second-degree amendment to the pending amendment. I know the Senator from Alaska is very busy. I have a statement which is probably about 10 or 15 minutes long, but if the Senator from Alaska wishes to propose his second-degree amendment, I am willing to delay in my statement.

Mr. MURKOWSKI. I can wait.

Mr. MCCAIN. Mr. President, over a year ago the Senate passed S. 235, the Pipeline Safety Improvement Act. That bill was approved by a vote of 98–0 on February 8, 2001, and is designed to promote both public and environmental safety by reauthorizing and strengthening our Federal pipeline safety programs which expired in September 2000.

While the Senate has now passed pipeline safety legislation in both the 106th and the 107th Congresses, the other body has yet to take meaningful action to address pipeline safety. Despite efforts to encourage the other body to approve pipeline safety legislation and help prevent not only needless deaths and injuries but also environmental and economic disasters, there has been little movement by the House on this important issue. Therefore, the Senate must take whatever action we can to advance pipeline safety legislation.

Today I offer the Pipeline Safety Improvement Act as an amendment to the pending energy bill. I believe it is appropriate to consider this issue in the context of energy legislation. I believe it is appropriate to consider this issue in the context of the post-September 11 environment. I think it is appropriate to consider this issue in the context that it is an issue which really needs to be addressed.

The Senator from Alaska, it is my understanding, will be proposing an amendment that has to do with the damage to the Alaskan pipeline, which is probably an important amendment.

When one looks at this chart of the natural gas and hazardous liquid pipelines of the United States, the first conclusion one draws is that there is a need for pipeline safety and security. I don't need to draw scenarios as to what could happen in the event of the disruption or destruction of one of these pipelines, many of which carry material which is highly toxic and hazardous. I am pleased to be joined in this bipartisan effort by Senators HOLLINGS, MURRAY, BINGAMAN, BREAUX, SMITH, DOMENICI, HUTCHISON, WYDEN, and TORRICELLI. Our goal is to enact comprehensive legislation for pipeline safety for the public, the environment, and the economy.

The Office of Pipeline Safety, within the Department of Transportation Research and Special Programs Administration, oversees the transportation of about 65 percent of the petroleum and most of the natural gas transported in the United States. The Office of Pipeline Safety regulates the day-to-day safety of 3,000 pipeline operators with more than 1.6 million miles of pipeline. I repeat, 1.6 million miles of pipeline. It also regulates more than 200 hazardous liquid operators with 155,000 miles of pipelines, as depicted on this chart. This chart shows the red lines as the liquid pipelines and the dark-colored lines as natural gas pipelines.

Given the immense array of pipelines that traverse our Nation, reauthorization of our pipeline safety programs is critical to the safety and security of thousands of communities and millions of Americans nationwide. That is why it is appropriate to include pipeline safety provisions as a key component of any comprehensive energy legislation under consideration.

The amendment being offered today is the product of many months of hearings, bipartisan compromise, and cooperation that began during the 106th Congress. During the past 2 years, my colleagues and I have made repeated statements discussing the critical need to enact pipeline safety improvement legislation.

That necessity has been demonstrated by a number of tragic accidents in recent years.

For example, In June 1999, a fatal pipeline accident occurred in Bellingham, WA, when gasoline leaked from an underground pipeline and was subsequently ignited. That accident resulted in the deaths of two boys and a young man, in addition to a number of injuries and severe environmental damage to the area.

Other tragedies have occurred. On August 19, 2000, a natural gas transmission line ruptured in Carlsbad, NM, killing 12 members of two families. On September 7, 2000, a bulldozer in Lubbock, TX, ruptured a propane pipeline, resulting in the death of a police office. In total, 71 fatalities have occurred as a result of pipeline accidents over the past 3 years.

I think that number is worth repeating: 71 fatalities over the last 3 years

have occurred. Meanwhile, Congress has not acted to enact legislation which, in the view of many experts, possibly could have prevented these fatalities. That is a pretty onerous burden, it seems to me, that is placed on us as legislators in our failure to act.

I regret to report that just yesterday, there was a pipeline explosion near Jeffersonville, KY. Thankfully, no fatalities have been reported, but I am informed it caused a fire so intense that it was picked up on a Federal Government satellite. Clearly, the amendment we are proposing today is not only timely but urgent.

As I mentioned, the Senate has worked to improve pipeline safety and reduce the risk of future accidents. During the last Congress, with the assistance of a bipartisan group of Senators, including Senators Slade Gorton and PATTY MURRAY, the Senate passed the Pipeline Safety Improvement Act of 2000. Unfortunately, the House failed to approve pipeline safety legislation so we were never able to send a measure to the President.

When the 107th Congress convened, one of the first legislative actions taken by the Senate was to consider and pass S. 235, the pipeline safety Improvement Act of 2001, a measure nearly identical to what we passed in the prior Congress. Early attention by the Senate demonstrated our firm commitment to improving pipeline safety. Once again, my colleagues and I are seeking to advance pipeline safety legislation by offering this amendment.

I would be remiss if I didn't point out that despite the tragic accidents I highlighted earlier, the pipeline industry generally has a good safety record relative to other forms of transportation. According to the Department of Transportation, pipeline related incidents dropped nearly 80 percent between 1973 and 1998, and the loss of product due to accidental ruptures has been cut in half. From 1989 through 1998, pipeline accidents resulted in about 22 fatalities per year—far fewer than the number of fatal accidents experienced among other modes of transportation. But this record should not be used as an excuse for inaction on legislation to strengthen pipeline safety.

The pipeline safety program expired nearly 18 months ago. Congress as a whole must address this critical public and environmental safety issue. We need to reauthorize the pipeline safety programs. We need to provide additional funding for safety enforcement and research and development efforts, as well as provide for increased State oversight authority and facilitate greater public information sharing at the local community level.

Let me describe the major provisions of the amendment which is nearly identical to S. 235:

First, it would require the implementation of pipeline safety recommendations issued in March 2000 by the Department of Transportation Inspector General to RSPA. The Inspector General found several glaring safety gaps at Office of Pipeline Safety and it is incumbent upon us all to do all we can to ensure that the Department affirmatively acts on these critical problems.

The amendment would also require the Secretary of Transportation, the RSPA Administrator, and the Director of the Office of Pipeline Safety to respond to all NTSB pipeline safety recommendations within 90 days of receipt. The Department's responsiveness to the National Transportation Safety Board pipeline safety recommendations has been poor at best. while current law requires the Secretary to respond to the NTSB no later than 90 days after receiving a safety recommendation, there are no similar requirements at RSPA. Therefore, this legislation statutorily require RSPA and Office of Pipeline Safety to respond to each and every pipeline safety recommendation it receives from the NTSB and to provide a detailed report on what action is plans to initiate in response to the recommenation.

The amendment would require pipeline operators to submit to the Secretary of Transportation a plan designed to improve the qualificaitons for pipeline personnel. At a minimum, the qualificaiton plan would have to demonstrate that pipeline employees have the necessary knowledge to safely and properly perform their assigned duties and would require testing and periodic reexamination of the employees' qualifications.

It would also require the Department of Transportation to issue regulations mandating pipeline operators to periodically determine the adequacy of this pipeline to safely operate and to implement integrity management programs to reduce identified risks. The regulations would require operators to base their integrity management plans on risk assessment to periodically assess the integrity of their pipeline and to take steps to prevent and mitigate unintended releases, such as improving leak detection capabilities or installing restrictive flow devices. The integrity management provisions will not only be critical to advancing pipeline safety, but also to addressing potential security concerns, which is a shared goal among all the sponsors of this amendment.

The amendment also would require pipeline operators to carry out a continuing public education program to advise municipalities, school districts, businesses, and residents about a variety of pipeline safety-related matters, including pipeline locations. It would also direct pipeline operators to initiate and maintain communication with State emergency response commissions and local emergency planning committees and to share with these entities information critical to addressing pipeline safety and mitigating risks.

The amendment further directs the Secretary to develop and implement a comprehensive plan for the collection and use of pipeline-related data in a manner that would enable DOT to conduct incident trend analyses and evaluations of operator performance. Operation would be required to report incident releases greater than 5 gallons, compared to the current reporting requirement of 50 barrels. In addition, the Secretary would be directed to establish a national depository of data to be administered by the Bureau of Transportation Statistics in cooperation with RSPA.

In recognition of the critical importance of technology applications in promoting transportation safety across all modes of transportation, the legislation directs the Secretary to focus on technologies to improve pipeline safety as part of the Department's research and development efforts. Further, the amendment includes provisions advanced by Senator BINGAMAN, myself, and others, to provide for a collaborative R&D effort directed by the Department of Transportation with the assistance of the Department of Energy and the National Academy of Sciences.

The amendment would provide for a 3-year authorization, with increased funding for Federal pipeline safety activities, the State grant program, and research and development efforts.

Additionally, the amendment requires operators, in the event of an accident, to make available to the DOT or NTSB all records and information pertaining to the accident and to assist in the investigation to the extent reasonable. It also includes provisions concerning serious accidents that provide for a review to ensure the operator's employees can safely perform their duties. In addition, pipeline employees would be afforded the same whistle-blower protections as are provided to employees in other modes of transportation. These protections are nearly identical to the protections aviation-related employees were granted in the Wendell H. Ford Aviation and Investment Reform Act for the 21st Century, P.L. 106–181.

I want to point out this amendment includes a few minor modifications to the Senate-passed version of S. 235. It extends the authorization period for an additional fiscal year which is necessary to reflect the fact that a year has passed since we considered S. 235. The amendment would fund pipeline safety programs for fiscal years 2003, 2004, and 2005 at $64 million annually.

The amendment also includes two new provisions intended to address pipeline security concerns heightened in the wake of the September 11 attacks. While the pipeline safety provisions were not originally developed as security legislation, I believe it is our duty to address identified security concerns and will certainly consider any security-related proposals brought to our attention in the future by the administration and other interested parties.

In the meantime, the amendment seeks to strike a balance between public access to pipeline information and the need to restrict security sensitive information. It would tie the new information disclosure requirements of the legislation to the existing Freedom of Information Act standards that restrict the release of certain information based on national security and national defense concerns. Again, it would apply current FOIA exemption standards to the public disclosure provisions to protect information critical to national security and defense. As this and other security-related measures continue through the legislative process, I plan to work with my colleagues to ensure the proper handling of security sensitive data within the Federal Government. Security sensitive information must not be released into the wrong hands. This amendment should afford useful protection in the near term.

Finally, the amendment would authorize the Secretary to provide technical assistance to pipeline operators and state and local officials to ensure that they are adequately prepared to respond to terrorist attacks or threats that could impact pipelines.

We must ensure that the Department has the tools it needs to carry out its critical pipeline safety responsibilities, to advance research and development efforts, and to protect pipeline security sensitive data. I urge my colleagues to join with me in demonstrating their strong support for improving pipeline safety by voting for this amendment. I remain hopeful that the Congress will approve pipeline safety legislation before we receive another call to action by another tragic accident.

We have not reauthorized pipeline safety. It is important that we do so. It has lapsed.

We can see by this chart the miles and miles of pipeline that cross America. Many of them are perfectly safe. There are others that clearly need renewed attention and renewed regulations as embodied in this bill. There are 3,000 gas pipeline operators with more than 1.6 million miles of pipeline and 200 hazardous liquid operators with 155,000 miles of pipeline.

I don't like to refer to nor discuss various scenarios for acts of terror, but I think this chart in itself depicts the urgent need for reauthorization of this legislation. Also, it is of interest and value to put a human face on some of these issues and the importance of them.

As I mentioned in my remarks earlier, there was a tragic accident in Bellingham, WA. Two young boys were killed. I will not describe the circumstances of their deaths. It aroused the entire community.

With the assistance of Senator MURRAY and Senator Gorton, hearings were held in Bellingham on this issue, its cause, and what needed to be done. The people, the families, and the mayor of Bellingham came to Washington, DC, to testify before the Commerce Committee.

Senator MURRAY, other Senators, and I made a commitment to the people of that community who were directly impacted by the tragic deaths of these children and to the people of this Nation that we would do everything we could to enact legislation—to act as is our responsibility—to see that there wouldn't be a recurrence of the tragedy and that no other family in America would undergo the agony and pain of the families of Bellingham, WA.

We passed that bill on February 8, 2001. Yet the other body has not acted. I think that is very unfortunate. That is why I feel compelled to come today with this amendment on the energy bill in hopes that it will now either be part of this bill or the other body will act on this very important legislation which not only has to do with spillage of toxic waste, or hazardous materials, or fires, such as just happened yesterday, but which in some cases tragically endangers the lives of our citizens. I know of no greater responsibility than to try to do everything in our power to prevent a recurrence.

I thank the managers of the bill for their consideration of this legislation. I again applaud Senator MURRAY for her tremendous efforts and dedication on this issue—not only the issue but for her sympathy and the concern she showed to the families and the people in that community who were deeply impacted by the accident.

I hope we can do this to fulfill our responsibilities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I compliment Senator MCCAIN and members of the Commerce Committee for bringing this matter up.

I would like to be added as a cosponsor to the amendment.

As all are aware, Senator MCCAIN's amendment is similar to the one submitted last February. It passed this body by a vote of 98 to 0. I feel quite confident that we can dispose of it favorably. Certainly, Senator MCCAIN and others have been diligent in making sure Congress addresses the issue. Safety is an extremely important component of energy policy.

Senator MCCAIN has indicated the highlights of the legislation. I will not be repetitive.

The pipeline, as we know, provides this country with supplies of oil and natural gas in a very efficient manner. I believe we will hear from the Senator from Washington relative to the tragedy that occurred in Bellingham and New Mexico as well.

But clearly these incidents highlight that some pipelines are aging, and the increased demand for energy is putting more and more pressure on these pipelines. It is appropriate that there be oversight adequate to ensure that wear and tear does not result in tragedies such as we have already seen. The public must have confidence in safety. This legislation will facilitate that.

We are fortunate in this country to have a network of pipelines, as the Senator from Arizona has shown on the map, because it is much more efficient than moving by rail or by truck. I think it enables us to have relatively abundant and inexpensive energy in the manner in which we move it. No other country has a network as efficient as the United States as far as pipeline transfer of energy is concerned. But we cannot become complacent. We must improve the safety of these pipelines.

I certainly welcome the changes to existing law made by the legislation that will improve the overall safety of the pipelines. When this legislation is enacted, it will be the strongest and most comprehensive safety measure ever approved by Congress. At the same time, it will avoid responses that would lead to a lack of investment in pipelines without any measure to improve safety.

I think we can all agree, given our a reliance on energy in our everyday lives, that we recognize the significance of this legislation and the contribution it is going to make of ensuring the confidence of the American people that indeed the pipeline network is safe. Accordingly, I urge the Senate to agree to this amendment.

Mr. President, I am going to offer a second degree amendment, which I understand has been circulated.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 2988 TO AMENDMENT NO. 2979

Mr. MURKOWSKI. Let me outline the necessity of the second-degree amendment.

We have a unique situation in Alaska with the 800-mile Trans-Alaska Pipeline which moves about 20 percent of the total crude oil produced in this country but is not protected in the sense of the pipeline safety act because our pipeline is completely within the State's borders. I am not going to argue with those who have analyzed this. But clearly our rivers are in interstate commerce. The fish in the rivers are in interstate commerce. But even though our pipeline goes basically from the Arctic Ocean to the Pacific Ocean it apparently may not be protected under the criminal penalties of the pipeline safety act.

As a consequence, the amendment I am about to offer includes intrastate pipelines that transport gas in interstate commerce within the criminal penalty section of the pipeline safety act that currently only protects interstate pipelines.

An incident occurred in my State of Alaska last fall where an individual fired a weapon and hit the 800-mile Trans-Alaska Pipeline.

The evidence indicates that perhaps the individual fired approximately 5 or 6 shots. Ordinarily, we are told, the steel in a pipeline is such that it is

very unlikely there could be a penetration by a bullet more than the circumference of the bullet, and very doubtful if that.

It is interesting to note the history of that pipeline. It has been bombed. It has had dynamite wrapped around it. And it has been shot at, and finally an individual did penetrate the surface of the pipeline with a bullet.

Now, the defendant was allegedly intoxicated at the time, so we really do not know how many times he shot at it or whether he kept moving up closer until he hit it. But despite the importance of the contribution of the pipeline to the Nation's flow of oil—as I have indicated, once contributing 25 percent, and now it is at about 20 percent; it has a capacity unused of a million barrels a day—we were unable to prosecute due to the loopholes in Federal law. Instead, the State prosecuted the individual for the wrongdoing.

We believe there is no reason the Federal Government should not have been able to prosecute this crime since it involved infrastructure that is so important to our Nation's energy. This amendment closes that loophole in the Pipeline Safety Act and ensures that the Federal Government will be able to prosecute such cases in the future. It assures that both natural gas pipeline facilities and hazardous liquid pipeline facilities that are intrastate are protected as well.

It will protect those facilities even if the facility is within the confines of one individual State's borders, as long as the pipeline is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce. I think this is important because even though some pipelines may be confined to one State, such as ours, the Trans-Alaska Pipeline, they certainly affect interstate commerce.

The amendment will enable the Federal Government to prosecute individuals who threaten infrastructure which is integral to the transportation of important energy resources throughout our country. And I think from the standpoint of our State of Alaska, it relieves some of the responsibility on our State troopers in recognizing, indeed, this would be considered a Federal responsibility as well.

So, Mr. President, I send to the desk a second-degree amendment to the McCain amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 2988 to amendment No. 2979.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.

Section 60123(b) of title 49, United States code, is amended—

(1) by striking ''or'' after ''gas pipeline facility'' and inserting a comma; and

(2) by inserting after ''liquid pipeline facility'' the following: '', or either an intrastate gas pipeline facility or an intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce''.

Mr. MURKOWSKI. Mr. President, my understanding is that the floor manager has indicated we would have a vote on this at some point. I do not need a rollcall vote on my second degree. I would leave it up to the Senator from Arizona to determine his intent for a vote on his underlying amendment.

Mr. MCCAIN. If the Senator will yield, I am told it is the preference of the majority leader that a vote would be set for sometime tomorrow morning.

Mr. REID. Mr. President, if my friend will yield, I have spoken to the Senator from Arizona. He has agreed to accept a vote on this in the morning. We believe that even though this vote will, I think, be overwhelmingly in support for the McCain amendment, we need to send a strong message to the House, so we want a rollcall vote on this. So the plan is to work on this as long as anyone else wants to speak on it.

It is my understanding the Senator from New Mexico will accept the second-degree amendment of the Senator from Alaska and that we will then have other people speak on the McCain amendment. When that is completed, the Senator from California will offer an amendment. We will not complete the amendment of the Senator from California because the Senator from Texas and others wish to speak on that. However, there is another amendment that the Senator from New Mexico is going to offer later today.

We would vote first on the McCain amendment in the morning, probably at about a quarter to 10, and then we would vote, subsequent to that, on the amendment of the Senator from New Mexico. But we have to work this out. The majority leader knows about this, but not the details. We will confirm that with him and the minority leader at a subsequent time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I think this is a good second-degree amendment. I suggest we go ahead and adopt it at this point, and then, as the Senator from Nevada indicated, have the scheduled vote on the McCain amendment tomorrow.

I know Senator MURRAY from Washington is waiting to speak on the McCain amendment, as is Senator BREAUX from Louisiana.

Mr. MURKOWSKI. Mr. President, I would like to discuss with my colleagues an issue that relates to pipeline safety. I am concerned about an incident that occurred in Alaska last fall. The Senator may recall hearing in the news about an individual who fired a weapon and hit the Trans-Alaska Pipeline.

Mr. MCCAINE. I do recall hearing about that incident.

Mr. HOLLINGS. I remember reading about the incident as well.

Mr. MURKOWSKI. Well, the individual was allegedly intoxicated when the Trans-Alaska Pipeline was damaged. Unfortunately, the U.S. Attorney's Office was unable to prosecute the individual for damaging the line due to some loopholes in the Federal law. One of those loopholes will be closed by my amendment to pipeline safety that includes intrastate pipelines that transport gas in interstate commerce within the criminal laws that currently only protect interstate pipelines. However, there was another problem with the case. The defendant was allegedly intoxicated at the time, and the statute requires proof that he ''knowingly and willfully'' damaged the pipeline pursuant to Section 60123(b) of title 49, United States Code. Therefore, due to this higher standard of intent, known as specific intent, it appears that he had a diminished capacity defense. It does not seem that this type of vandalism crime should be held to such a standard.

Mr. MCCAIN. I understand the Senator's concern but also know that if we lower the intent standard in Section 60123(b) of title 49, we want to ensure that a person cannot be held criminally liable for negligence.

Mr. MURKOWSKI. I understand that concern as well and certainly do not want someone criminally prosecuted unless there was intent. I was wondering if the Senator would agree to work with me to see if we can find a compromise that would address the intent issue.

Mr. MCCAIN. I would be happy to work with the Senator on the issue.

Mr. HOLLINGS. I would be interested in working on it as well.

Mr. BINGAMAN. I understand the concerns of the issue also and would agree to work with all Senators to see if we can address this intent issue prior to the end of consideration of energy legislation.

Mr. DOMENICI. Mr. President, I am pleased to co-sponsor an amendment to modernize our nation's pipeline safety programs. As you know, the Senate passed this legislation on February 8th of last year, by a vote of 98–0. Because it has not yet been acted on in the House, I am pleased to see that we are working to get this important legislation enacted in another way.

As we all remember, the issue of our country's pipeline safety came to the forefront after tragic explosions in Bellingham, Washington, and later, in my own state of New Mexico.

On August 19, 2000, twelve members of an extended family were on a camping and fishing trip along the Pecos River near Carlsbad, New Mexico. Just after midnight, a natural gas pipeline exploded, sending a 350 foot high ball of flame into the air. Six of the campers died instantly. The six remaining family members later died from their horrific injuries.

We have to make sure that tragedies like this do not occur again. What I am here to do today, is to work so that we don't have to think twice before camping with our families and friends.

Pipelines carry almost all of the natural gas and 65 percent of the crude oil and refined oil products. Three primary types of pipelines form a network of nearly 2.2 million miles, 7,000 of which lie in my own state of New Mexico.

Pipelines stretch across our country. They allow us to obtain energy resources quickly and economically.

In light of the energy crisis in California, and in the west in general, the value of our nation's pipeline system is obvious. We must have access to energy.

Therefore, pipelines and the potential hazards they pose affect us all. It is time that we do something to ensure our safety while protecting our access to energy.

This amendment:

Significantly increases States' role in oversight, inspection, and investigation of pipelines.

Improves and expands the public's right to know about pipeline hazards.

Dramatically increases civil penalties for safety and reporting violations.

Increases reporting requirements of releases of hazardous liquids from 50 barrels to five gallons.

Provides important whistle blower protections prohibiting discrimination by pipeline operators, contractors or subcontractors.

Furthermore, the legislation would provide much needed funding for research and development in pipeline safety technologies.

In fact, technology currently exists that might have detected weaknesses in pipelines around Carlsbad. Unfortunately, due to insufficient funding those products have yet to reach the market.

La Sen Corporation in my own state of New Mexico has developed technology that can detect faulty pipelines where current pipeline inspection technology is not usable. La Sen's Electronic Mapping System can be very effective even in pipelines where conventional pig devices cannot be used.

Pipeline inspection is costly and slow. Innovative new technologies could allow us to inspect all 2.2 million miles of pipeline each year in a cost effective manner. Today, pipeline inspection technology only covers 5–10 miles per day at a cost of $50 per mile. Again, La Sen's technology can survey 500 miles per day at a cost of $32 per mile.

The bottom line is that today, we can take action that will hopefully make pipelines safer.

I encourage my colleagues to recognize the potential dangers that pipelines pose and to minimize those dangers by agreeing to this amendment.

The PRESIDING OFFICER. Is there further debate on the second-degree amendment No. 2988?

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

The PRESIDING OFFICER. If not, the question is one agreeing to the amendment.

The amendment (No. 2988) was agreed to.

Mr. MURKOWSKI. I thank the chairman and the Presiding Officer.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2979

Mrs. MURRAY. Mr. President, I rise today in strong support of this amendment. I take this opportunity to thank the Senator from Arizona, Mr. MCCAIN, for his leadership, his perseverance, and his tremendous work on the issue of pipeline safety.

As he said, many of us became aware of this issue on June 10, 1999, when a gasoline pipeline ruptured in my home State of Washington, killing three young people and really shattering our sense of security.

The Senator from Arizona was tremendous in his work with us as we brought that family here to Washington, DC. As he stated, the community, the mayor, so many people came here. His commitment to follow through with hearings and legislation, and to pass it out of the Senate, has just been really noted and respected in the State of Washington. And like he, I have difficulty standing here and speaking to those families today and telling them the House has still not acted, which is why we are on the floor of the Senate during the energy debate, once again, passing this legislation.

As I said, when that tragedy happened, I discovered that there were inadequate laws, insufficient oversight and inspection, and a real lack of public awareness about the dangers of these pipelines. So I began to work on a national effort to raise pipeline safety standards. I testified before Congress, and I introduced the first pipeline safety bill in the 106th Congress.

As the Senator from Arizona said, we passed legislation in the Senate in September of 2000, and again in February of 2001; and those bills passed without dissent, on a bipartisan basis, with leadership from both sides.

I am proud to have worked with several Senators, including Senators HOLLINGS, INOUYE, BREAUX, WYDEN, BROWNBACK, BINGAMAN, DOMENICI, CORZINE, TORRICELLI, and my colleague, Senator CANTWELL, in this Congress, and my colleague in the previous Congress, Senator Gorton.

But, again, I especially thank Senator MCCAIN for his work on pipeline safety. I have to say that without his attention to this issue over the last several years, I really doubt we would have accomplished what we have so far. I know that all of the advocates and I appreciate Senator MCCAIN's leadership on this issue, and I am looking forward to continuing to work with him on this and many other critical safety issues before us.

The bill that the Senate passed was the strongest pipeline safety bill ever passed by either body of Congress. It improves the qualification and training of pipeline personnel. It improves pipeline inspections and prevention practices. It expands the public's right to know. It raises the penalties for safety violators. It increases the States' ability to expand their safety activities. It invests in new technology to improve pipeline safety. It provides whistleblower protection. It increases funding to improve pipeline safety. And it recognizes State citizen advisory committees.

Despite the Senate's quick, measured, and deliberate work on this issue, as I stated, and as the Senator from Arizona said, the House of Representatives has blocked progress on this initiative. A couple of weeks ago, the House finally held a hearing on pipeline safety; and that was the first one that was held in 2 years on this issue. I understand they intend to move to a markup very soon, and that is encouraging. I am also encouraged that House Members from the Washington delegation, especially Representative RICK LARSEN, are working really hard to make progress on this issue.

I have to say, unfortunately, that the bill they intend to mark up excludes many of the important safety measures we put into the Senate bill, including strong inspection and testing requirements and adequate operator qualification standards. So overall I remain skeptical that the House will eventually pass a comprehensive bill, and that is why I am especially pleased that Senator MCCAIN has introduced this amendment. I am here to support that effort.

The amendment before us is nearly identical to the bill that has passed the Senate unanimously 2 years in a row. We did, however, make a needed change for national security purposes. September 11 has shown us that our transportation infrastructure is vulnerable to attack by terrorists, so we included a provision that would give the Secretary of Transportation the discretion to withhold public information about pipelines if the Secretary believed it would compromise national security. The standard would be the same as the current one used under the Freedom of Information Act.

I am very proud to cosponsor this amendment. We all know if we want meaningful legislation to move on to the President, it will have to be attached to a piece of legislation such as the energy bill. The history of this legislation in the House requires that we proceed in this manner.

In addition to working on this bill, I am also using my position as chair of the Senate Transportation Appropriations Subcommittee to keep the pressure up and to secure the funding we need to hire inspectors, to enforce safety regulations, and to support the States with their efforts. I have held several hearings in Washington, DC, and I have questioned the Transportation Secretary and others about our progress on pipeline safety. I have met

with the new head of the office that oversees pipeline safety at the Department of Transportation, and I told her exactly what I expect the department to do to improve pipeline safety. I have not hesitated to push the department to issue new pipeline safety rules and regulations.

In my position as chair of the Senate Transportation Appropriations Subcommittee, I worked to pass a bill that provides record funding for the Office of Pipeline Safety. Overall it provides more than $58 million for that office. That is $11 million more than the fiscal year 2001 funding level. That budget included funding for 26 new staff positions, from safety inspectors to researchers. OPS requested those positions, and my bill fully funds those new hires.

Finally, it provides needed resources within OPS for critical testing, safety programs, and R&D. I plan to continue to work in the Appropriations Committee to make sure the funding is there to do the adequate testing and oversight of our pipeline infrastructure.

When it comes to pipeline safety, we have taken a major step forward, especially in funding, but we still have to raise the standards nationally with legislation.

I urge my colleagues to support our efforts to move this critical legislation forward to the President for his signature. From Carlsbad, NM, to Bellingham, WA, communities across this country are counting on us to protect them.

I yield the floor.

Ms. CANTWELL. Mr. President, I rise in support of the amendment and would like to take a few minutes to describe why this is so important.

I have stood on this floor before and described an incident that occurred in my State just 3 years ago. In a park near Bellingham, WA, an aging pipeline burst, sending a blast of flames that engulfed two 10-year-old boys. Both of those boys died in that blast and one young man drowned after being overcome by fumes. But that incident wasn't the first, nor the last. This was only one of numerous pipeline accidents in the State of Washington, which has suffered 47 reported incidents and more than $10 million in property damage in just the 15 years from 1984 to 1999.

I would like to think that many of those accidents could have been prevented if the agency responsible for regulating that industry had been more diligent. This week we begin a substantial debate about increasing the domestic supply of affordable energy, but a significant part of that debate hinges on the integrity and reliability of our Nation's energy infrastructure. And that debate must not overlook the critical importance of our citizens' safety as we work to secure and transport increasingly larger amounts of these resources. For many of us in this body, the issue of safety has hit close to home. We have seen the loss of human life; the devastation to families and communities; and the significant property damage associated with mismanagement of our pipeline infrastructure. But this is not simply about the personal tragedies in our states.

The tremendous efforts to finally pass this legislation—by the sponsor of the pipeline safety bill, Senator MCCAIN, Senator HOLLINGS, my colleague Senator MURRAY, and so many others—are based on a continuing pattern of oversight failures by the Office of Pipeline Safety. Many of my colleagues have already referenced the June 2000 report by the GAO, which found persistent failures by OPS to implement congressional mandates. That report indicated that in 22 of 49 cases, OPS ignored congressional direction and failed to follow statutory requirements. And since 1990, our Nation has suffered literally hundreds of pipeline-related deaths. Now, we have more than 2.2 million miles of pipelines traversing this nation, carrying almost all of the natural gas and 65 percent of the crude oil and refined oil products. Obviously, we don't want to hinder the effective transportation of these products that are so critical to our national economy. But we can and must do a better job of ensuring the public safety.

My colleague Senator MURRAY has been instrumental in the ongoing efforts to improve the public disclosure of pipeline information. Obviously we need to employ common sense in restricting access to information that poses a real national security threat to our communities and our nation—but I believe that we must apply the highest standards in assessing those security risks and providing the most complete information possible to our public safety officials and to the public at large, so that they can take steps to protect their own communities from potential disasters.

This amendment seeks to balance these equally important objectives—security and public disclosure—that are both intended to enhance the public safety. I am also pleased that this amendment maintains a critical provision that I had worked to pass along with my colleagues, Senator CORZINE, Senator TORRICELLI, and Senator MURRAY, which would ensure the assessments of nearly all pipeline systems at least once every 5 years. This is an issue of tremendous importance if we are going to make real strides in prevention of accidents. If we do not know the fundamental state of integrity of these systems and facilities, we cannot identify real threats to our communities. We passed this legislation by a wide margin last year and the other body has failed to finish the job. I urge my colleagues to join me in supporting this amendment and finally getting the job done to better protect our constituents, and better protect our fuel supply.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I join my colleagues in supporting the legislation and amendment pending before the Senate. This will be the third time the Senate has passed this legislation. You would think that eventually it is going to get done. It has failed to pass the House, although the House at one point had an identical provision and it passed. It passed with a majority, but they took it up under suspension of the rules, and they needed two-thirds majority, so it did not pass.

This legislation will now pass the Senate for a third time and is still waiting on the House to take action on it, which will send it ultimately to the President for his signature.

There are literally millions and millions of gas and hazardous liquid pipelines that cover the United States. Every State has natural gas pipelines and oil pipelines that traverse through various parts of individual States and carry literally billions and billions of cubic feet of natural gas every day, 24 hours a day, 7 days a week, 365 days out of the year.

Gas comes from my State of Louisiana, from the Gulf of Mexico. It goes to California. It goes to Florida, to Maine, to New Jersey. It goes all the way up to the Midwest and throughout the United States. We have gas coming from the north that serves markets in the southern lower 48. This is an intricate pattern, a complicated transportation system that is absolutely needed and necessary. Without the extent of the natural gas pipeline system, this country would simply not be able to operate.

It provides energy for plants. It provides energy for factories. It provides heat and also cooling elements to family homes, to businesses, to offices throughout the United States. This, indeed, is one of the most sophisticated, complicated systems that man has ever devised in order to transport energy.

Is there potential and likely sometimes accidents that happen? The answer is yes. There were two tragic accidents—one in the State of Senator MURRAY, Washington, one in the State of Senator BINGAMAN, New Mexico—that were tragic and unfortunate. They should never have happened. But if you look at it from the perspective of the millions and millions of miles of the transportation system, with the good that it provides, it is absolutely clear that these systems must be protected.

We need to do a better job of ensuring their safety and security, their protection from normal accidents, as well as insulate them to the maximum extent possible from terrorist activities and even from deranged activities such as of the drunk shooting out the Alaskan pipeline in the State of Senators STEVENS and MURKOWSKI. We can do that.

There is not a form of transportation in this country that does not have accidents that happen: Airplanes crash; trains run off tracks; trucks run off highways; accidents happen; people are injured; people are killed.

The answer is not to eliminate the system but to better ensure the security of the systems, to build better trucks, to better investigate the drivers, to better inspect their licenses, to build better airplanes, to correct deficiencies in airplanes, to require better training for pilots.

As we do those things for those other means of transportation, it is also incumbent that we provide better and adequate inspections and guarantee that pipelines are built to the highest standards possible from an engineering and technical capability, and also that people are involved in the decisions as to where pipelines are actually built and where they are laid in order to let the public know what is near them in order for them to be aware.

It is interesting to note that pipelines are things you never see. Every day, every hour, every minute they are providing efficiency in terms of transportation of energy. Pipelines are buried under the sea, under the ground. People don't see them. They don't know they are there. But they are there to do a very effective job to provide for the security of this country.

This legislation will also provide for better security and better safety for the general public to make sure that while we are transporting billions and billions of cubic feet of natural gas, we are also doing it as safely as we possibly can.

Previous speakers have talked about the structure of the legislation. I support it. It is good legislation. It has brought both the pipeline companies, as well as citizens, to the same table to negotiate with government officials to get a system in place that we can be proud of and will assure the system continues to work as it has in the past with the maximum degree of safety that is humanly possible. This legislation goes a long way toward doing that.

This is the third time the Senate will pass this legislation. We urge our colleagues in the other body to do it just once.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I know the Senator from California is here to offer her amendment. Before we set this amendment aside, let me speak briefly about it.

It is very important that we pass the McCain amendment once again to make the point to the House of Representatives that this is a priority for our Nation and this is vitally needed legislation.

In my State, we lost 12 people as a result of a tragic breach or break in a high-pressure gas pipeline south of Carlsbad, NM. I visited the site. I saw the tremendous damage that was done when that pipeline broke without any warning and essentially killed a great many people who were there camping beside the Pecos River. This is a tragedy that should have been enough to galvanize action in Washington. When you add it to the other tragedy, which has been talked about here several times, in Washington State, it is clear to me this is legislation that should be passed quickly and moved to the President for signature.

I very much hope, when we vote tomorrow on the McCain amendment, there will be a resounding vote, as there has been in the past, and that we will finally get the House of Representatives to give attention to this issue and to pass it quickly.

As I understand it, at this point it is the desire of the Senator from California to offer an amendment. I ask unanimous consent that the pending amendment be set aside so that she may offer her amendment.

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

AMENDMENT NO. 2989 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I rise to introduce an amendment on behalf of Senators CANTWELL, WYDEN, BOXER, LEAHY, and DURBIN to provide price transparency when energy derivatives are traded and to give the Commodity Futures Trading Commission oversight authority for such transactions. Let me set the framework for this amendment.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, Mr. LEAHY, and Mr. DURBIN, proposes an amendment numbered 2989 to amendment No. 2917.

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

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

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

Mrs. FEINSTEIN. Mr. President, I will quote from a March 5 letter of the American Public Gas Association by its president, out of Fairfax, VA:

As you know, Enron operated in what was essentially an unregulated environment. While there will be much more to come in the wake of Enron, one thing is perfectly clear today—our Federal Government has an obligation to make sure that no important trading activities fall between the cracks, leaving some energy markets without a Federal agency with oversight authority. Your amendment remedies this glaring deficiency.

The American Public Gas Association is fully committed to support our effort to reverse the action Congress took just 15 months ago in the Commodities Futures Modernization Act. The Commodities Futures Modernization Act amended the Commodity Exchange Act by allowing some energy contracts to be traded with no Government oversight. We firmly believe that the CFTC must have at its disposal the necessary jurisdiction and authority to protect the operational integrity of energy markets so that (1) transactions are executed fairly, (2) proper disclosures are made to customers, and (3) fraudulent and manipulative practices are not tolerated.

I ask unanimous consent that the full letter be printed in the RECORD following my remarks.

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

(See Exhibit 1.)

Mrs. FEINSTEIN. Let me also quote from the Texas Independent Producers and Royalty Owners Association:

[This association] believes that this measure will tend to improve price transparency in natural gas markets, leading to a more efficient and stable marketplace. The relatively modest requirements outlined above should not unduly reduce liquidity for gas traders. Accordingly, TIPRO endorses your amendment.

I ask unanimous consent that that be printed in the RECORD following my statement.

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

(See Exhibit 2.)

Mrs. FEINSTEIN. This letter is from the MidAmerican Energy Holdings Company out of Omaha, NE:

I am writing in support of your effort to ensure that there is transparency and appropriate Federal oversight of energies futures trading markets.

As I testified before the Senate Energy and Natural Resources Committee last month—

This is the chairman and CEO—

I have long been concerned that the type of exchange run by Enron before its collapse offered opportunities for manipulation. Enron was the largest buyer, the largest seller and operator of an unregulated exchange. In view of the revelations of the last several months regarding Enron, the unregulated nature of these markets has raised serious concerns regarding the ability of the Federal Government to ensure that energy trading and futures markets are operating in the interest of the public and market participants.

I ask unanimous consent that this letter, and also a similar letter from PG&E, be printed in the RECORD at the end of my remarks.

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

(See Exhibit 3.)

Mrs. FEINSTEIN. Mr. President, this amendment would provide the same transparency and oversight that is provided for every other traded tangible commodity. All this amendment says is that electronic exchanges which change energy derivatives are subject to the same requirements as other exchanges, such as the Chicago Mercantile Exchange and the New York Mercantile Exchange. Incidentally, these two organizations support this legislation.

Additionally, it says that if you are trading energy derivatives off an exchange, you simply need to keep a record of that transaction; and if it turns out that there is a complaint, the CFTC will have a record to review.

The problem, and why we need the legislation: Presently, energy transactions are regulated by the FERC, Federal Energy Regulatory Commission, when there is an actual delivery of an energy commodity. Let me give you an example. If I buy gas from you and you deliver that natural gas to me, FERC has the authority to ensure that

this transaction is both transparent and reasonably priced. That is a direct delivery. However, energy transactions have gotten so complex over just the past decade, most energy transactions no longer result in delivery; thus, with these nondelivery trades and transactions, a giant loophole has opened, where there is no oversight and no transparency.

Let me explain. Mr. President, I can purchase from you a promise that you will deliver natural gas to me at some point in the future. This is referred to as a derivatives contract. I may never really need to physically own that gas, so I can sell that gas to someone at a small profit, who can then turn around and sell it to yet someone else, and so on and so forth. This promise of a gas delivery can literally change hands dozens of times before the commodity is ever delivered. Even then, it may never get delivered if the spot market price is lower than the future price that comes due on that day.

In fact, 90 percent of energy trades represent purely financial transactions, not regulated either by FERC or the Commodity Futures Trading Commission. As long as there is no delivery, there is no price transparency. So we don't know the price or the terms for 90 percent of the energy transactions taking place.

Again, this lack of transparency and oversight only applies to energy. It does not apply if you are selling wheat, or pork bellies, or any other tangible commodity. So, as I said, there is a very big loophole here.

Why is this type of trading so important? Many of these transactions provide needed insurance so a company can lock in set prices in the future without necessarily ever having to receive delivery. For example, knowing the price of natural gas in the future allows an energy company to, in turn, contract out its electricity, since it will know the price of natural gas, the main cost of production.

These transactions are here to stay. What this amendment simply does is shed light on them. Futures transactions do affect market prices for consumers, and that is why we need this transparency. That is precisely why other commodities, except for excluded financial commodities, are already regulated by the CFTC.

One simple example of how energy derivatives can affect delivered energy prices is the long-term energy electricity contracts that California and other Western States entered into last year, which were priced according to the long-term future costs for natural gas. As soon as the future price of natural gas plummeted after the contracts had been signed, electricity prices fell substantially. All of a sudden, these States looked foolish for signing these contracts.

How did this happen? How did it come up all of a sudden? The simple answer is that the Commodity Futures Modernization Act, signed into law in 2000, exempted energy and minerals trading from regulatory oversight and also exempted electronic trading platforms from oversight.

In a sense, what that legislation did was set up two different systems treating electronic trading platforms differently from all other platforms and treating energy commodities differently from other commodities.

Up until 2000, energy derivative transactions were regulated just like other transactions, and electronic trading platforms were treated like other platforms. I repeat, these were the standards that were in place all the way up to 2000.

Up until that time, if a gas or electricity commodity was delivered, FERC had oversight. If there was not delivery, the CFTC had the authority. So the loophole arose just 2 years ago.

At the time of the 2000 legislation, nobody knew how the exemptions would affect the energy market. We have a much better idea today because of what we have learned since then.

It did not take long for Enron Online and others in the energy sector to take advantage of this new freedom by trading energy derivatives absent any regulatory oversight or transparency. Thus, after the 2000 legislation was enacted, Enron Online began to trade energy derivatives—not deliveries, but derivatives—bilaterally over the counter in a one-to-one transaction without being subject to any regulatory oversight whatsoever. If the trade has delivery, again, it is regulated by FERC. If it does not, it falls into the abyss. Enron Online was able to trade back and forth without records and in secret. The result, of course, was higher prices.

Let me give an example of how that secret trading has affected California and the western energy markets.

On December 12, 2000, the price of natural gas in southern California on the spot market was $50 a decatherm, while it was $10 a decatherm close by in San Juan, NM. A decatherm is 1,000 cubic feet or enough gas to power about 100 kilowatt hours of electricity for a typical powerplant. It is enough gas to provide electricity for about 900 homes for 1 hour.

This problem lasted from November of 2000 to the end of April 2001—a full 6 months—while energy price spikes affected the entire western energy market. And all this time, hardly anyone understood what was happening in nondelivered energy transactions.

In 1999, California's total electricity price for the entire State was $7 billion. In 2000, it was $27 billion, and in 2001, it was $26.7 billion. You can see there are serious ramifications when markets are secret without any Federal oversight or investigation of dramatic price spikes. You cannot investigate it because there is no evidence because all this trading was done in secret with no records.

The Senate Energy Committee, of which I am a member, examined this issue last year, but we were not able to piece together the pieces at that time. In the wake of Enron's bankruptcy, we are beginning to learn a lot more. By controlling a significant number of energy transactions affecting California, and by trading in secret, Enron had the unique opportunity to drive up prices. Only time will tell whether that can be proved because of the absence of records and transparency.

Let me explain how this amendment works. First, the bill repeals the provisions of the 2000 Commodity Futures Modernization Act which exempted energy derivatives from regulatory oversight. As I said before, these transactions were regulated by the CFTC until 2000, so this is not an entirely new authority for the CFTC.

As a result of this provision, all electronic trading exchanges will once again be subjected to the same oversight as other exchanges when it comes to energy transactions.

Companies trading energy commodities off the exchange will simply have to keep a record of that transaction, just as they do for other traded commodities. That is certainly not too much to ask.

The amendment also requires FERC and the CFTC to work together to ensure that energy trading markets are, one, transparent, not in secret; two, regulated, which they should be; and three, working.

This will close the regulatory loopholes that allowed entities, such as Enron Online, to operate unregulated trading markets in secret.

I have received a letter from Pat Wood, the Chairman of FERC. Chairman Wood writes that neither FERC nor CFTC has adequate authority to determine price transparency and ensure that the energy market is functioning as it should. He supports this amendment. FERC Commissioners Brownell and Massey do as well.

This amendment does one more important thing. It ensures that entities running online trading forums must maintain sufficient capital to carry out their operations and maintain open books and records for investigation and enforcement purposes.

This last point is very important. Enron saw its future as a ''virtual'' company. As such, it sold off many of its physical assets over the past few years. So when investors and customers lost confidence and stopped trading out of fear that bankruptcy was in the offing, they learned that Enron had no collateral to back up these trades, and this was a major factor in Enron's final spiral into bankruptcy.

Who is supporting this bill? The New York Mercantile Exchange, the Chicago Mercantile Exchange, Cambridge Energy Research Associates who asked for just this, the American Public Gas Association, the American Public Power Association, Pacific Gas & Electric, Calpine, Mid-America Energy Holding Company, Texas Independent Producers and Royalty Association,

the Consumers Union, and the Consumer Federation of America, all because they believe the time has come to see there are no trading markets in secret that do not keep records, and to shine the light of day on these trades.

Now, who is opposed to the amendment? Some energy companies oppose this bill. One lesson some of these companies seem to have learned from the recent energy crisis was they make more money when they can operate without any transparency, in secret, without any reporting requirements or oversight of any kind, and that cannot continue to exist.

I am very much encouraged that not all energy companies want to operate this way. As I mentioned, PG&E, Calpine, Apache, Mid-America Energy, and others support this bill, and many other energy companies are sitting on the sidelines waiting to see what may happen.

There are still some who fail to recognize the glory days of operating in secret are over. Regardless of what happens with this amendment, I want to go on record saying I will do everything in my power to see the energy sector is exposed to the same price transparency and oversight as every other sector of our economy. Make no mistake, this debate boils down to the issue of whether energy companies should be able to operate in continued secrecy.

Some of these companies have argued this amendment creates unfair reporting and oversight over energy companies. So let us again look at what this provision would do. It would treat electronic trading exchanges like any other exchange since, as I said before, there is neither price transparency nor regulatory authority over those exchanges where there is not a direct delivery. So with this provision, the same reporting requirements that CFTC requires of the New York Mercantile Exchange and the Chicago Exchange would now be required of electronic exchanges. This means simply that CFTC would be able to assert the same oversight and require the same transparency of electronic exchanges that are already required of nonelectronic exchanges.

I have a very hard time understanding why this is so burdensome and unfair. Additionally, some of these companies have also asserted this amendment would create unfair burdens on companies engaged in bilateral transactions. Here is what they are complaining about: With our amendment, any entity engaging in bilateral transactions in energy commodities would have to keep a record of those transactions, and the CFTC would have the authority to look for fraud and manipulation.

Again, let me repeat, a company engaged in bilateral trading has to keep a record of that transaction, and the CFTC has the authority to investigate fraud. That is it. It is the same authority that was there before 2000 and the same standard that traders of all other commodities are required to meet.

So with all we now know about the energy sector and Enron, I challenge anyone to explain to me why energy companies should continue to have a loophole so they can trade in secret, not keep any records, and therefore there is no evidence that can be proven as to manipulation of price. The day has come to close that loophole.

I note one of the main original cosponsors is in the Chamber and wishes to speak to this amendment. I have had the pleasure of working with the Senator from Oregon on the Energy Committee, as I have with the Presiding Officer. The Senator from Oregon has been a leader and very focused on this issue. I want to thank him for his help, and I ask the Chair recognize him.

EXHIBIT 1

AMERICAN PUBLIC GAS ASSOCIATION,
Fairfax, VA, March 5, 2002.

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

DEAR SENATOR FEINSTEIN: The American Public Gas Association (APGA) is very pleased that you have taken the lead to amend the Commodity Exchange Act (CEA). Your revisions to S. 517, which amends the CEA, brings the trading of energy products, including natural gas spot and forward prices, under the appropriate jurisdiction of the Commodity Futures Trading Commission (CFTC). As a result, your amendment will reduce the various risks imposed on consumers by a partially unregulated energy trading market.

As you know, Enron operated in what was essentially an unregulated environment. While there will be much more to come in the wake of Enron, one thing is perfectly clear today—our federal government has an obligation to make sure that no important trading activities fall between the cracks leaving some energy markets without a federal agency with oversight authority. Your amendment remedies this glaring deficiency.

APGA is fully committed to support your effort to reverse the action Congress took just 15 months ago in the Commodities Futures Modernization Act (CFMA). The CFMA amended the CEA by allowing some energy contracts to be traded with no government oversight. We firmly believe that the CFTC must have at its disposal the necessary jurisdiction and authority to protect the operational integrity of energy markets so that (1) transactions are executed fairly, (2) proper disclosures are made to customers, and (3) fraudulent and manipulative practices are not tolerated.

In December of 2000, when the CFMA was under consideration in the Senate, APGA submitted a Statement for the Record to the U.S. Senate Committee on Energy and Natural Resources during a hearing on the ''Status of Natural Gas Markets.'' In the statement, we expressed a concern that the proposed legislation would codify an exemption for energy commodity transactions that would shield those energy transactions from the oversight and review of the CFTC. Enron took advantage of this gap in regulatory oversight. Your amendment will close that gap. Consumers across the country will benefit from your efforts because they are less likely to be victimized by activities that occur in a market where the CFTC exercises oversight.

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

Sincerely,

BOB CAVE,
President.

EXHIBIT 2

TEXAS INDEPENDENT PRODUCERS & ROYALTY OWNERS ASSOCIATION,
Austin, TX., March 6, 2002.

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

DEAR SENATOR FEINSTEIN: We understand that later today, you will introduce an important measure designed to bring greater transparency to natural gas markets. We believe that improved transparency will reduce price-markups charged in transactions that take place after natural gas leaves the wellhead and before it reaches the burner tip. Thus your measure will benefit both consumers and producers. We support the modified version of S. 1951 that you intend to offer as an amendment to the Senate Energy Bill.

We understand that the amendment:

(1) will not grant any price control authority under the Federal Power Act or Natural Gas Act;

(2) will continue to allow energy commodities (actually all commodities other than agricultural commodities) to be traded on electronic trading facilities that currently qualify as exempt commercial markets, provided that the trading facilities register, meet net capital requirements, file reports, and maintain books and records;

(3) will require participants in such markets to maintain books and records; and

(4) will apply these requirements to electronic trading facilities which permit execution with multiple parties and non-binding bids and offers, and will require books and records to be kept by participants in facilities that permit bilateral negotiations.

TIPRO believes that this measure will tend to improve price transparency in natural gas markets, leading to a more efficient and stable marketplace. The relatively modest requirements outlined above should not unduly reduce liquidity for gas traders. Accordingly, TIPRO endorses your amendment.

Sincerely,

GREGORY MOREDOCK,
Natural Energy Policy Committee Chairman.

EXHIBIT 3

MIDAMERICAN ENERGY HOLDINGS CO.,
Omaha, NE., March 5, 2002.

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

DEAR SENATOR FEINSTEIN: I am writing in support of your effort to ensure that there is transparency and appropriate federal oversight of energy futures trading markets.

As I testified before the Senate Energy and Natural Resources Committee last month, I have long been concerned that the type of exchange run by Enron before its collapse offered opportunities for manipulation. Enron was the largest buyer, the largest seller and the operator of an unregulated exchange. In view of the revelations of the last several months regarding Enron, the unregulated nature of these markets has raised serious concerns regarding the ability of the federal government to ensure that energy trading and futures markets are operating in the interest of the public and market participants.

As the Senate addresses this issue, it is important to remember that electric and gas

markets as a whole responded to the Enron collapse without disruption, so legislation should not compromise the liquidity of these markets. I applaud your determination to keep your amendment focused on oversight and transparency and am encouraged that you, along with Senators Cantwell and Wyden, have pledged to work with market participants to continue to perfect this proposal as debate on the comprehensive energy bill continues.

Ensuring public confidence in the integrity of energy futures markets is a critical component of establishing a modernized regulatory framework for the electric and natural gas industries. I am pleased to support your effort and commend you on your work on this important issue.

Sincerely,

DAVID L. SOKOL,
Chairman and CEO.

PG&E CORPORATION,
Washington, DC, March 6, 2002.

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

DEAR SENATOR FEINSTEIN: We are writing today in reference to the amendment you will be offering to the Senate Energy bill, containing the substance of legislation you and several of your colleagues introduced earlier to provide regulatory oversight over energy trading markets, as amended.

At the outset, we applaud your efforts to ensure public and consumer confidence in the operation and orderly functioning of the energy marketplace. As you know, the industry relies heavily on these markets and products to manage risk for the benefit of consumers of electricity. We thus appreciate your willingness to work with us and other market participants to address areas of interest and concern as the provisions of your amendment have been debated and refined. As presently drafted, we view your amendment as providing an increased level of oversight, while ensuring the continued ability of market participants to utilize these instruments as part of overall risk management strategies. We therefore support your amendment.

Thank you for your hard work in this area, and we look forward to continuing to work with you and others on matters of national energy policy.

Sincerely,

STEVEN L. KLINE.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, I want to commend Senator FEINSTEIN for leading all of us in this critically important effort. It has been a pleasure to team up with her. She has been the catalyst in this whole effort and it is a pleasure to stand with her.

I also want to note that Senator CANTWELL has been a tremendous voice for consumers in the Pacific Northwest and our country, and I have enjoyed teaming up with her as well as Senator FEINSTEIN. I am going to be very brief because I think our colleague from California has laid it out very well.

Today, as the Senate turns to a number of important amendments that are going to relate to the consumer protection issue, I think it is important to note this is an opportunity to end the Enron exemption. For years, Enron and other energy traders have operated back room trading floors where energy has been bought and sold as a commodity while the public has been kept in the dark. I think the question that colleagues may be asking is: Had this amendment been law during the time when all of the damage associated with Enron was being perpetrated, what would have been the difference? What would have been different had the Feinstein-Cantwell-Wyden effort been law at the time?

It seems to me there would have been two very significant benefits had this legislation been law. First, I think it would have been less likely that there would have been market manipulation. Certainly, the Federal Energy Regulatory Commission is investigating that question. That has not yet been determined. Certainly, conceptually it is much tougher to manipulate a market if in fact the transparency and the openness is there that this legislation calls for.

Second, had this legislation been law, if in fact there was market manipulation it would be possible to find that out very quickly. As all of our colleagues know, as a result of the request from west coast Senators, virtually all of us have joined into it. The Federal Energy Regulatory Commission has written to the west coast Senators saying they are going to investigate whether Enron manipulated our markets, but it will take them several months to conduct this investigation.

Had Enron's energy trading been regulated, as called for in this amendment, we would not have had to wait months to determine if Enron manipulated the market. Information about energy trading operations would have been immediately available to regulators and the public instead of shrouded in secrecy.

I think it is important for colleagues to note, first, this amendment makes it less likely that anybody can manipulate a market; and, second, if there is that kind of conduct taking place, it would not take months to ascertain what went on. One could find it out much more readily because information would be made available more quickly.

Before it collapsed, Enron was the biggest energy trader in the country, controlling one-quarter of all wholesale energy trades. Despite the great impact on energy markets, they were able to hide the facts about the trading operations from public scrutiny by securing exemptions from regulation for their energy and derivatives trading.

Evidence is emerging that Enron may have secretly used its market power to manipulate prices in energy markets. A witness testified before the Senate Energy Committee that the price of forward contracts for electricity dropped as much as 30 percent after Enron filed for bankruptcy, suggesting, according to this witness, Enron was artificially inflating prices in western markets.

There is a well-regulated system in place for trading pork bellies and other commodities to protect the public from market manipulation, but energy, a commodity that we all regard as essential, has been completely exempt. It seems to me if energy is going to be bought and sold as a commodity, the public should at least have the same protections that exist for trading any other commodity. There must be transparency for the markets to work.

Let me conclude with one last point, and then I know we are going to hear from our colleague from Washington. There has been considerable discussion as to whether this is somehow granting vast new powers to Government, and that Government is in some way reacting to what happened in the Enron situation.

First of all, the Commodity Futures Trading Commission had this authority before. This is not a brand new idea. They had this authority and essentially they gave it up. What this bill does is restore authority to the Commodity Futures Trading Commission to regulate energy the same way it regulates every other commodity.

I hope when my colleagues vote on this amendment, they recognize this is something that the Commodity Futures Trading Commission used to have. It is authority that was on the books before the agency granted a blanket exemption from regulating energy as a commodity. As my colleague from California noted, Congress later went along as part of an appropriations rider. But this bill does not give the Commodity Futures Trading Commission vast new powers nobody has ever heard about, and constitute in some way a rush to judgment in reaction to the Enron situation. This is restoring a power the agency should not have given up.

I compliment my colleague from California. She has been the leader in this effort, as has the Senator from the State of Washington.

Mrs. FEINSTEIN. Madam President, before Senator CANTWELL is recognized, I ask unanimous consent Senator FITZGERALD of Illinois be added as an original cosponsor, and that he be called on to speak directly following Senator CANTWELL.

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

The Senator from Washington.

Ms. CANTWELL. Madam President, I, too, rise in support of this very important legislation, the Feinstein-Cantwell-Wyden energy derivatives legislation. I thank my colleagues for articulating the importance passing this amendment.

It is no secret that the States of California, Oregon, and Washington have been greatly impacted by the high prices of energy that our consumers are still paying and that have had a very negative impact on our economies. That is why this legislation is so important.

I applaud Senator FEINSTEIN for her hard work in driving this legislation. Basically, this amendment closes a very dangerous loophole, which was actually created by Congress and which

Enron may have used—I say ''may'' have used—to turn political influence into profit at the expense of consumers. That is why we must act today.

The Enron loophole created by the Commodity Futures Modernization Act actually allowed Enron Online and other companies like it to sell futures behind closed doors, without the regulatory oversight or the safeguards that this nation's ratepayers deserve.

At its core, our amendment allows the Commodity Futures Trading Commission to treat energy futures like all other regulated commodity futures. It does not give the CFTC any new powers that it does not already have when it is regulating other futures markets. This is a very important point. Our amendment places currently unregulated energy futures trading exchanges, such as Enron Online, under the CFTC's regulatory authority.

Closing this loophole, as Senator FEINSTEIN said, has the support of many organizations, such as NYMEX, Calpine, and Cambridge Energy Research Associates. But more importantly, consumers are counting on us. The Consumers Union, the Consumers Federation, and Public Interest Research Group all support this amendment. They support it for one very basic reason: They support it because it requires open books and transparency for markets that currently operate in secret. It is important because if there have been patterns of irregular energy trading, we want those patterns to be found and made abundantly clear.

What we are saying is that there should not be special rules for Enron. If agricultural products, minerals, and even certain other types of energy futures transactions are regulated by there CFTC, there is no good reason we should allow online energy trading exchanges to operate in the dark.

After all we have learned about Enron, shouldn't it be clear to all that exposing its trading activities to the light of day is essential? Closing the loopholes will open books and require transparency. It will give us the ability to do important things like compare Enron Online prices to competitors, compare forward markets with physical market pricing, and investigate the books of online traders to search for what those potential irregularities might be.

Being able to answer these questions will be incredibly valuable in reinforcing the strength and integrity of our energy markets. Why is this so important to the State of Washington? Many people may not realize that Enron continues to hold gigantic long-term contracts with utilities throughout the country, at least $900 million worth in my home State. We are now learning that these contracts may have been the result of market manipulation by Enron.

In one case alone, the Bonneville Power Administration has long-term contracts with Enron of over $700 million. At today's market price, those contracts would only cost $350 million. That means BPA—and that means, ultimately, Washington state ratepayers, who have to pay for those energy costs are paying Enron about $350 million more than the current market value.

Contracts like these have translated into unacceptably high utility bills for ratepayers throughout the West who deserve relief as soon as possible. That is why I have joined my colleagues in urging FERC to investigate and determine whether Enron manipulated these energy prices in the West, and if so, make sure that if these contracts are unjust and unreasonable, our consumers are let out of having to pay these high prices for the next 3 to 5 years.

Until we change this and require open books and transparency from Enron Online and businesses similar to it, the public will not be protected in the future for having the same kind of market manipulations, perhaps, happen to them. That is why passing this legislation is so important. We have to close the Enron loophole and restore the faith that the public needs to have in our energy markets—the faith that consumers deserve. They deserve to know that these entities are being regulated and are operating in the light of day.

I again thank my colleague from California who has worked so diligently on this important legislation, which is a key part of our energy strategy. We need to make sure and consumers need to believe that we are on the right track.

I yield the floor.

Mrs. FEINSTEIN. If the Senator from Illinois who is next under the unanimous consent agreement will yield for just a second, I thank Senator CANTWELL. She also is on the Energy and Natural Resources Committee. She also has been very concerned, very diligent, working very hard at what has been a very difficult onion to peel. I am very grateful for her leadership.

I ask unanimous consent to add Senator CORZINE as an original cosponsor. I believe he wants to speak to the amendment.

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

The Senator from Illinois.

Mr. FITZGERALD. Madam President, I am pleased to rise in support of this amendment by my colleague from California. I support it and congratulate her for introducing it. Illinois, specifically Chicago, is home to some of the largest futures exchanges in the world. Certainly, I was very involved in the Commodity Exchange Act Reauthorization a couple of years ago. Since that time, in the wake of the Enron bankruptcy, the Enron exemption that allowed Enron Online to operate without any regulatory oversight has come to light, and it has drawn some criticism.

I say at the outset, I think probably Enron Online may not have had all that much to do with Enron's bankruptcy. I have also been very involved in the Enron investigations in the Senate, and as far as I can tell, Enron was running what amounts to a gigantic shell game or pyramid scheme, essentially borrowing money and booking borrowed money as income by filtering the borrowings through partnerships. They had the debt parked on the books of the off-the-balance-sheet partnerships rather than on their direct books.

At the end of the day, when Enron filed bankruptcy, it was because it had several billion dollars in indebtedness coming due that it, Enron, could not pay.

I don't know that Enron Online and their energy trading, per se, was responsible for it. I have seen many transactions that Enron engaged in that were simply borrowing money and reporting it as income. We will have to wait for a full autopsy. Nonetheless, I think it is appropriate to close the Enron exemption in the Commodities Exchange Act. That is what this bill does.

Right now, in an electronic exchange in which energy contracts are traded, that exchange is exempt from regulation under the Commodity Futures Trading Commission or by the FERC. FERC only comes in if energy is actually delivered, and in most cases energy is not actually delivered. You have contracts traded back and forth and many times an actual delivery of the commodity is put off.

I have been troubled to some extent by the wholesale exemption that is given to online futures exchanges. The exchanges at the Board of Trade and the Mercantile Exchange face a great deal of overhead to comply with their regulatory burden. I think that is appropriate. I think sometimes it is unfair to set up an offline exchange and say this is an offline exchange because online does not have any regulation. I like to see industries competing on a level playing field. I think that is what America is all about. I do not think there should be regulatory advantages given to one side or the other.

I do think this would be a protection for consumers, even sophisticated principals who may be trading energy contracts on electronic exchanges. I think there would be benefits by having some CFTC oversight. There would be greater transparency. It would be easier for prices to be discovered.

I think Senator FEINSTEIN's amendment accomplishes a great deal. It repeals the exemptions and exclusions for bilateral derivatives in multilateral markets in energy commodities. All would be again subject to direct CFTC oversight. That was the case prior to our reauthorization of the Commodities Exchange Act. We would correct that. Also, it ensures that energy dealers in derivatives markets cannot avoid full price transparency and escape regulatory oversight.

Third, the amendment subjects all multilateral markets and bilateral

dealer markets in energy commodities to registration, transparency, disclosure, and reporting obligations and requires entities running online trading forums to maintain sufficient capital to carry out their operations. It seems very reasonable to me.

Fourth, parties engaging in bilateral energy transactions must keep books and records. That does not seem so onerous to me.

Fifth, all energy transactions not regulated by FERC would be regulated by the CFTC.

And sixth, the amendment requires FERC and the CFTC to meet quarterly and discuss how energy derivatives markets are functioning and affecting energy deliveries. I do think that is reasonable in light of the great runup we saw in energy prices last year, particularly in Senators FEINSTEIN and BOXER's great State of California.

It is unclear why the price rose so quickly and why then ultimately it plummeted again back to reasonable levels. Whether this amendment, had it been law at the time, would have prevented that I do not know. But I think it will promote greater price transparency. I think that can't hurt. I think there is a minimal burden here, and I think it is worthy public policy. I compliment my friend from California, and I am proud to stand in support of her amendment.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New Jersey.

Mr. CORZINE. I thank the Chair.

I, too, rise to strongly support the amendment the Senator from California is offering to roll back this Enron exemption in the derivatives market. Being an old bond trader who operated in the derivatives markets for many years, the idea that we do not need basic registration of dealers, we do not need capital adequacy or capital rules, that there is no price transparency, whether in over-the-counter markets or on electronic exchanges, or there are not audit trails that are fundamental to any kind of regulation of financial transactions anywhere in the world, seems strange to me and offers an opportunity for those who want to take advantage of the lack of transparency and create patterns of manipulation to easily operate in these markets. It seems very strange that we pick a very narrow slice, the energy markets, to have such a gaping lack of transparency.

I have heard people say there is no creativity in markets, that they will not develop, there will not be the liquidity in overseeings. That is just flatout not the fact. If you look at the derivatives markets in financial securities, or financial instruments, you will see some of the deepest, broadest, most liquid markets in the world. As a matter of fact, confidence comes when the participants who enter into markets will know where prices are taking place, the price discovery mechanism is quite obvious, where there are audit trails, so that if there are differences of views about whether transactions were actually executed, you can go back and find out where those prices actually took place. And you know your counterparts have enough capital to be able to stand behind the transactions. And then you have some simple qualifications to be a participant in those markets.

I think all these are simple, straightforward fundamentals in finance 101 for anyone who deals with financial transactions, whether it is derivative transactions that relate to hog bellies, Treasury bills, or stocks, and no different for energy in my mind, and I find it incredibly lacking in consistency with our oversight regime which has produced maybe the broadest, deepest markets we have anywhere in the world, in the history of the world, frankly, and I see no reason why we should not have that applying to energy markets just as we do any other market.

On that basis, I strongly support the amendment. I think Senator FEINSTEIN is definitely on the right trail to produce markets that will provide consumer protection, protection against price manipulation, and a greater quality of activity in the underlying energy markets. I think they will be broader and deeper because of it.

So I am proud to stand in support of the amendment of the Senator from California.

Mrs. FEINSTEIN. Madam President, I thank the distinguished Senator from New Jersey for his support. In view of his background, his knowledge, and his expertise, I am particularly grateful for that support. It is one thing to stand here and feel in your gut what is right for the consumer, but it is another in the mystical world of finance. His wisdom and his knowledge hopefully will gain additional votes for this amendment. I am very grateful to the Senator. I thank him very much.

Madam President, I note 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. BINGAMAN. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BINGAMAN. Madam President, I ask unanimous consent the pending amendment be set aside so that I can send an amendment to the desk for consideration.

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

AMENDMENT NO. 2990 TO AMENDMENT NO. 2917

Mr. BINGAMAN. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 2990 to amendment No. 2917.

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

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

The amendment is as follows:

(Purpose: To promote collaboration between the United States and Mexico on research related to energy technologies)

After section 1413 insert the following:

SEC. 1414. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) FINDING.—Congress finds that the economic and energy security of the United States and Mexico is furthered through collaboration between the United States and Mexico on research related to energy technologies.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall establish a collaborative research, development, and deployment program to promote energy efficient, environmentally sound economic development along the United States-Mexico border to—

(A) mitigate hazardous waste;

(B) promote energy efficient materials processing technologies that minimize environmental damage; and

(C) protect the public health.

(2) CONSULTATION.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall consult with the Office of Energy Efficiency and Renewable Energy in carrying out paragraph (1)(B).

(c) PROGRAM MANAGEMENT.—The program under subsection (b) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(d) COST SHARING.—The cost of any project or activity carried out using funds provided under this section shall be shared as provided in section 1403.

(e) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section to mitigate hazardous waste, the Secretary shall emphasize the transfer of technology developed under the Environmental Management Science Program of the Department of Energy.

(f) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered between the United States and Mexico regarding intellectual property protection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2003 and $6,000,000 for each of fiscal years 2004 through 2006, to remain available until expended.

Mr. BINGAMAN. Madam President, this is an amendment which tries to address some very serious health and energy production issues, environmental issues, along the 2,000-mile common border that we have with Mexico.

There are tire dumps in that region that routinely catch fire and which have been determined to breed airborne dengue fever, which is a major health risk that we will face in the next decade.

There are brick kilns that use wood and plastic and cause serious health-related problems in the metropolitan area of Juarez/El Paso. There are serious water contamination issues with regard to ground water along the United States-Mexico border.

This amendment, which I am offering on behalf of myself and Senator DOMENICI, is one which directs the transfer of Department of Energy environmental management technologies to help clean up many of these serious and pressing health-related problems along the border.

The amendment will develop joint research programs between U.S. and Mexican universities on technologies to help develop clean materials processing technologies such as leadless solders for microelectronics plants, techniques to control air pollution from border region heavy manufacturing plants, and energy-efficient methods to recover nonpotable water for irrigation.

This is an amendment that was passed unanimously as S. 397 in the last Congress, the 106th Congress. That was after we had a full markup of the legislation in the Energy Committee.

It is consistent with the current administration's views on developing close ties with Mexico in both the fields of environmental sciences and energy production.

It is a very good amendment, which I understand I will be given the opportunity to explain again tomorrow morning before a vote occurs. It is one of the amendments the majority leader has indicated he would like to have a vote on tomorrow morning.

So I will not, at this point, belabor the issue but indicate to my colleagues that it has been supported unanimously, on a bipartisan basis, in the prior Congress. It is a good piece of legislation and one that I would very much like to see added to this pending energy bill. I hope we will do that tomorrow morning when the issue comes up for a vote.

Madam President, with that, I once again yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2991 TO AMENDMENT NO. 2917

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

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

The senior assistant bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. Akaka, proposes an amendment numbered 2991 to amendment No. 2917.

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

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

The amendment is as follows:

(Purpose: To modify the provision requiring an assessment of the dependence of the State of Hawaii on oil)

Strike section 1702 and insert the following:

SEC. 1702. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in paragraph (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, a report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. BINGAMAN. Madam President, this amendment makes technical corrections in section 1702 of the substitute bill that is before us, which requires the Secretary of Energy to study the economic risk posed by the dependence of Hawaii on oil as the State's principal source of energy.

The changes in the original text were proposed by the minority. They are acceptable to Senator AKAKA, who was the original proponent of section 1702. They have been cleared on both sides. So I urge that they be agreed to at this point.

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

The amendment (No. 2991) was agreed to.

Mr. BINGAMAN. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I know there are amendments that have been laid down and are open for discussion, but I want to take this opportunity to give a statement for the record in regard to the energy debate.

I will begin by thanking the chairman and our excellent leader, Senator BINGAMAN, for laying down a bill that is a real building block, a real stepping stone toward the kind of energy policy with which our Nation could grow and prosper. I thank him for including many of the issues I raised with him on behalf of the State of Louisiana and other petroleum- and gas-producing States, as well as provisions that Senator DOMENICI, Senator VOINOVICH, and I have worked on relating to electricity generation, expansion of nuclear energy, and others. He has been very open to many of the ideas we have suggested. The bill, however, is only a starting point.

I believe we have to build some additional provisions into this underlying bill.

To begin with, I am reminded of the words of Thomas Edison. He once said:

Opportunity is missed by most people because it comes dressed up in overalls, and it looks like work.

I think, as we begin this energy debate, that is an appropriate quote of which to be mindful. The situation that presents itself here—energy policy—rarely captures the attention of Congress, but at this very moment it really is a wonderful opportunity for us. We have a real opportunity—an opportunity to impact our economy and our environmental and foreign policy, all through the adoption of an effective and coherent national energy policy. But getting there is going to require some real work and some real compromise.

I am concerned that this is an opportunity dressed up like hard work. I am

hoping that the Senate is appropriately dressed. I am not quite sure. I know many of us have worked diligently, and, hopefully, with leadership on both sides and with strong leadership from the President, we can actually get a bill that makes sense for where our Nation is today—but, more importantly, where we need to be in the future.

The American people are ready for a different kind of energy policy. A recent poll found that three-fourths of the public believes that if we don't address our energy needs now, in 20 years Americans will not be able to live their lives in the way they choose. I think the American people, even prior to September 11, were very mindful of this fragile situation in which we find ourselves. But now, post-September 11, I know the people in my State are very concerned about our overdependence on foreign oil and energy sources. Of course, the American people are right. They recognize our vulnerability. This is the moment, and we must seize it.

I thank the chair of our committee again for his excellent work, and I thank Senator DASCHLE for bringing this bill to the floor for our consideration.

Many, including myself, have stated really inaccurately before that we don't have a national energy policy. Unfortunately, we do have one. The policy, whether expressed or implied, though, is perfectly clear. That policy, unfortunately, is that this Nation is to try to import as much cheap oil as possible. It doesn't seem to us that the sources of this imported oil matter much. All other national policies, such as human rights, conservation, and geopolitics, have seemingly taken a back seat to this overriding policy.

Let's look at the nations we are willing to deal with in order to secure cheap oil. The United States imports nearly 600,000 barrels of oil a day from Iraq. This is a country that we have been bombing an average of once a week. Can you imagine what the public would say if we were buying steel from Germany while undertaking the D-Day invasion? Yet that is the same kind of corrupting power that this shortsighted policy has on other interests.

I believe it is time—and I know many of my colleagues join me in saying this—for our country to forge a new ''declaration of independence.'' About 226 years ago, we decided the people of our Nation needed to control their own destiny politically and economically. We need to do so again today. In order to have that control, we must have energy independence. While we will never achieve that 100 percent, we have to get much closer to that goal than we are today. Getting there is going to be tough, but that is what this debate is about. It is what it should be about; it is what the American people want this debate to be about.

While we are achieving that end, it may require efforts equal to the Manhattan project, or the Apollo project, but I believe it is within our grasp. Again, with strong Presidential leadership, with a bipartisan group of leaders on this floor and in the House, and with the support of the American people, I believe we are up to the challenge.

Our new declaration must center around three principles. I will start with the principle that I truly believe is the most important, and that is that this country must produce more energy. We must produce cleaner fossil fuels; more nuclear power generation; and, yes, more oil and gas by small and independent companies; and, as Senator BINGAMAN has advocated, significant new investments for alternative and renewable fuels. The occupant of the chair has advocated using biomass and other agriculturally-based projects.

There are tremendous incentives in this bill for us to expand our supply of energy so that we are not held hostage or captive by only one fuel supply. We have an ample and a varied supply, but that supply has to be increased, not decreased and diminished.

Secondly, we will conserve energy wherever possible, particularly in transportation and the industrial sector, and do it in a way that enhances our chances of creating jobs in America, not driving them away to other nations. We have to be more committed to a balance, of conserving our natural resources, conserving our clean environment, and making our environment even cleaner. But I strongly believe we have to focus as intently on conserving and expanding jobs here—in my State of Louisiana, in your State, Mr. President, and in all of our States—because if we are not careful, changes that we make can drive good, high-paying jobs away from our Nation to other nations. It is not fair to our workers, and it is not fair to our communities when there are good alternatives.

The principle of increased energy production really hearkens back to a principle deeply ingrained in our American culture; namely—and I remember studying this in my earliest grades—the dictum of Captain John Smith: ''He who works eats; he who doesn't work doesn't eat.'' The Jamestown colony would not have survived without following that simple, clear and, in some ways, profound statement. We cannot allow mindless energy consumption on one hand while allowing a ''not in my backyard,'' attitude toward energy production. We must restore balance to the equation. Louisiana makes more than its fair share of a contribution through oil and natural gas production.

We also house the Nation's Strategic Petroleum Reserve. However, while every State should be free to determine how to make its contribution—solar energy perhaps from New Mexico, hydroelectric power from Washington, clean coal plants from West Virginia—every State should be free to make its choices, but every State must make a contribution.

If we are consuming 26 percent of the world's oil supply but producing only a fraction, we clearly are eating without working. Sixty-five percent of this Nation's energy supply comes from oil and gas. Yet States continue to express a reluctance to contribute their natural resources to our common needs. These natural resources belong to all the people of our Nation. Yet we see a policy permitting repeal of laws that were strict about using natural resources for our common need, which is real and I would say urgent.

It is important to contrast this with our allies in Europe who have a reputation for being more environmentally sensitive. While we have moratoria on drilling for oil and gas all over this Nation, from the west coast to the east coast, and in parts of the Gulf of Mexico, France has high-sulfur petroleum production in Paris—in Paris; not in the countryside but in Paris. The United Kingdom, the Netherlands, and Norway all permit offshore oil and gas drilling in their fishing grounds, some of the finest fishing grounds in the world. Yet there is a tremendous amount of environmentally sensitive, very strictly regulated production operating off those shores.

Such actions would set our environmental community in this Nation in a frenzy. In Europe, however, they have managed to accept a fundamental reality: If you need oil and gas, you must produce it. What is more, every possibility needs to be on the table. If you need more power from nuclear, you have to build the nuclear powerplants to produce it. You cannot just wish it so and turn on the lights.

Our allies have recognized this, but in this country we have not quite grasped this reality. We are seeing a trend toward creating something like Fritz Lang's Metropolis, but on a statewide scale, with some States getting to live in the clouds with an unspoiled environment, consuming to their heart's desire, while other States must live on Earth and bear the brunt of this carefree lifestyle.

This growing dichotomy must stop. We must have more domestic production to balance out our consumption. It is just as simple as that.

The second principle of our declaration, of course, is conservation. We must consume less. Everyone knows the American economy is the largest consumer of energy in the world.

Everyone also understands that we have the largest gross domestic product in the world. While we produce more goods than any other people on Earth and in the history of the world, the ratio between how much we produce to how much energy we use to produce it is the worst in the world. In other words, we are hugely inefficient when it comes to the use of energy. This is not only an environmental dilemma, but it is an economic dilemma as well.

We have squeezed efficiency out of our American workers through greater productivity gains, longer work hours, a more flexible and skilled workforce,

and particularly new technologies. However, we have not squeezed enough efficiency out of our power distribution networks to make U.S. manufacturing cheaper and, as a result, more competitive.

I congratulate Senator BINGAMAN, again, for making this a focus of this legislation. It is truly one of the best pieces of this legislation, and, if we can build on this piece, it will be a real step in the right direction. I look forward to working with him in this debate. Already we have accepted several amendments toward this end that have strengthened this position so that we can make it even stronger.

We must, as I said in the first principle, we must be committed to robust domestic production. Then we also have to be committed to real efficiencies in our electric market, on which Senator VOINOVICH and others have worked so diligently.

Finally, we must institute the third principle, and that is, if you are taking on the burden of production, whether it is in Louisiana, which produces oil and gas and other energies for this Nation, or other States, our Nation should compensate those regions fairly.

Louisiana is the second-highest energy-producing State in the country. We have 16 percent of the total refining capacity, and we supply about 25 percent of all domestic petroleum, half of the imported liquefied natural gas, and about 13 percent of the crude oil shipped into the United States comes through Louisiana. Yet this contribution, while my State is proud of it, has not come without cost to our coast, to our environment, and our infrastructure.

In the past 50 years, Louisiana has lost over 1,000 square miles of its coast. Let me be clear, this loss is not 100 percent directly related to this activity. This activity has been a portion of this loss. There have been many other factors. But still the facts remain that because of the drainage and the shipping we provide for the Nation through the Mississippi River and the Delta so that all the Great Plains States and our great interior can ship products out and receive products, as well as the production taking place in this fragile environment, it has had some environmental consequences.

This loss represents 80 percent of all wetlands loss within the United States. While my State suffers these losses, we contribute to the Federal Treasury anywhere from $2 billion to $4 billion a year, just through oil and gas production. This figure does not take into account the taxes and wealth and prosperity generated for the whole Nation because of the shipping and the commerce allowed by our rivers.

In fact, since the year I was born, 1955, our State and other coastal States have contributed $120 billion to the Federal Treasury, and Louisiana has received nothing of this $120 billion directly. We have received less than 1 percent of the money that has come into the Treasury from offshore oil and gas drilling and yet bear most of the cost of the infrastructure required.

Louisiana's coastal wetlands contribute 28 percent to the total volume of U.S. fisheries. Our coastal wetlands are being lost at a rate of one football field every 15 minutes. Let me restate that: One football field every 15 minutes.

In short, we should sometimes ask ourselves: Why are we doing this? Why don't others do it? We have developed a system of retrieving our natural resources. In the old days, we did not do a very good job of it, but in these days of new horizontal drilling, directional drilling, with new technologies, new rules and regulations, some local and some national, we have learned to pool our natural resources for the benefit of our State and our Nation and minimize that environmental footprint.

We want to continue to do that, but we cannot continue under the present regime or set of circumstances unless we are more fairly compensated.

Interior States that produce their natural resources, whether it is to contribute to the energy sector or other sectors, receive 50 percent of their royalties in revenues. Two years ago the State of Wyoming, through severance taxes that levied from their mining operations, kept $200 million and spent it as they would to reinvest in their State and the local communities that supported that mining operation.

Yet Louisiana and the Gulf Coast States that bear a tremendous responsibility for the production now of oil and gas do not share a penny of those offshore revenues, and yet serve as a platform for that production.

The helicopters cannot get into the central gulf unless they take off from somewhere. The pipes, the equipment, the computers, the people, the technology are launched from the coast of Texas or Louisiana or Mississippi or Alabama.

I am going to be laying down amendments—there is already a provision in this bill, thanks to Senator BINGAMAN—that would authorize for the very first time a coastal impact assistance provision that will give Louisiana and the Gulf Coast States a share of these revenues. It is an authorization. I believe we need a direct appropriation, and I will be working to strengthen that provision. But for the first time, the Senate, I hope, will accept this responsibility and fashion part of our overriding energy principle or declaration of independence that if you are going to produce, you should be rewarded for that production. Again, produce what you will, produce what you can, produce what you choose, but whatever you do, you should be rewarded or compensated for that production.

Frankly, for those States that refuse to produce and only want to consume, then I think we should think very strongly about that situation and what we might do to encourage those States to do more to meet their obligation. It did not work 226 years ago, and that kind of attitude is not going to work today. So for producing States, I believe this is a very strong policy.

I look forward to this debate. It is a rare moment in our history. I hope there is enough pressure that can be brought to bear to move us to make the kind of compromises necessary. It is time for us to declare our independence. We will not get there 100 percent, but we need to get much closer to independence than we are today because not only is our economy at stake, our environment is as well. The security of our Nation rests on how successful we will be in getting more independent.

If another tragedy strikes or, shall I say, when another tragedy strikes, with the new and emerging threats confronting our Nation, we can make wise decisions based on our principles, based on America's economic interests, based on what is right in terms of leading the Nation, and not be held hostage because we have simply not learned how to either live within our means so we can have the kind of independence necessary to make wise decisions for ourselves as we help to lead this world.

This is a very important debate. I have really appreciated working again with Senator DOMENICI. He has almost singlehandedly reengaged us in understanding the importance of nuclear energy for our Nation—it is 20 percent of the source today—and rallied many different entities to realize we have safer nuclear reactors. The new technologies are quite promising, with the production of hydrogen as well as the traditional fuels and what that might mean to help us reach that independence.

Senator VOINOVICH and I will continue to work on building an electric grid for this Nation much like our transportation grid, our interstate system. No one would argue that without the interstate system our economy could not grow. We could not move our products. We could not build our businesses. We could not have the international trade that is now the lifeblood of our Nation. That is the kind of electricity system that we need to create.

It was not created that way initially. It was all State developed, regionally developed, and we have to now open that up so our electricity and power can get on onramps, off offramps, with limited speed bumps, and move throughout this Nation to create the kind of conservation and efficiency our businesses need to compete in the world.

As I said, there are many goals and objectives. I have laid out some of these principles, and I look forward to advocating for the people of my State and for many States that are producing oil and gas to make sure we are justly compensated so we can take those just compensations and reinvest for our children and for our grandchildren.

One day these oil and gas wells are going dry up. We wanted to make sure we were good stewards of the taxes

that were levied on those oil and gas wells. Therefore, we have laid down new investments for cleaner technologies, for new opportunities for Louisiana and for our Nation.

Mr. GRASSLEY. Mr. President, I am glad to have the opportunity today to speak on the critical issue of energy security. In order to secure our country's economic and national security, we need to have a balanced energy plan that protects the environment, supports the needs of our growing economy, and reduces our dependence on foreign sources of energy.

Every man, woman, and child in the United States is a stakeholder when it comes to developing a responsible, balanced, stable, long-term energy policy.

When natural gas prices soared last winter, low-income families and the elderly were the hardest hit. Not too long ago, $2-per-gallon gas took a great toll on our economy. Trucking companies went bankrupt, small businesses and factories were forced to lay off workers, and farmers suffered a devastating blow of spiked input costs.

We found ourselves, after 8 years of inaction by the Clinton administration, without a comprehensive energy policy. I questioned officials from the Clinton administration and encouraged them to provide to Congress a plan to deal with the rising cost of energy. I even authored an amendment to require them to compile a report detailing their plan to address the energy shortage. I never received such a plan.

I was pleased that President Bush, soon after taking office, pledged to make the energy security of our country one of his highest priorities.

It is unfortunate that since the release of the President's National Energy Policy report last year, it took over 10 months for the Senate to begin this debate. Even more troubling is the process by which this bill was put together. In October, the majority leader and the chairman of the Energy Committees chose to remove this bill from further consideration by the committee, and instead put together this bill without the input of the minority members of the Senate Energy Committee, and that is also unfortunate.

The events of September 11 have made very clear to Americans how important it is to enhance our energy independence. We can longer afford to allow our dangerous reliance on foreign sources of oil to continue.

It is time to get serious about implementing energy efficiency and conservation efforts, investing in alternative, renewable fuels and improving domestic production of traditional resources.

I support a comprehensive energy policy consisting of conservation efforts, development of renewable and alternative energy resources, and domestic production of traditional sources of energy.

As my colleagues well know, I have long been a supporter of alternative and renewable sources of energy as a way of protecting our environment and increasing our energy independence.

In 1992, I authored legislation to provide the first-ever tax incentive for wind energy production. In 1997, I led the successful effort to extend for 10 years the tax credit for corn-based ethanol.

The energy bill we are currently debating includes a number of provisions regarding conservation and renewable energy development. For example, included in this legislation is a renewable fuels provision which requires a small percentage of our Nation's fuel supply to be provided by renewable fuels such as ethanol and biodiesel.

I strongly support the production of renewable domestic fuels, particularly ethanol and biodiesel. As domestic, renewable sources of energy, ethanol and biodiesel can increase fuel supplies, reduce our dependence on foreign oil, and increase our national and economic security.

I thank the majority leader and Chairman BINGAMAN for including this renewable fuels standard, which is very similar to the standard that the Senate Energy Committee Republicans supported early last fall.

The renewable fuels standard, supported by a broad coalition, is good for America's farmers, good for the environment, good for consumers, and good for national security.

However, while this bill addresses conservation efforts and alternative energy, it falls well short on domestic energy development of traditional sources. Critical provisions to support new development of nuclear energy and domestic oil and gas exploration and production were unfortunately left out of the package.

At a time when the United States is dependent on foreign countries for over 58 percent of our oil needs, this legislation does little to support development of resources on our own land. We currently import more than 750,000 barrels of oil a day from Saddam Hussein's Iraq. Yet this bill remains silent on the development of just 2,000 acres of land in Alaska that could supply the equivalent of the oil we import from Saudi Arabia for 30 years.

We must do more to develop, in an environmentally sensitive way, the resources that God gave us. I look forward to working with my colleagues to ensure that the bill before the Senate does more to protect our national security, and reduce our dependence on foreign oil.

I also look forward to debate on an amendment that I plan to offer with Senator BAUCUS. As ranking member of the Finance Committee, I have had the opportunity to work with Chairman BAUCUS to develop an energy-related tax amendment.

Unlike the underlying bill, this amendment strikes a good balance between conventional energy sources, alternative and renewable energy, and conservation.

Among other things, it includes provisions for the development of renewable sources of energy like wind and biomass, incentives for energy efficient appliances and homes, and incentives for the production of non-conventional sources of traditional oil and gas.

I believe the Finance Committee did a good job to address our nation's energy security in a balanced and comprehensive way, and I look forward to the Senate's consideration of the energy-related tax package.

In conclusion, I am please that the Senate has finally begun to address an issue with such a direct impact on our national and economic security.

For the sake of our children and our grandchildren, we must implement conservation efforts, invest in alternative and renewable energy, and improve development and production of domestic oil and natural gas resources. I hope that during this process we can develop a bill that is truly comprehensive.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to a period of morning business, with Senators allowed to speak therein for a period not to exceed 10 minutes.

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

Mr. REID. How long does the Senator from Maine wish to speak?

Ms. COLLINS. If I could be recognized for 10 minutes.

Mr. REID. If the Senator needs more time, no problem.

Ms. COLLINS. I thank the leader for his assistance.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I also appreciate you staying in the chair. I will try not to unduly delay you.

THE ECONOMIC RECOVERY PACKAGE

Ms. COLLINS. Madam President, I rise today to express my support for the Job Creation and Worker Assistance Act, which passed the House earlier today by an overwhelming vote. I am so pleased that it appears we are on the verge of finally passing a very balanced, reasonable, and bipartisan bill to keep our economy on the road to recovery.

It has been a long struggle, back and forth, between the House and the Senate and between the two parties, and now it is great to see us all coming together on a consensus bill.

I thank the House leadership, and in particular Chairman BILL THOMAS for all the work he has done in putting together this excellent legislation.

I am particularly pleased that the bill includes two provisions about which I care a great deal.

The first is the extension of unemployment compensation for displaced workers for an additional 13 weeks. Last October, I introduced the first bipartisan bill to extend unemployment benefits for workers who had exhausted their regular State benefits and yet still have been unable to find new work or to be rehired because of the weak economy. These workers need our help.

We know that in January alone some 370,000 unemployed workers exhausted their benefits, up 63 percent from the year before. The situation is similar in Maine. We experienced a large increase in the number of unemployed workers who have been unable to find new work and have exhausted their normal 26 weeks of State unemployment benefits.

This extension could help some 3 million unemployed workers, many of whom lost their jobs either as a direct or indirect result of September 11 or have been affected by the recession that our country just now seems to be on the verge of pulling out of.

I know the Presiding Officer has been very concerned about the large number of unemployed Americans living in her State which has experienced one of the higher jumps in unemployment insurance. I know this is a provision she has been a strong advocate for as well.

The second provision on which I want to comment tonight is one that is very near and dear to me. It is a provision I have worked on for the past 3 years, originally with Senators Coverdell and KYL, and more recently with Senators WARNER and LANDRIEU.

Just Tuesday, President Bush spoke about the need to support our elementary and secondary education teachers, to help them bring out the best in their students, our children. Now we are close to passing another milestone in our journey toward the goal of supporting our teachers.

The provision to which I am referring is known as the teacher tax provision. It is a provision that has been included in the economic recovery package that would establish an above-the-line deduction of up to $250 to compensate teachers for a small part of what they invest in our children.

This tax deduction would be available to teachers who dip deep into their own pocket in order to buy supplies, materials, or books for their classrooms. This above-the-line deduction would be available for teachers, teacher's aides, principals, and counselors to help reimburse them in just a small way for the books, supplies, and equipment they purchase for their students.

I notice the Senator from Iowa is in the Chamber. He has been very helpful with this provision as well. I thank him, too.

Just last year, we passed landmark legislation reauthorizing the Elementary and Secondary Education Act. A principal goal of this bill is to promote teacher excellence. We know that other than involved parents, the most important predictor of a student's success is a quality teacher.

I have visited close to 100 schools in the State of Maine, and I have seen firsthand how dedicated our teachers are. They deserve our support. This is a way we can recognize the selfless efforts of our teachers and the financial sacrifices they make in entering the field of teaching and also in making purchases to improve the classrooms where they teach.

According to a study by the National Education Association, the average classroom teacher spends more than $400 a year out of his or her own pocket in order to buy supplies or materials or books for the classroom. This sacrifice is typical of the dedication of America's teachers to their students.

So often teachers in Maine and throughout the country spend their own money to better the classroom experiences of their students. Let me cite an example. I have spoken to dozens of teachers who have told me about their efforts to improve the quality of their teaching by giving their students access to supplies and other materials they would not otherwise have.

One example is Idella Harter. She is president of the Maine Education Association. One year, Idella saved all of her receipts from the purchases of classroom materials. She started adding up the receipts and was startled to discover she had spent over $1,000 of her own money to enrich the educational experience of her students. She told me she decided after she got to $1,000, she had better stop counting.

The relief our Tax Code now provides to our teachers is simply not sufficient because most teachers do not itemize so they do not get the benefit of the tax deduction for the supplies for their classroom. By changing the system so that we now have an above-the-line tax deduction, we will help many more teachers. By allowing them to take an above-the-line deduction for classroom expenses, this provision takes a fair, progressive approach that will provide just a bit of thanks and a little bit of incentive and financial relief to our schoolteachers. It will also encourage additional spending on classroom supplies.

The teacher tax provision of the Job Creation and Worker Assistance Act helps teachers to go that extra mile for their students. We have all seen them. We know how dedicated they are. We know the difference they have made in our own lives. As President Bush has eloquently noted, teachers sometimes lead with their hearts and pay with their wallets. This provision would reimburse educators for a small part of what they invest in our children's future.

I hope we will clear this bill very shortly and pass it either tonight or first thing tomorrow morning. I hope all of my colleagues will join in a strong vote for this important legislation.

I thank the Presiding Officer for allowing me to comment on these two important provisions. I am delighted to see two of my top legislative priorities on the verge of being signed into law.

I yield the floor.

JOB CREATION AND WORKER ASSISTANCE ACT OF 2002

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I am about to propound a unanimous consent request. I have been in consultation with the Republican leader, with the distinguished Senator from Iowa, and I know of no objections to the request. So at this time I will make it.

I ask that the Chair now lay before the Senate a message from the House on H.R. 3090 and that on Friday, March 8, immediately following the usual opening ceremony, the Senate resume consideration of the message; that upon disposition of that message, the Senate immediately resume consideration of S. 517 and the McCain amendment No. 2979; and there be 2 minutes of debate equally divided and controlled, with no second-degree amendments in order prior to a vote in relation to the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Chair laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3090) entitled ''An Act to provide tax incentives for economic recovery'', with the following House amendment to Senate amendment:

In the amendment of the Senate, strike the matter proposed to be inserted by the Senate and insert the following:

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Job Creation and Worker Assistance Act of 2002''.

(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

SEC. 102. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS; TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) In the case of a taxpayer which has a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting '5' for '2' and subparagraph (F) shall not apply.''.

(b) ELECTION TO DISREGARD 5-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subjection (i) the following new subsection:

''(j) ELECTION TO DISREGARD 5-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.''.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

''(A) the amount of such deduction shall not exceed the sum of—

''(i) the lesser of—

''(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carryovers described in clause (ii)(I)), or

''(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

''(ii) the lesser of—

''(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses for taxable years ending during 2001 or 2002 and carryforwards of net operating losses to taxable years ending during 2001 and 2002, or

''(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending before January 1, 2003.

(d) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2000.

TITLE II—UNEMPLOYMENT ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Temporary Extended Unemployment Compensation Act of 2002''.

SEC. 202. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the ''Secretary''). Any State which is a party to an agreement under this title may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

SEC. 203. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) SPECIAL RULE.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period if, at the time of exhaustion (as described in paragraph (1))—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970; or

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act were applied as if it had been amended by striking ''5'' each place it appears and inserting ''4''.

SEC. 204. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 205. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security

Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a)) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies.

Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

In this title, the terms ''compensation'', ''regular compensation'', ''extended compensation'', ''additional compensation'', ''benefit year'', ''base period'', ''State'', ''State agency'', ''State law'', and ''week'' have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 208. APPLICABILITY.

An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

SEC. 209. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.

(a) REPEAL OF CERTAIN PROVISIONS ADDED BY THE BALANCED BUDGET ACT OF 1997.—

(1) IN GENERAL.—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) SAVINGS PROVISION.—Any amounts transferred before the date of enactment of this Act under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) SPECIAL TRANSFER IN FISCAL YEAR 2002.—Section 903 of the Social Security Act is amended by adding at the end the following:

''Special Transfer in Fiscal Year 2002

''(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

''(2)(A) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

''(i) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

''(I) section 209(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

''(II) section 5402 of Public Law 105–33 (relating to increase in Federal unemployment account ceiling) had not been enacted,

minus

''(ii) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

''(B) Notwithstanding the provisions of subparagraph (A)—

''(i) the aggregate amount transferred to the States under this subsection may not exceed a total of $8,000,000,000; and

''(ii) all amounts determined under subparagraph (A) shall be reduced ratably, if and to the extent necessary in order to comply with the limitation under clause (i).

''(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

''(i) to individuals with respect to their unemployment, and

''(ii) which are allowable under subparagraph (B) or (C).

''(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

''(I) regular compensation, or

''(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

''(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

''(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

''(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

''(iii) The categories of individuals described in this clause include the following:

''(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

''(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

''(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

''(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to 'subsections (a) and (b)' in subparagraph (D) thereof to include this subsection).

''(5) Transfers under this subsection shall be made within 10 days after the date of enactment of this paragraph.''.

(c) LIMITATIONS ON TRANSFERS.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting ''the transfer date described in subsection (d)(5)'' for ''October 1 of any fiscal year''.

(2) By substituting ''remain in the Federal unemployment account'' for ''be transferred to the Federal unemployment account as of the beginning of such October 1''.

(3) By substituting ''fiscal year 2002 (after the transfer date described in subsection (d)(5))'' for ''the fiscal year beginning on such October 1''.

(4) By substituting ''under subsection (d)'' for ''as of October 1 of such fiscal year''.

(5) By substituting ''(as of the close of fiscal year 2002)'' for ''(as of the close of such fiscal year)''.

(d) TECHNICAL AMENDMENTS.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting ''or 903(d)(4)'' before ''of the Social Security Act''.

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting ''or 903(d)(4)'' after ''903(c)(2)''.

(e) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

TITLE III—TAX INCENTIVES FOR NEW YORK CITY AND DISTRESSED AREAS

SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

''Subchapter Y—New York Liberty Zone Benefits

''Sec. 1400L. Tax benefits for New York Liberty Zone.

''SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

''(a) EXPANSION OF WORK OPPORTUNITY TAX CREDIT.—

''(1) IN GENERAL.—For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

''(2) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'New York Liberty Zone business employee' means, with respect to any period, any employee of a New York Liberty Zone business if substantially all the services performed during such period by such employee for such business are performed in the New York Liberty Zone.

''(B) INCLUSION OF CERTAIN EMPLOYEES OUTSIDE THE NEW YORK LIBERTY ZONE.—

''(i) IN GENERAL.—In the case of a New York Liberty Zone business described in subclause (II) of subparagraph (C)(i), the term 'New York Liberty Zone business employee' includes any employee of such business (not described in subparagraph (A)) if substantially all the services performed during such period by such employee for such business are performed in the City of New York, New York.

''(ii) LIMITATION.—The number of employees of such a business that are treated as New York Liberty zone business employees on any day by reason of clause (i) shall not exceed the excess of—

''(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

''(II) the number of New York Liberty Zone business employees (determined without regard to this subparagraph) of such business on the day to which the limitation is being applied.

The Secretary may require any trade or business to have the number determined under subclause (I) verified by the New York State Department of Labor.

''(C) NEW YORK LIBERTY ZONE BUSINESS.—

''(i) IN GENERAL.—The term 'New York Liberty Zone business' means any trade or business which is—

''(I) located in the New York Liberty Zone, or

''(II) located in the City of New York, New York, outside the New York Liberty Zone, as a result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

''(ii) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term 'New York Liberty Zone business' shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

''(D) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart F of part IV of subchapter B of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

''(i) section 51(a) shall be applied by substituting 'qualified wages' for 'qualified first-year wages',

''(ii) the rules of section 52 shall apply for purposes of determining the number of employees under subparagraph (B),

''(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

''(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

''(I) QUALIFIED WAGES.—The term 'qualified wages' means wages paid or incurred by the employer to individuals who are New York Liberty Zone business employees of such employer for work performed during calendar year 2002 or 2003.

''(II) ONLY FIRST $6,000 OF WAGES PER CALENDAR YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed $6,000 per calendar year.

''(b) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

''(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified New York Liberty Zone property' means property—

''(i)(I) which is described in section 168(k)(2)(A)(i), or

''(II) which is nonresidential real property, or residential rental property, which is described in subparagraph (B),

''(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

''(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

''(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

''(v) which is placed in service by the taxpayer on or before the termination date.

The term 'termination date' means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

''(B) ELIGIBLE REAL PROPERTY.—Nonresidential real property or residential rental property is described in this subparagraph only to the extent it rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing real property destroyed or condemned if, as part of an integrated plan, such property replaces real property which is included in a continuous area which includes real property destroyed or condemned.

''(C) EXCEPTIONS.—

''(i) 30 PERCENT ADDITIONAL ALLOWANCE PROPERTY.—Such term shall not include property to which section 168(k) applies.

''(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified New York Liberty Zone property' shall not include any property described in section 168(k)(2)(C)(i).

''(iii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—Such term shall not include any qualified New York Liberty Zone leasehold improvement property.

''(iv) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.

''(D) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D) shall apply, except that clause (i) thereof shall be applied without regard to 'and before September 11, 2004'.

''(E) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(F) shall apply.

''(c) 5-YEAR RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.—

''(1) IN GENERAL.—For purposes of section 168, the term '5-year property' includes any qualified New York Liberty Zone leasehold improvement property.

''(2) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this section, the term 'qualified New York Liberty Zone leasehold improvement property' means qualified leasehold improvement property (as defined in section 168(k)(3)) if—

''(A) such building is located in the New York Liberty Zone,

''(B) such improvement is placed in service after September 10, 2001, and before January 1, 2007, and

''(C) no written binding contract for such improvement was in effect before September 11, 2001.

''(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified New York Liberty Zone leasehold improvement property.

''(4) 9-YEAR RECOVERY PERIOD UNDER ALTERNATIVE SYSTEM.—For purposes of section 168(g), the class life of qualified New York Liberty Zone leasehold improvement property shall be 9 years.

''(d) TAX-EXEMPT BOND FINANCING.—

''(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

''(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term 'qualified New York Liberty Bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

''(B) such bond is issued by the State of New York or any political subdivision thereof,

''(C) the Governor or the Mayor designates such bond for purposes of this section, and

''(D) such bond is issued after the the date of the enactment of this section and before January 1, 2005.

''(3) LIMITATIONS ON AMOUNT OF BONDS.—

''(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed $8,000,000,000, of which not to exceed $4,000,000,000 may be designated by the Governor and not to exceed $4,000,000,000 may be designated by the Mayor.

''(B) SPECIFIC LIMITATIONS.—The aggregate face amount of bonds issued which are to be used for—

''(i) costs for property located outside the New York Liberty Zone shall not exceed $2,000,000,000,

''(ii) residential rental property shall not exceed $1,600,000,000, and

''(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed $800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be allocated proportionately between the bonds designated by the Governor and the bonds designated by the Mayor in proportion to the respective amounts of bonds designated by each.

''(C) MOVABLE PROPERTY.—No bonds shall be issued which are to be used for movable fixtures and equipment.

''(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified project costs' means the cost of acquisition, construction, reconstruction, and renovation of—

''(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

''(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

''(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

''(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

''(A) Section 146 (relating to volume cap) shall not apply.

''(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting '50 percent' for '15 percent' each place it appears.

''(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

''(D) Repayments of principal on financing provided by the issue—

''(i) may not be used to provide financing, and

''(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of a refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

''(E) Section 57(a)(5) shall not apply.

''(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

''(e) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

''(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or property which is functionally related and subordinate to facilities located within the City of New York for the furnishing of water), one additional advanced refunding after the date of the enactment of this section and before January 1, 2005, shall be allowed under the applicable rules of section 149(d) if—

''(A) the Governor or the Mayor designates the advance refunding bond for purposes of this subsection, and

''(B) the requirements of paragraph (4) are met.

''(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

''(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

''(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York Municipal Water Finance Authority or the Metropolitan Transportation Authority of the State of New York, or

''(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of the State of New York or the City of New York, New York.

''(3) AGGREGATE LIMIT.—For purposes of paragraph (1), the maximum aggregate face amount of bonds which may be designated under this subsection by the Governor shall not exceed $4,500,000,000 and the maximum aggregate face amount of bonds which may be designated under this subsection by the Mayor shall not exceed $4,500,000,000.

''(4) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

''(A) no advance refundings of such bond would be allowed under any provision of law after September 11, 2001,

''(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

''(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

''(f) INCREASE IN EXPENSING UNDER SECTION 179.—

''(1) IN GENERAL.—For purposes of section 179—

''(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

''(i) $35,000, or

''(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

''(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

''(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection, the term 'qualified New York Liberty Zone property' has the meaning given such term by subsection (b)(2).

''(3) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

''(g) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting '5 years' for '2 years' with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

''(h) NEW YORK LIBERTY ZONE.—For purposes of this section, the term 'New York Liberty Zone' means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

''(i) REFERENCES TO GOVERNOR AND MAYOR.—For purposes of this section, the terms 'Governor' and 'Mayor' mean the Governor of the State of New York and the Mayor of the City of New York, New York, respectively.''.

(b) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—

''(A) IN GENERAL.—In the case of the New York Liberty Zone business employee credit—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to such credit—

''(I) the tentative minimum tax shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Liberty Zone business employee credit).

''(B) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term 'New York Liberty Zone business employee credit' means the portion of work opportunity credit under section 51 determined under section 1400L(a).''.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting ''or the New York Liberty Zone business employee credit'' after ''employment credit''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 2001.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter Y—New York Liberty Zone Benefits.''.

TITLE IV—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—General Miscellaneous Provisions

SEC. 401. ALLOWANCE OF ELECTRONIC 1099'S.

Any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act, may electronically furnish such statement (without regard to any first class mailing requirement) to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.

SEC. 402. EXCLUDED CANCELLATION OF INDEBTEDNESS INCOME OF S CORPORATION NOT TO RESULT IN ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS.

(a) IN GENERAL.—Subparagraph (A) of section 108(d)(7) (relating to certain provisions to be applied at corporate level) is amended by inserting before the period '', including by not taking into account under section 1366(a) any amount excluded under subsection (a) of this section''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to discharges of indebtedness after October 11, 2001, in taxable years ending after such date.

(2) EXCEPTION.—The amendment made by this section shall not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 403. LIMITATION ON USE OF NONACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) IN GENERAL.—Paragraph (5) of section 448(d) is amended to read as follows:

''(5) SPECIAL RULE FOR CERTAIN SERVICES.—

''(A) IN GENERAL.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person, such person shall not be required to accrue any portion of such amounts which (on the basis of such person's experience) will not be collected if—

''(i) such services are in fields referred to in paragraph (2)(A), or

''(ii) such person meets the gross receipts test of subsection (c) for all prior taxable years.

''(B) EXCEPTION.—This paragraph shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

''(C) REGULATIONS.—The Secretary shall prescribe regulations to permit taxpayers to determine amounts referred to in subparagraph (A) using computations or formulas which, based on experience, accurately reflect the amount of income that will not be collected by such person. A taxpayer may adopt, or request consent of the Secretary to change to, a computation or formula that clearly reflects the taxpayer's experience. A request under the preceding sentence shall be approved if such computation or formula clearly reflects the taxpayer's experience.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period of 4 years (or if less, the number of taxable years that the taxpayer used the method permitted under section 448(d)(5) of such Code as in effect before the date of the enactment of this Act) beginning with such first taxable year.

SEC. 404. EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES.

(a) IN GENERAL.—The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

''(1) IN GENERAL.—The term 'qualified foster care payment' means any payment made pursuant to a foster care program of a State or political subdivision thereof—

''(A) which is paid by—

''(i) a State or political subdivision thereof, or

''(ii) a qualified foster care placement agency, and''.

(b) QUALIFIED FOSTER INDIVIDUALS TO INCLUDE INDIVIDUALS PLACED BY QUALIFIED PLACEMENT AGENCIES.—Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:

''(B) a qualified foster care placement agency.''.

(c) QUALIFIED FOSTER CARE PLACEMENT AGENCY DEFINED.—Subsection (b) of section 131 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) QUALIFIED FOSTER CARE PLACEMENT AGENCY.—The term 'qualified foster care placement agency' means any placement agency which is licensed or certified by—

''(A) a State or political subdivision thereof, or

''(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 405. INTEREST RATE RANGE FOR ADDITIONAL FUNDING REQUIREMENTS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) SPECIAL RULE.—Clause (i) of section 412(l)(7)(C) (relating to interest rate) is amended by adding at the end the following new subclause:

''(III) SPECIAL RULE FOR 2002 AND 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii).''.

(2) QUARTERLY CONTRIBUTIONS.—Subsection (m) of section 412 is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III)—

''(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).

''(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).''.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) SPECIAL RULE.—Clause (i) of section 302(d)(7)(C) of such Act (29 U.S.C. 1082(d)(7)(C)) is amended by adding at the end the following new subclause:

''(III) SPECIAL RULE FOR 2002 AND 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii).''.

(2) QUARTERLY CONTRIBUTIONS.—Subsection (e) of section 302 of such Act (29 U.S.C. 1082) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III)—

''(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).

''(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).''.

(c) PBGC.—Clause (iii) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new subclause:

''(IV) In the case of plan years beginning after December 31, 2001, and before January 1, 2004, subclause (II) shall be applied by substituting '100 percent' for '85 percent'. Subclause (III) shall be applied for such years without regard to the preceding sentence. Any reference to this clause by any other sections or subsections shall be treated as a reference to this clause without regard to this subclause.''.

SEC. 406. ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

''(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—In the case of taxable years beginning during 2002 or 2003, the deductions allowed by section 162 which consist of expenses, not in excess of $250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.''.

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

''(d) DEFINITION; SPECIAL RULES.—

''(1) ELIGIBLE EDUCATOR.—

''(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term 'eligible educator' means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

''(B) SCHOOL.—The term 'school' means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

''(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Technical Corrections

SEC. 411. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

(1) IN GENERAL.—Subsection (b) of section 6428 is amended to read as follows:

''(b) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.''.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6428 is amended to read as follows:

''(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

''(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

''(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.''.

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

''(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

''(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

''(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).''.

(b) AMENDMENT RELATED TO SECTION 201 OF THE ACT.—Subparagraph (B) of section 24(d)(1) is amended by striking ''amount of credit allowed by this section'' and inserting ''aggregate amount of credits allowed by this subpart''.

(c) AMENDMENTS RELATED TO SECTION 202 OF THE ACT.—

(1) CORRECTIONS TO CREDIT FOR ADOPTION EXPENSES.—

(A) Paragraph (1) of section 23(a) is amended to read as follows:

''(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.''.

(B) Subsection (a) of section 23 is amended by adding at the end the following new paragraph:

''(3) $10,000 CREDIT FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the taxpayer shall be treated as having paid during such year qualified adoption expenses with respect to such adoption in an amount equal to the excess (if any) of $10,000 over the aggregate qualified adoption expenses actually paid or incurred by the taxpayer with respect to such adoption during such taxable year and all prior taxable years.''.

(C) Paragraph (2) of section 23(a) is amended by striking the last sentence.

(D) Paragraph (1) of section 23(b) is amended by striking ''subsection (a)(1)(A)'' and inserting ''subsection (a)''.

(E) Subsection (i) of section 23 is amended by striking ''the dollar limitation in subsection (b)(1)'' and inserting ''the dollar amounts in subsections (a)(3) and (b)(1)''.

(F) Expenses paid or incurred during any taxable year beginning before January 1, 2002, may be taken into account in determining the credit under section 23 of the Internal Revenue Code of 1986 only to the extent the aggregate of such expenses does not exceed the applicable limitation under section 23(b)(1) of such Code as in effect on the day before the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) CORRECTIONS TO EXCLUSION FOR EMPLOYER-PROVIDED ADOPTION ASSISTANCE.—

(A) Subsection (a) of section 137 is amended to read as follows:

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

''(2) $10,000 EXCLUSION FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the qualified adoption expenses with respect to such adoption for such year shall be increased by an amount equal to the excess (if any) of $10,000 over the actual aggregate qualified adoption expenses with respect to such adoption during such taxable year and all prior taxable years.''.

(B) Paragraph (2) of section 137(b) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (a)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002; except that the amendments made by paragraphs (1)(C), (1)(D), and (2)(B) shall apply to taxable years beginning after December 31, 2001.

(d) AMENDMENTS RELATED TO SECTION 205 OF THE ACT.—

(1) Section 45F(d)(4)(B) is amended by striking ''subpart A, B, or D of this part'' and inserting ''this chapter or for purposes of section 55''.

(2) Section 38(b)(15) is amended by striking ''45F'' and inserting ''45F(a)''.

(e) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Section 63(c)(2) is amended—

(A) in subparagraph (A), by striking ''subparagraph (C)'' and inserting ''subparagraph (D)'',

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

(C) by redesignating subparagraph (C) as subparagraph (D),

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

''(C) one-half of the amount in effect under subparagraph (A) in the case of a married individual filing a separate return, or'', and

(E) by inserting the following flush sentence at the end:

''If any amount determined under subparagraph (A) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(2)(A) Section 63(c)(4) is amended by striking ''paragraph (2) or (5)'' and inserting ''paragraph (2)(B), (2)(D), or (5)''.

(B) Section 63(c)(4)(B)(i) is amended by striking ''paragraph (2)'' and inserting ''paragraph (2)(B), (2)(D),''.

(C) Section 63(c)(4) is amended by striking the flush sentence at the end (as added by section 301(c)(2) of Public Law 107–17).

(f) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Section 530(d)(4)(B)(iv) is amended by striking ''because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2)'' and inserting ''by application of paragraph (2)(C)(i)(II)''.

(g) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

(1) Section 2511(c) is amended by striking ''taxable gift under section 2503,'' and inserting ''transfer of property by gift,''.

(2) Section 2101(b) is amended by striking the last sentence.

(h) AMENDMENT RELATED TO SECTION 532 OF THE ACT.—Section 2016 is amended by striking ''any State, any possession of the United States, or the District of Columbia,''.

(i) AMENDMENTS RELATING TO SECTION 602 OF THE ACT.—

(1) Subparagraph (A) of section 408(q)(3) is amended to read as follows:

''(A) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' has the meaning given such term by section 72(p)(4)(A)(i); except that such term shall also include an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(2) Section 4(c) of Employee Retirement Income Security Act of 1974 is amended—

(A) by inserting ''and part 5 (relating to administration and enforcement)'' before the period at the end, and

(B) by adding at the end the following new sentence: ''Such provisions shall apply to such accounts and annuities in a manner similar to their application to a simplified employee pension under section 408(k) of the Internal Revenue Code of 1986.''.

(j) AMENDMENTS RELATING TO SECTION 611 OF THE ACT.—

(1) Section 408(k) is amended—

(A) in paragraph (2)(C) by striking ''$300'' and inserting ''$450'', and

(B) in paragraph (8) by striking ''$300'' both places it appears and inserting ''$450''.

(2) Section 409(o)(1)(C)(ii) is amended—

(A) by striking ''$500,000'' both places it appears and inserting ''$800,000'', and

(B) by striking ''$100,000'' and inserting ''$160,000''.

(3) Section 611(i) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE.—In the case of plan that, on June 7, 2001, incorporated by reference the limitation of section 415(b)(1)(A) of the Internal Revenue Code of 1986, section 411(d)(6) of such Code and section 204(g)(1) of the Employee Retirement Income Security Act of 1974 do not apply to a plan amendment that—

''(A) is adopted on or before June 30, 2002,

''(B) reduces benefits to the level that would have applied without regard to the amendments made by subsection (a) of this section, and

''(C) is effective no earlier than the years described in paragraph (2).''.

(k) AMENDMENTS RELATING TO SECTION 613 OF THE ACT.—

(1) Section 416(c)(1)(C)(iii) is amended by striking ''EXCEPTION FOR FROZEN PLAN'' and inserting ''EXCEPTION FOR PLAN UNDER WHICH NO KEY EMPLOYEE (OR FORMER KEY EMPLOYEE) BENEFITS FOR PLAN YEAR''.

(2) Section 416(g)(3)(B) is amended by striking ''separation from service'' and inserting ''severance from employment''.

(l) AMENDMENTS RELATING TO SECTIONS 614 and 616 OF THE ACT.—

(1) Section 404(a)(12) is amended by striking ''(9),'' and inserting ''(9) and subsection (h)(1)(C),''.

(2) Section 404(n) is amended by striking ''subsection (a),'' and inserting ''subsection (a) or paragraph (1)(C) of subsection (h)''.

(3) Section 402(h)(2)(A) is amended by striking ''15 percent'' and inserting ''25 percent''.

(4) Section 404(a)(7)(C) is amended to read as follows:

''(C) PARAGRAPH NOT TO APPLY IN CERTAIN CASES.—

''(i) BENEFICIARY TEST.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than 1 trust or under a trust and an annuity plan.

''(ii) ELECTIVE DEFERRALS.—If, in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, no amounts (other than elective deferrals (as defined in section 402(g)(3))) are contributed to any of the defined contribution plans for the taxable year, then subparagraph (A) shall not apply with respect to any of such defined contribution plans and defined benefit plans.''.

(m) AMENDMENT RELATING TO SECTION 618 OF THE ACT.—Section 25B(d)(2)(A) is amended to read as follows:

''(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made. The preceding sentence shall not apply to the portion of any distribution which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.''.

(n) AMENDMENTS RELATING TO SECTION 619 OF THE ACT.—

(1) Section 45E(e)(1) is amended by striking ''(n)'' and inserting ''(m)''.

(2) Section 619(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''established'' and inserting ''first effective''.

(o) AMENDMENTS RELATING TO SECTION 631 OF THE ACT.—

(1) Section 402(g)(1) is amended by adding at the end the following:

''(C) CATCH-UP CONTRIBUTIONS.—In addition to subparagraph (A), in the case of an eligible participant (as defined in section 414(v)), gross income shall not include elective deferrals in excess of the applicable dollar amount under subparagraph (B) to the extent that the amount of

such elective deferrals does not exceed the applicable dollar amount under section 414(v)(2)(B)(i) for the taxable year (without regard to the treatment of the elective deferrals by an applicable employer plan under section 414(v)).''.

(2) Section 401(a)(30) is amended by striking ''402(g)(1)'' and inserting ''402(g)(1)(A)''.

(3) Section 414(v)(2) is amended by adding at the end the following:

''(D) AGGREGATION OF PLANS.—For purposes of this paragraph, plans described in clauses (i), (ii), and (iv) of paragraph (6)(A) that are maintained by the same employer (as determined under subsection (b), (c), (m) or (o)) shall be treated as a single plan, and plans described in clause (iii) of paragraph (6)(A) that are maintained by the same employer shall be treated as a single plan.''.

(4) Section 414(v)(3)(A)(i) is amended by striking ''section 402(g), 402(h), 403(b), 404(a), 404(h), 408(k), 408(p), 415, or 457'' and inserting ''section 401(a)(30), 402(h), 403(b), 408, 415(c), and 457(b)(2) (determined without regard to section 457(b)(3))''.

(5) Section 414(v)(3)(B) is amended by striking ''section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12), 403(b)(12), 408(k), 408(p), 408B, 410(b), or 416'' and inserting ''section 401(a)(4), 401(k)(3), 401(k)(11), 403(b)(12), 408(k), 410(b), or 416''.

(6) Section 414(v)(4)(B) is amended by inserting before the period at the end the following: '', except that a plan described in clause (i) of section 410(b)(6)(C) shall not be treated as a plan of the employer until the expiration of the transition period with respect to such plan (as determined under clause (ii) of such section)''.

(7) Section 414(v)(5) is amended—

(A) by striking '', with respect to any plan year,'' in the matter preceding subparagraph (A),

(B) by amending subparagraph (A) to read as follows:

''(A) who would attain age 50 by the end of the taxable year,'', and

(C) in subparagraph (B) by striking ''plan year'' and inserting ''plan (or other applicable) year''.

(8) Section 414(v)(6)(C) is amended to read as follows:

''(C) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to a participant for any year for which a higher limitation applies to the participant under section 457(b)(3).''.

(9) Section 457(e) is amended by adding at the end the following new paragraph:

''(18) COORDINATION WITH CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OLDER.—In the case of an individual who is an eligible participant (as defined by section 414(v)) and who is a participant in an eligible deferred compensation plan of an employer described in paragraph (1)(A), subsections (b)(3) and (c) shall be applied by substituting for the amount otherwise determined under the applicable subsection the greater of—

''(A) the sum of—

''(i) the plan ceiling established for purposes of subsection (b)(2) (without regard to subsection (b)(3)), plus

''(ii) the applicable dollar amount for the taxable year determined under section 414(v)(2)(B)(i), or

''(B) the amount determined under the applicable subsection (without regard to this paragraph).''.

(p) AMENDMENTS RELATING TO SECTION 632 OF THE ACT.—

(1) Section 403(b)(1) is amended in the matter following subparagraph (E) by striking ''then amounts contributed'' and all that follows and inserting the following:

''then contributions and other additions by such employer for such annuity contract shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such contributions and additions (when expressed as an annual addition (within the meaning of section 415(c)(2))) does not exceed the applicable limit under section 415. The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities). For purposes of applying the rules of this subsection to contributions and other additions by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph (8) of this subsection or section 408(d)(3)(A)(ii) shall not be considered contributed by such employer.''.

(2) Section 403(b) is amended by striking paragraph (6).

(3) Section 403(b)(3) is amended—

(A) in the first sentence by inserting the following before the period at the end: '', and which precedes the taxable year by no more than five years'', and

(B) in the second sentence by striking ''or any amount received by a former employee after the fifth taxable year following the taxable year in which such employee was terminated''.

(4) Section 415(c)(7) is amended to read as follows:

''(7) SPECIAL RULES RELATING TO CHURCH PLANS.—

''(A) ALTERNATIVE CONTRIBUTION LIMITATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

''(ii) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

''(B) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this paragraph—

''(i) all years of service by—

''(I) a duly ordained, commissioned, or licensed minister of a church, or

''(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

''(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

''(C) FOREIGN MISSIONARIES.—In the case of any individual described in subparagraph (D) performing services outside the United States, contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such employee, when expressed as an annual addition to such employee's account, shall not be treated as exceeding the limitation of paragraph (1) if such annual addition is not in excess of the greater of $3,000 or the employee's includible compensation determined under section 403(b)(3).

''(D) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2).

''(E) CHURCH, CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).''.

(5) Section 457(e)(5) is amended to read as follows:

''(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' has the meaning given to the term 'participant's compensation' by section 415(c)(3).''.

(6) Section 402(g)(7)(B) is amended by striking ''2001.'' and inserting ''2001).''.

(q) AMENDMENTS RELATING TO SECTION 643 OF THE ACT.—

(1) Section 401(a)(31)(C)(i) is amended by inserting ''is a qualified trust which is part of a plan which is a defined contribution plan and'' before ''agrees''.

(2) Section 402(c)(2) is amended by adding at the end the following flush sentence:

''In the case of a transfer described in subparagraph (A) or (B), the amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income (determined without regard to paragraph (1)).''.

(r) AMENDMENTS RELATING TO SECTION 648 OF THE ACT.—

(1) Section 417(e) is amended—

(A) in paragraph (1) by striking ''exceed the dollar limit under section 411(a)(11)(A)'' and inserting ''exceed the amount that can be distributed without the participant's consent under section 411(a)(11)'', and

(B) in paragraph (2)(A) by striking ''exceeds the dollar limit under section 411(a)(11)(A)'' and inserting ''exceeds the amount that can be distributed without the participant's consent under section 411(a)(11)''.

(2) Section 205(g) of the Employee Retirement Income Security Act of 1974 is amended—

(A) in paragraph (1) by striking ''exceed the dollar limit under section 203(e)(1)'' and inserting ''exceed the amount that can be distributed without the participant's consent under section 203(e)'', and

(B) in paragraph (2)(A) by striking ''exceeds the dollar limit under section 203(e)(1)'' and inserting ''exceeds the amount that can be distributed without the participant's consent under section 203(e)''.

(s) AMENDMENT RELATING TO SECTION 652 OF THE ACT.—Section 404(a)(1)(D)(iv) is amended by striking ''PLANS MAINTAINED BY PROFESSIONAL SERVICE EMPLOYERS'' and inserting ''SPECIAL RULE FOR TERMINATING PLANS''.

(t) AMENDMENTS RELATING TO SECTION 657 OF THE ACT.—Section 404(c)(3) of the Employee Retirement Income Security Act of 1974 is amended—

(1) by striking ''the earlier of'' in subparagraph (A) the second place it appears, and

(2) by striking ''if the transfer'' and inserting ''a transfer that''.

(u) AMENDMENTS RELATING TO SECTION 659 OF THE ACT.—

(1) Section 4980F is amended—

(A) in subsection (e)(1) by striking ''written notice'' and inserting ''the notice described in paragraph (2)'',

(B) by amending subsection (f)(2)(A) to read as follows:

''(A) any defined benefit plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or'', and

(C) in subsection (f)(3) by striking ''significantly'' both places it appears.

(2) Section 204(h)(9) of the Employee Retirement Income Security Act of 1974 is amended by striking ''significantly'' both places it appears.

(3) Section 659(c)(3)(B) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''(or'' and inserting ''(and''.

(v) AMENDMENTS RELATING TO SECTION 661 OF THE ACT.—

(1) Section 412(c)(9)(B) is amended—

(A) in clause (ii) by striking ''125 percent'' and inserting ''100 percent'', and

(B) by adding at the end the following new clause:

''(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)).''.

(2) Section 302(c)(9)(B) of the Employee Retirement Income Security Act of 1974 is amended—

(A) in clause (ii) by striking ''125 percent'' and inserting ''100 percent'', and

(B) by adding at the end the following new clause:

''(iv) A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (7)(B)).''.

(w) AMENDMENTS RELATING TO SECTION 662 OF THE ACT.—

(1) Section 404(k) is amended—

(A) in paragraph (1) by striking ''during the taxable year'',

(B) in paragraph (2)(B) by striking ''(A)(iii)'' and inserting ''(A)(iv)'',

(C) in paragraph (4)(B) by striking ''(iii)'' and inserting ''(iv)'', and

(D) by redesignating subparagraph (B) of paragraph (4) (as amended by subparagraph (C)) as subparagraph (C) of paragraph (4) and by inserting after subparagraph (A) the following new subparagraph:

''(B) REINVESTMENT DIVIDENDS.—For purposes of subparagraph (A), an applicable dividend reinvested pursuant to clause (iii)(II) of paragraph (2)(A) shall be treated as paid in the taxable year of the corporation in which such dividend is reinvested in qualifying employer securities or in which the election under clause (iii) of paragraph (2)(A) is made, whichever is later.''.

(2) Section 404(k) is amended by adding at the end the following new paragraph:

''(7) FULL VESTING.—In accordance with section 411, an applicable dividend described in clause (iii)(II) of paragraph (2)(A) shall be subject to the requirements of section 411(a)(1).''.

(x) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

SEC. 412. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

(a) AMENDMENT RELATED TO SECTION 101 OF THE ACT.—Section 469(i)(3)(E) is amended by striking clauses (ii), (iii), and (iv) and inserting the following:

''(ii) second to the portion of such loss to which subparagraph (C) applies,

''(iii) third to the portion of the passive activity credit to which subparagraph (B) or (D) does not apply,

''(iv) fourth to the portion of such credit to which subparagraph (B) applies, and''.

(b) AMENDMENT RELATED TO SECTION 306 OF THE ACT.—Section 151(c)(6)(C) is amended—

(1) by striking ''FOR EARNED INCOME CREDIT.—For purposes of section 32, an'' and inserting ''FOR PRINCIPAL PLACE OF ABODE REQUIREMENTS.—An'', and

(2) by striking ''requirement of section 32(c)(3)(A)(ii)'' and inserting ''principal place of abode requirements of section 2(a)(1)(B), section 2(b)(1)(A), and section 32(c)(3)(A)(ii)''.

(c) AMENDMENT RELATED TO SECTION 309 OF THE ACT.—Subparagraph (A) of section 358(h)(1) is amended to read as follows:

''(A) which is assumed by another person as part of the exchange, and''.

(d) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1)(A) Section 1234A is amended by inserting ''or'' after the comma at the end of paragraph (1), by striking ''or'' at the end of paragraph (2), and by striking paragraph (3).

(B)(i) Section 1234B is amended in subsection (a)(1) and in subsection (b) by striking ''sale or exchange'' the first place it appears in each subsection and inserting ''sale, exchange, or termination''.

(ii) Section 1234B is amended by adding at the end the following new subsection:

''(f) CROSS REFERENCE.—

''For special rules relating to dealer securities futures contracts, see section 1256.''.

(2) Section 1091(e) is amended—

(A) in the heading, by striking ''SECURITIES.—'' and inserting ''SECURITIES AND SECURITIES FUTURES CONTRACTS TO SELL.—'',

(B) by inserting after ''closing of a short sale of'' the following: ''(or the sale, exchange, or termination of a securities futures contract to sell)'',

(C) in paragraph (2), by inserting after ''short sale of'' the following: ''(or securities futures contracts to sell)'', and

(D) by adding at the end the following:

''For purposes of this subsection, the term 'securities futures contract' has the meaning provided by section 1234B(c).''.

(3)(A) Section 1233(e)(2) is amended by striking ''and'' at the end of subparagraph (C), by striking the period and inserting ''; and'' at the end of subparagraph (D), and inserting after subparagraph (D) the following:

''(E) entering into a securities futures contract (as so defined) to sell shall be considered to be a short sale, and the settlement of such contract shall be considered to be the closing of such short sale.''.

(B) Section 1234B(b) is amended by inserting after ''or this section,'' the following: ''or in section 1233,''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Community Renewal Tax Relief Act of 2000 to which they relate.

SEC. 413. AMENDMENTS RELATED TO THE TAX RELIEF EXTENSION ACT OF 1999.

(a) AMENDMENTS RELATED TO SECTION 545 OF THE ACT.—Section 857(b)(7) is amended—

(1) in clause (i) of subparagraph (B), by striking ''the amount of which'' and inserting ''to the extent the amount of the rents'', and

(2) in subparagraph (C), by striking ''if the amount'' and inserting ''to the extent the amount''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 545 of the Tax Relief Extension Act of 1999.

SEC. 414. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.

(a) AMENDMENTS RELATED TO SECTION 311 OF THE ACT.—Section 311(e) of the Taxpayer Relief Act of 1997 (Public Law 105–34; 111 Stat. 836) is amended—

(1) in paragraph (2)(A), by striking ''recognized'' and inserting ''included in gross income'', and

(2) by adding at the end the following new paragraph:

''(5) DISPOSITION OF INTEREST IN PASSIVE ACTIVITY.—Section 469(g)(1)(A) of the Internal Revenue Code of 1986 shall not apply by reason of an election made under paragraph (1).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 311 of the Taxpayer Relief Act of 1997.

SEC. 415. AMENDMENT RELATED TO THE BALANCED BUDGET ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 4006 OF THE ACT.—Section 26(b)(2) is amended by striking ''and'' at the end of subparagraph (P), by striking the period and inserting '', and'' at the end of subparagraph (Q), and by adding at the end the following new subparagraph:

''(R) section 138(c)(2) (relating to penalty for distributions from Medicare+Choice MSA not used for qualified medical expenses if minimum balance not maintained).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 4006 of the Balanced Budget Act of 1997.

SEC. 416. OTHER TECHNICAL CORRECTIONS.

(a) COORDINATION OF ADVANCED PAYMENTS OF EARNED INCOME CREDIT.—

(1) Section 32(g)(2) is amended by striking ''subpart'' and inserting ''part''.

(2) The amendment made by this subsection shall take effect as if included in section 474 of the Tax Reform Act of 1984.

(b) SPECIAL RULE RELATED TO WASH SALE LOSSES.—

(1) Section 1256(f) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE RELATED TO LOSSES.—Section 1091 (relating to loss from wash sales of stock or securities) shall not apply to any loss taken into account by reason of paragraph (1) of subsection (a).''.

(2) The amendment made by this subsection shall take effect as if included in section 5075 of the Technical and Miscellaneous Revenue Act of 1988.

(c) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO FEDERAL CHILD SUPPORT AGENCIES.—

(1) Section 6103(l)(8) is amended—

(A) in the heading, by striking ''STATE AND LOCAL'' and inserting ''FEDERAL, STATE, AND LOCAL'', and

(B) in subparagraph (A), by inserting ''Federal or'' before ''State or local''.

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(d) TREATMENT OF SETTLEMENTS UNDER PARTNERSHIP AUDIT RULES.—

(1) The following provisions are each amended by inserting ''or the Attorney General (or his delegate)'' after ''Secretary'' each place it appears:

(A) Paragraphs (1) and (2) of section 6224(c).

(B) Section 6229(f)(2).

(C) Section 6231(b)(1)(C).

(D) Section 6234(g)(4)(A).

(2) The amendments made by this subsection shall apply with respect to settlement agreements entered into after the date of the enactment of this Act.

(e) AMENDMENT RELATED TO PROCEDURE AND ADMINISTRATION.—

(1) Section 6331(k)(3) (relating to no levy while certain offers pending or installment agreement pending or in effect) is amended to read as follows:

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of—

''(A) paragraphs (3) and (4) of subsection (i), and

''(B) except in the case of paragraph (2)(C), paragraph (5) of subsection (i),

shall apply for purposes of this subsection.''.

(2) The amendment made by this subsection shall take effect on the date of the enactment of this Act.

(f) MODIFIED ENDOWMENT CONTRACTS.—Paragraph (2) of section 318(a) of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–645) is repealed, and clause (ii) of section 7702A(c)(3)(A) shall read and be applied as if the amendment made by such paragraph had not been enacted.

SEC. 417. CLERICAL AMENDMENTS.

(1) The subsection (g) of section 25B that relates to termination is redesignated as subsection (h).

(2) The second sentence of section 42(h)(3)(C) is amended by striking ''the amounts described in'' and all that follows through the period and inserting ''the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year.''.

(3) Clause (ii) of section 42(m)(1)(B) is amended by striking the second ''and'' at the end of subclause (II) and by inserting ''and'' at the end of subclause (III).

(4) Section 51A(c)(1) is amended by striking ''51(d)(10)'' and inserting ''51(d)(11)''.

(5) The flush sentence at the end of clause (ii) of section 56(a)(1)(A) is amended by striking ''such 1250'' and inserting ''such section 1250''.

(6) Section 151(c)(6)(B)(iii) is amended by inserting ''as'' before ''such terms''.

(7) Section 170(e)(6)(B)(i)(III) is amended by striking ''2000,'' and inserting ''2000),''.

(8) Section 172(b)(1)(F)(i) is amended—

(A) by striking ''3 years'' and inserting ''3 taxable years'', and

(B) by striking ''2 years'' and inserting ''2 taxable years''.

(9) Section 351(h)(1) is amended by inserting a comma after ''liability''.

(10) Section 475(g)(3) is amended by striking ''sections'' and inserting ''section''.

(11) Section 529(e)(3)(B)(i) is amended by striking ''subsection (b)(7)'' and inserting ''subsection (b)(6)''.

(12) Section 741 is amended by striking ''which have appreciated substantially in value''.

(13) Section 857(b)(7)(B)(i) is amended by striking ''subsection 856(d)'' and inserting ''section 856(d)''.

(14) Subparagraph (B) of section 943(e)(4) is amended by aligning the left margin of the flush language with subparagraph (A).

(15) Subparagraph (B) of section 995(b)(3) is amended by striking ''International Security Assistance and Arms Export Control Act of 1976'' and inserting ''Arms Export Control Act''.

(16) Section 1394(c)(2) is amended by striking ''subparagraph (A)'' and inserting ''paragraph (1)''.

(17)(A) The section heading for section 4980E is amended to read as follows:

''SEC. 4980E. FAILURE OF EMPLOYER TO MAKE COMPARABLE ARCHER MSA CONTRIBUTIONS.''.

(B) The item relating to section 4980E in the table of sections for chapter 43 is amended to read as follows:

''Sec. 4980E. Failure of employer to make comparable Archer MSA contributions.''.

(18) Section 6105(c)(1) is amended by striking ''any'' in subparagraphs (C) and (E).

(19)(A) Section 6227(d) is amended by striking ''subsection (b)'' and inserting ''subsection (c)''.

(B) Section 6228 is amended—

(i) in subsection (a)(1), by striking ''subsection (b) of section 6227'' and inserting ''subsection (c) of section 6227'',

(ii) in subsection (a)(3)(A), by striking ''subsection (b) of'', and

(iii) in subsections (b)(1) and (b)(2)(A), by striking ''subsection (c) of section 6227'' and inserting ''subsection (d) of section 6227''.

(C) Section 6231(b)(2)(B)(i) is amended by striking ''section 6227(c)'' and inserting ''section 6227(d)''.

(20) Section 1221(b)(1)(B)(i) is amended by striking ''1256(b))'' and inserting ''1256(b)))''.

(21) Section 159 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–624) is amended by striking ''fuctions'' and inserting ''functions''.

(22) The amendment to section 170(e)(6)(B)(iv) made by section 165(b)(1) of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A–626) shall be applied as if it struck ''in any of the grades K–12''.

(23) Section 618(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16; 115 Stat. 108) is amended—

(A) in subparagraph (A) by striking ''203(d)'' and inserting ''202(f)'', and

(B) in subparagraphs (C), (D), and (E) by striking ''203'' and inserting ''202(f)''.

(24)(A) Section 525 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1928) is amended by striking ''7200'' and inserting ''7201''.

(B) Section 532(c)(2) of such Act (113 Stat. 1930) is amended—

(i) in subparagraph (D), by striking ''341(d)(3)'' and inserting ''341(d)'', and

(ii) in subparagraph (Q), by striking ''954(c)(1)(B)(iii) and inserting ''954(c)(1)(B)''.

SEC. 418. ADDITIONAL CORRECTIONS.

(a) AMENDMENTS RELATED TO SECTION 202 OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—

(1) Subsection (h) of section 23 is amended—

(A) by striking ''subsection (a)(1)(B)'' and inserting ''subsection (a)(3)'', and

(B) by adding at the end the following new flush sentence:

''If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.''.

(2) Subsection (f) of section 137 is amended by adding at the end the following new flush sentence:

''If any amount as increased under the preceding sentence is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10.''.

(b) AMENDMENTS RELATED TO SECTION 204 OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—Section 21(d)(2) is amended—

(1) in subparagraph (A) by striking ''$200'' and inserting ''$250'', and

(2) in subparagraph (B) by striking ''$400'' and inserting ''$500''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

TITLE V—SOCIAL SECURITY HELD HARMLESS; BUDGETARY TREATMENT OF ACT

SEC. 501. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 502. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

TITLE VI—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 601. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000 AND 2001.—'' and inserting ''RULE FOR 2000, 2001, 2002, AND 2003.—'', and

(2) by striking ''during 2000 or 2001,'' and inserting ''during 2000, 2001, 2002, or 2003,''.

(b) CONFORMING AMENDMENTS.—

(1) Section 904(h) is amended by striking ''during 2000 or 2001'' and inserting ''during 2000, 2001, 2002, or 2003''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002 and 2003.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 602. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30 is amended—

(1) in subsection (b)(2)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2003,'', and

(B) in subparagraphs (A), (B), and (C), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2004'', ''2005'', and ''2006'', respectively, and

(2) in subsection (e), by striking ''December 31, 2004'' and inserting ''December 31, 2006''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause:

''(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2007.''.

(2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking ''and before January 1, 2005''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001.

SEC. 603. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are both amended by striking ''2002'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2001.

SEC. 604. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''2001'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 605. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''2001'' and inserting ''2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 606. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''December 31, 2001,'' and inserting ''December 31, 2003,'', and

(B) in clauses (i), (ii), and (iii), by striking ''2002'', ''2003'', and ''2004'', respectively, and inserting ''2004'', ''2005'', and ''2006'', respectively, and

(2) in subsection (f), by striking ''December 31, 2004'' and inserting ''December 31, 2006''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2001.

SEC. 607. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''2002'' and inserting ''2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 608. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''2000, and 2001'' and inserting ''2000, 2001, 2002, and 2003''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 609. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2004''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2001.

SEC. 610. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812, as amended by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, is amended to read as follows:

''(f) APPLICATION OF SECTION.—This section shall not apply to benefits for services furnished—

''(1) on or after September 30, 2001, and before January 10, 2002, and

''(2) after December 31, 2003.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2000.

SEC. 611. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY IN CERTAIN YEARS.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

''(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO FOR CERTAIN YEARS.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company's taxable years beginning in 2001, 2002, or 2003.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 612. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2002'' each place it appears and inserting ''2003''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking ''1998, 1999, or 2001'' each place it appears and inserting ''1998, 1999, 2001, or 2002''.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2001'' and inserting ''2001, and 2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

SEC. 613. INCENTIVES FOR INDIAN EMPLOYMENT AND PROPERTY ON INDIAN RESERVATIONS.

(a) EMPLOYMENT.—Subsection (f) of section 45A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) PROPERTY.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

SEC. 614. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking ''January 1, 2002'' and inserting ''January 1, 2007'', and

(B) by striking ''December 31, 2001'' and inserting ''December 31, 2006''.

(2) Section 954(h)(9) is amended by striking ''January 1, 2002'' and inserting ''January 1, 2007''.

(b) LIFE INSURANCE AND ANNUITY CONTRACTS.—

(1) IN GENERAL.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

''(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

''(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

''(II) the reserve determined under paragraph (5).

''(ii) RULING REQUEST, ETC.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 615. REPEAL OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

(a) IN GENERAL.—Subsection (e) of section 4101 is hereby repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

SEC. 616. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

''(H) REAUTHORIZATION OF GRANTS FOR FISCAL YEAR 2002.—Notwithstanding any other provision of this paragraph—

''(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

''(ii) subparagraph (G) shall be applied as if '2002' were substituted for '2001'; and

''(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.''.

SEC. 617. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking ''and 2001'' and inserting ''2001, and 2002''; and

(2) in paragraph (3)(C)(ii), by striking ''2001'' and inserting ''2002''.

Mr. DASCHLE. Madam President, this unanimous consent is required in order for us to finish our work on the economic stimulus package that was just sent to us this afternoon from the House. Senator LOTT and I have discussed this matter throughout the day. As I said, I had an earlier conversation with the distinguished ranking member of the Finance Committee, as well as the chairman of the Finance Committee, and we are now in a position to proceed to a vote on the stimulus package tomorrow morning.

We haven't set a time, but I expect the votes will be taken at approximately 9:30. So there will be two votes at 9:30—one on the unanimous consent that we have just now agreed to, the so-called economic stimulus unemployment insurance extension legislation, and one on the McCain amendment.

I thank my colleagues for their participation and cooperation.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Madam President, I have worked closely with Senator COLLINS for some time now on legislation to provide much needed tax relief for our educators. Tonight, I am pleased to report that the Senate should soon pass H.R. 3090, the Job Creation and Worker Assistance Act of 2002, as previously passed by the House of Representatives. With passage of this legislation, Senator COLLINS and I will have finally achieved our shared goal of providing much needed tax relief for our Nation's teachers.

The Collins/Warner provision that is in this legislation, was crafted by Senator COLLINS and myself after months of consultations with Senator GRASSLEY, Senator BAUCUS, Senator ALLEN, and House Ways and Means Chairman THOMAS.

Simply put, the provision provides a $250 above the line deduction for educators who incur out of pocket expenses for supplies they bring into the classroom to better the education of their students. The National Education Association played a key role and its many members should look with pride and satisfaction on their constructive advice to the Congress. The President of the Virginia Education Association, Jean Bankos also helped lead this superb effort. Our teachers in this country are overworked, underpaid, and all too often, under-appreciated. In addition to these factors, our teachers expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending significant amounts of money out of their own pocket on classroom expenses—such as books, supplies, pens, paper, and computer equipment. These out of pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Estimates are that 2.4 million new teachers will be needed by 2009 because of teacher attrition, teacher retirement and increased student enrollment. While the primary responsibility rests with the states, I believe the Federal Government can and should play a

role in helping to alleviate the Nation's teaching shortage. On a federal level, we can encourage individuals to enter the teaching profession and remain in the profession by providing tax relief to teachers for the costs that they incur as part of the profession.

Madam President, our teachers have made a personal commitment to educate the next generation and to strengthen America. While many people spend their lives building careers, our teachers spend their careers building lives. The Teacher Tax Relief provisions in this bill go a long way towards providing our teachers with the recognition they deserve by providing teachers with important and much needed tax relief.

I am proud to have had the opportunity to work with Senator COLLINS and so many others to eventually make our goal a reality.

I commend the leadership of the majority and the minority for their efforts. I have long supported the concept of having the stimulus package. While it may not be what each of us wanted, it is essential, particularly the unemployment provisions and the provisions about teachers, with which I have long been associated. I thank the leadership.

Madam President, I commend the President of the United States for his commitment, along with his several Cabinet officers who have fought so strongly for passage of a stimulus package. The American economy is, I believe, showing some signs of recovery, but I believe that this is an additional step to shore up the confidence of the people of this country in the economy.

Within the stimulus package we will vote on tomorrow are provisions that I worked on with Senator COLLINS and others for some time that relate to teachers. In my visits to educational institutions throughout the Commonwealth of Virginia, I have often learned—inadvertently, not because teachers come up to me and tell me about it, because they are rather modest—but, in fact, so many of our teachers, particularly those in the lower grades and those in schools which, for whatever reason, might not be as well financed as other institutions in our State, have taken from their own pockets, funds to buy school supplies which are needed to help their particular students in their classroom perform their educational responsibilities. Sometimes it is paper. Sometimes it is crayons, occasionally books. I find this extraordinary. As I say, they have not come to me and asked: Oh, we want this, we want that. They are very humble about it.

Senator COLLINS and I, and my colleague, Senator ALLEN, who has been very active in the entire area of education with me—I happen to serve on the committee for education in the Senate—but we have as a team, together with other Senators, have been working on this concept for some time.

The National Education Association took a pivotal role in seeing that this legislation was incorporated in the House bill. Now at long last, we do have a measure of success, and it is owed to the teachers and the National Education Association and other colleagues here who have worked on it with me.

I am delighted over the whole prospect of this being passed. It is only a $250 above the line deduction. But at long last teachers can point to something—''this is our's; we helped make it happen, and we are proud of it.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE VIRGINIA GARCIA MEMORIAL HEALTH CENTER

Mr. SMITH of Oregon. Madam President, today I rise today to give tribute to some of the health care heroes in my home State of Oregon. They are the hard-working people who staff the Virginia Garcia Memorial Health Center in Cornelius, OR.

Virginia Garcia was a 6-year-old girl who died from a treatable infection in the 1970s. She died, not because she lacked health care, but because no one spoke to her family in the only language they knew—Spanish.

Access to health care involves more than insurance. Barriers to access continue to exist even when financial problems to health care are removed. Disparities in health care and health outcomes reflect these barriers.

For example, Latinos are twice as likely as White Americans to have diabetes, and twice as likely to have cervical cancer. They also trail other ethnic groups in childhood immunizations and health insurance coverage.

The Virginia Garcia Clinic does a wonderful job at bridging the large gap between access to coverage and access to care. The clinic serves nearly 8,000 patients a year, 80 percent of whom are Spanish speaking, and 90 percent of whom are below the poverty level. Patients in the clinic pay for their services on a sliding scale, sometimes as low as $5 per visit.

Access to high quality, affordable, and culturally accessible care has saved many lives, and improved the quality of lives of many others. I have two true stories to relate to you today, though I really don't need to use their names, because they represent thousands of people across my home State. I will refer to them just as people in need of health care.

One woman who has benefitted from the good works of the Virginia Garcia Clinic came to the clinic after moving to the U.S. from Mexico. She had suffered from breast cancer, and underwent a mastectomy and a long, expensive treatment of chemotherapy that had bankrupted her family. To pay for this treatment, they lost their home.

She turned to the Virginia Garcia Health Center for help. She needed very expensive medication, and the clinic managed to provide it to her. To make matters worse, she also had diabetes and other complicated health problems. Yet the Virginia Garcia Clinic manages her care and arranges for the specialty care that she requires. Without a safety net clinic such as the Virginia Garcia Clinic, she would very likely not get the care she needs to stay healthy for her children and family.

The staff at the clinic have also told me about a farm worker who came to the Virginia Garcia Clinic for an urgent care visit about a rash on his arm. During the exam, the nurse practitioner asked about a lump she noticed on his neck. He hadn't been concerned about it, but the staff at the Virginia Garcia Clinic persisted until he agreed to have a biopsy. The lump turned out to be lymphoma, so the Virginia Garcia Clinic arranged for his chemotherapy at the Oregon Health and Sciences University, where he was treated successfully.

Without a migrant community health center such as Virginia Garcia to provide outreach, the outcome of this story would likely not have been so positive.

Spending time at the Virginia Garcia Clinic, I have met with people with stories such as these and whose lives would have changed for the worse without the efforts of the hard-working and dedicated staff.

Truly, these people, these staff workers are health care heroes, and we desperately need them in our quest to ensure that every person in this country has access to health care.

So today, I salute the work and the workers of the Virginia Garcia Clinic, true heroes in the State of Oregon.

IN RECOGNITION OF SERGEANT PHILIP SVITAK

Mr. NELSON of Nebraska. Madam President, this week during the war against terror in Afghanistan America lost eight soldiers and Nebraska lost a native son. These soldiers died valiantly protecting the rights, ideals, values, and way of life that Americans enjoy.

Sgt. Philip Svitak, a member of the Second Battalion, 160th Special Operations Aviation Regiment, was born in Lincoln and raised in Fremont. He graduated from Fremont High School in 1989 and entered the Army where he served in the Gulf War.

Sgt. Svitak's parents have said that growing up, he dreamed of a career with the military service. His favorite gifts would be colored the familiar green olive drab. But he also enjoyed

fixing things, hunting, and skateboarding. He loved his wife, Laura, and their two young sons, Nolan and Ethan. Before departing for Afghanistan, he told his family that ''the terrorists have to be stopped.'' Philip has made the ultimate contribution.

Those who knew Sgt. Svitak will remember him as a levelheaded and caring friend and father. Those of us who did not, will remember him as well, as a brave and dedicated soldier who made the ultimate sacrifice for a forever grateful nation.

We thank Sgt. Svitak for his service and his sacrifices. Our thoughts and prayers are with his family and the families of other servicemen and women as they endure their loss of their loved ones who have been killed defending our freedom.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in September 1997 in Tulsa, OK. Two gay men were severely beaten after leaving a bar. After being arrested, the assailants told police they were ''only rolling a couple of fags.''

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

NOMINATION OF JOE SCHMITZ

Mr. SMITH of New Hampshire. Madam President, I believe that the Department of Defense Inspector General position is among the most important in the Department, because the IG office is responsible for ensuring accountability and efficiency, and therefore is the heart of integrity in the Pentagon.

There have been numerous scandals in the IG office in the recent past, which has been rudderless, without a confirmed nominee for 3 years. With the IG office in disarray, there is the impression left that the Department is without proper and necessary oversight. I am also told that the IG office has been headless for some 10 years over the past couple of decades—which is a disgrace. Without strong leadership, direction and motivation, no office can function efficiently and effectively.

Secretary Rumsfeld needs an Inspector General. We are, after all, at war. Joe Schmitz was the choice of the Secretary of Defense and the choice of President Bush for this important post. Mr. Schmitz is an individual with a strong background for the job, and with impeccable personal and professional credentials. I hope that we can move forward expeditiously with his nomination, now that it has been cleared both by the Armed Services committee—by voice vote—and by the Government Affairs Committee.

Individuals who undergo the nomination process put their names and reputations on the line, opening themselves up to intense scrutiny of their past employment, their finances, their conduct and their associations. They fill out hundreds of documents. Mr. Schmitz has been held up for long enough—there are no ethical issues impacting his nomination, and he has received strong recommendations from those who know him and have worked with him, regardless of party affiliation.

I believe that Joe Schmitz was a superlative choice by Secretary Rumsfeld and president Bush, and that he will make an outstanding IG. The Senate needs to act now, to fill this important position at the Department of Defense and to give Secretary Rumsfeld the team he needs to do his job.

ADDITIONAL STATEMENTS

WALTER JOHANNSEN

● Mr. WELLSTONE. Mr. President, I rise today to talk about the extraordinary service of Walter ''Bud'' Johannsen and the extraordinary dedication he has shown to the Lake George, MN community. It is extraordinary in its duration. It is extraordinary in its selflessness. And it is a wonderful example of community service at its best.

Week after week for the past forty years Bud Johannsen has been on call twenty four hours a day, seven days a week as a volunteer firefighter for the Lake George Volunteer Fire Department, the only fire department that services this peaceful north central community and its surrounding area. And week after week he has accepted the risks inherent in a job of this nature. Week after week. For forty years. Voluntarily. Without pay.

He has done this while maintaining a full-time job, raising a family and participating in community affairs. He has done this while demonstrating a positive attitude, a wonderful sense of humor and a willingness to lend a helping hand wherever and whenever needed.

That is dedication. That is the American spirit at its best.

Now I know that Bud Johannsen is not the first individual to ever volunteer his time. Nor will he be the last. But when I hear of such a milestone, 40 years as a volunteer firefighter, I feel the need to recognize and publicly thank that individual for his service, especially in light of the events of September 11 when we saw all too clearly the sometimes tragic consequences of such courage and commitment.

So today I thank Walter ''Bud'' Johannsen. I thank his wife Kay and his daughter Tracy for sharing him with the Lake George community for so many years. And I thank all the members of the Lake George Volunteer Fire Department for the great work that they do. They are all truly inspiring.●

TRIBUTE TO DIANE RUMER

● Mr. BUNNING. Madam President, today I have the distinct honor of rising to share with my fellow colleagues the poetic work of Diane Rumer of Florence, Kentucky.

The tragic events of September 11 has affected us all in so many different ways. Some have lost loved ones. Some have sacrificed their lives to save others. And some have simply wept. We all have different methods of dealing with such tragic circumstances, and I personally have found a certain degree of solace in Diane Rumer's poem entitled American Angel. I am honored to share her work with you.

God Bless our country,
And all we hold dear:
Faith and our freedom,
And life without fear.

Guard her and guide her,
Protect her, we pray.
Send angels among us
To show us the way.

Every time I read these beautiful words, I find myself visualizing the American angels Diane so gracefully describes in her poem. I see a soldier fighting at home and abroad to rid the world of terrorism and oppression. I see a fireman racing into a burning building to save the life of a complete stranger. I see a blood donor. I see an aid worker. I see a family raising a flag in their front yard. After reading this, I realize there are angels surrounding us in every aspect of life, trying desperately to show us the way.

I would like to thank Diane for this inspirational piece. Her words are a truly a comfort in times of strife.●

MESSAGES FROM THE HOUSE

At 11:42 a.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 bills, in which it requests the concurrence of the Senate:

H.R. 1870. An act to provide for the sale of certain real property within the Newlands Project in Nevada, to the city of Fallon, Nevada.

H.R. 1883. An act to authorize the Secretary of the Interior to conduct a feasibility study on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

H.R. 1963. An act to amend the National Trails System Act to designate the route taken by American soldier and frontiersman George Rogers Clark and his men during the

Revolutionary War to capture the British forts at Kaskaskia and Cahokia, Illinois, and Vincennes, Indiana, for study for potential addition to the National Trails System.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 32. A joint resolution congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 275. Concurrent resolution expressing the sense of the Congress that hunting seasons for migratory mourning doves should be modified so that individuals have a fair and equitable opportunity to hunt such birds.

ENROLLED JOINT RESOLUTION SIGNED

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 32. A joint resolution congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. BYRD).

At 3:50 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 3090) to provide tax incentives for economic recovery, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the Speaker has appointed the following members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2646) to provide for the continuation of agricultural programs through fiscal year 2011:

As additional conferees from the Committee on the Budget, for consideration of section 197 of the Senate amendment, and modifications committed to conference: Mr. NUSSLE, Mr. SUNUNU, and Mr. SPRATT.

From the Committee on Education and the Workforce, for consideration of sections 453–5, 457–9, 460–1, and 464 of the Senate amendment, and modifications committed to conference: Mr. CASTLE, Mr. OSBORNE, and Mr. KILDEE.

From the Committee on Energy and Commerce, for consideration of sections 213, 605, 627, 648, 652, 902, 1041, and 1079E of the Senate amendment, and modifications committed to conference: Mr. TAUZIN, Mr. BARTON of Texas, and Mr. DINGELL.

From the Committee on Financial Services, for consideration of sections 335, and 601 of the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mr. BACHUS, and Mr. LAFALCE.

From the Committee on International Relations, for consideration of title III of the House bill and title III of the Senate amendment, and modifications committed to conference: Mr. HYDE, Mr. SMITH of New Jersey, and Mr. LANTOS.

From the Committee on the Judiciary, for consideration of sections 940–1 of the House bill and sections 602, 1028–9, 1033–5, 1046, 1049, 1052–3, 1058, 1068–9, 1070–1, 1098, and 1098A of the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. GREEN of Wisconsin, and Ms. BALDWIN.

From the Committee on Resources, for consideration of sections 201, 203, 211, 213, 215–7, 262, 721, 786, 806, 810, 817–8, 1069, 1070, and 1076 of the Senate amendment, and modifications committed to conference: Mr. HANSEN, Mr. YOUNG of Alaska, and Mr. KIND.

From the Committee on Science, for consideration of sections 808, 811, 902–3, and 1079 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. BALLENGER, and Mr. HALL of Texas.

From the Committee on Ways and Means, for consideration of sections 127 and 146 of the House bill and sections 144, 1024, 1038, and 1070 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. HERGER, and Mr. RANGEL.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker of the House, was signed today, March 7, 2002, by the president pro tempore (Mr. BYRD):

S. 1857. An act to encourage the negotiated settlement of tribal claims.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R 1870. An act to provide for the sale of certain real property within the Newlands Project in Nevada, to the city of Fallon, Nevada; to the Committee on Energy and Natural Resources.

H.R. 1963. An act to amend the National trails System Act to designate the route taken by American soldier and frontiersman George Rogers Clark and his men during the Revolutionary War to capture the British forts at Kaskaskia and Cahokia, Illinois, and Vincennes, Indiana, for study for potential addition to the National Trails System; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 275. Concurrent resolution expressing the sense of the Congress that hunting seasons for migratory mourning doves should be modified so that individuals have a fair and equitable opportunity to hunt such birds; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1883. An act to authorize the Secretary of the Interior to conduct a feasibility study on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 7, 2002, she had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1857. An act to encourage the negotiated settlement of tribal claims.

S.J. Res. 32. A joint resolution congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5615. A communication from the Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Class Exemption for Cross-Trades of Securities by Index and Model-Driven Funds'' (RIN1210–ZA01) received on February 12, 2002; to the Committee on Health, Education, Labor, and Pensions.

EC–5616. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the Presidential Determination Number 2002–07, relative to major drug transit or major illicit drug producing countries; to the Committee on Foreign Relations.

EC–5617. A communication from the Senior Regulations Analyst, Saint Lawrence Seaway Development Corporation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Tariff of Tolls'' (RIN2135–AA14) received on February 14, 2002; to the Committee on Environment and Public Works.

EC–5618. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered Status for the Buena Vista Lake shrew (Sorex ornatus relictus)'' (RIN1018–AG04) received on March 6, 2002; to the Committee on Environment and Public Works.

EC–5619. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–278, ''District of Columbia Emancipation Day Fund Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–5620. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–277, ''Residential Permit Parking Area Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5621. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–276, ''John T. 'Big John' Williams Building Designation Act of 2002''; to the Committee on Governmental Affairs.

EC–5622. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–274, ''Closing of a Portion of a Public Alley in Square 236, S.O. 01–2919 Act of 2002''; to the Committee on Governmental Affairs.

EC–5623. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–270, ''North Capitol Expansion and Expansion of Business Improvement Districts Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5624. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–271, ''Washington Convention Center Authority Oversight and Management Continuity Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5625. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–272, ''Eastern Avenue Tour Bus Parking Prohibition Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5626. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–269, ''Closing of a Public Alley in Square 528 S.O. 01–173, Act of 2002''; to the Committee on Governmental Affairs.

EC–5627. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–268, ''Food Regulation Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5628. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–292, ''Mental Health Commitment Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–5629. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–291, ''Vendor Payment Authorization Temporary Amendment Act of 2002''; to the Committee on Governmental Affairs.

EC–5630. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–289, ''Wooly Mammoth Theatre Tax Abatement Act of 2002''; to the Committee on Governmental Affairs.

EC–5631. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–290, ''Square 456 Payment in Lieu of Taxes Act of 2002''; to the Committee on Governmental Affairs.

EC–5632. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–288, ''Edward 'Duke' Ellington Plaza Designation Act of 2002''; to the Committee on Governmental Affairs.

EC–5633. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–279, ''Towing Vehicles Rulemaking Authority Temporary Act of 2002''; to the Committee on Governmental Affairs.

EC–5634. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 14–275, ''Closing of a Public Alley in Square 628, S.O. 00-96 Act of 2002''; to the Committee on Governmental Affairs.

EC–5635. A communication from the Administrator of Tobacco Programs, Agriculture Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tobacco Inspection; Producer Referenda on Mandatory Grading'' (Doc. No. TB–02–03) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5636. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Distance Learning and Telemedicine Loan and Grant Program'' (RIN0572–AB70) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5637. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Japan Because of BSE'' (Doc. No. 01–094–2) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5638. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties'' (Doc. No. 97–053–3) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5639. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''West Indian Fruit Fly'' (Doc. No. 00–110–4) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5640. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Poultry Improvement Plan and Auxiliary Provisions'' (Doc. No. 00–075–2) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5641. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Steam Treatment of Golden Nematode-Infested Farm Equipment, Construction Equipment, and Containers'' (Doc. No. 01–050–1) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5642. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Change in Disease Status of Greece Because of BSE'' (Doc. No. 01–065–2) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5643. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Canker; Quarantined Areas'' (Doc. No. 01–079–2) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5644. A communication from the Congressional Review Coordinator, Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Asian Longhorned Beetle; Addition to Quarantined Areas'' (Doc. No. 01–092–2) received on March 4, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5645. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tart Cherries Grown in the States of Michigan, et al.; Modifications to the Rules and Regulations Under the Tart Cherry Marketing Order'' (Doc. No. FV01–930–0 FIR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5646. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hazelnuts Grown in Oregon and Washington; Establishment of Reporting Requirements for Imported Hazelnuts'' (Doc. No. FV01–982–3 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5647. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Suspension of Continuing Assessment Rate'' (Doc. No. FV01–948–2 FIR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5648. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Olives Grown in California; Decreased Assessment Rate'' (Doc. No. FV02–932–1 IFR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5649. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate'' (Doc. No. FV01–987–1 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5650. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisin Produced from Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates'' (Doc. No. FV02–989–3 IFR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5651. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon; Decreased Assessment Rate'' (Doc. No. FV01–924–1 FIR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5652. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled

''Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate'' (Doc. No. FV01–931–1 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5653. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Increased Assessment Rate'' (Doc. No. FV01–948–3 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5654. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Limes Grown in Florida and Imported Limes; Suspension of Regulations'' (Doc. No. FV01–911–2 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5655. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Winter Pears Grown in Oregon and Washington; The Establishment of a Supplemental Rate of Assessment for the Beurre d'Anjou Variety of Pears and of a Definition for Organically Produced Pears'' (Doc. No. FV01–927–1 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5656. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cranberries Grown in the States of Massachusetts, et al.; Increased Assessment Rate'' (Doc. No. FV01–929–3 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5657. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Hass Avocados Promotion, Research and Information Order; Referendum Procedures'' (Doc. No. FV–01–706–FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5658. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Walnuts Grown in California; Decreased Assessment Rate'' (Doc. No. FV01–984–1 FIR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5659. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Relaxation of Pack Requirements'' (Doc. No. FV02–920–1 IFR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5660. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dried Prunes Produced in California; Increased Assessment Rate'' (Doc. No. FV01–993–3 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5661. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Decreased Assessment Rate'' (Doc. No. FV01–905–3 IFR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5662. A communication from the Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tomatoes Grown in Florida; Decreased Assessment Rate'' (Doc. No. FV01–966–2 IFR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5663. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines Grown in California; Increased Assessment Rate'' (Doc. No. FV01–916–2 FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5664. A communication from the Acting Administrator of the Fruit and Vegetable Programs, Research and Promotion Branch, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Referendum Procedures under the Watermelon Research and Promotion Plan'' (Doc. No. FV01–701–FR) received on March 6, 2002; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 214: A resolution designating March 25, 2002, as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David C. Bury, of Arizona, to be United States District Judge for the District of Arizona.

Randy Crane, of Texas, to be United States District Judge for the Southern District of Texas.

Ralph R. Beistline, of Alaska, to be United States District Judge for the District of Alaska.

Paul I. Perez, of Florida, to be United States Attorney for the Middle District of Florida, for the term of four years.

Eric F. Melgren, of Kansas, to be United States Attorney for the District of Kansas for the term of four years.

Dennis Cluff Merrill, of Oregon, to be United States Marshal for the term of four years.

John Schickel, of Kentucky, to be United States Marshal for the Eastern District of Kentucky for the term of four years.

William R. Whittington, of Louisiana, to be United States Marshal for the Western District of Louisiana for the term of four years.

Stephen Gilbert Fitzgerald, of Wisconsin, to be United States Marshal for the Western District of Wisconsin for the term of four years.

J.C. Rafferty, of West Virginia, to be United States Marshal for the Northern District of West Virginia for the term of four years.

James Anthony Rose, of Wyoming, to be United States Marshal for the District of Wyoming for the term of four years.

James Loren Kennedy, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

Theophile Alceste Duroncelet, of Louisiana, to be United States Marshal for the Eastern District of Louisiana for the term of four years.

James Thomas Plousis, of New Jersey, to be United States Marshal for the District of New Jersey for the term of four years.

Charles R. Reavis, of North Carolina, to be United States Marshal for the Eastern District of North Carolina for the term of four years.

Timothy Dewayne Welch, of Oklahoma, to be United States Marshal for the Northern District of Oklahoma for the term of four years.

Michael Robert Regan, of Pennsylvania, to be United States Marshal for the Middle District of Pennsylvania for the term of four years.

Jesse Seroyer, Jr., of Alabama, to be United States Marshal for the Middle District of Alabama for the term of four years.

Gregory Allyn Forest, of North Carolina, to be United States Marshal for the Western District of North Carolina for the term of four years.

John R. Edwards, of Vermont, to be United States Marshal for the District of Vermont for the term of four years.

(Nominations without an asterisk were reported with the recommendations that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH of New Hampshire (for himself, Mr. ENZI, and Mr. THOMAS):

S. 1996. A bill to amend title 18, United States Code, to protect citizens' rights under the Second Amendment to obtain firearms for legal use, and for other purposes; to the Committee on the Judiciary.

By Mrs. CARNAHAN:

S. 1997. A bill to require a pilot program to assess the adoption of the Air Force Expeditionary Medical Support System by the Air National Guard; to the Committee on Armed Services.

By Mr. ENSIGN (for himself and Mr. ALLARD):

S. 1998. A bill to amend the Higher Education Act of 1965 with respect to the qualifications of foreign schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 1999. A bill to reauthorize the Mni Wiconi Rural Water Supply Project; to the Committee on Energy and Natural Resources.

By Ms. STABENOW:

S. 2000. A bill to amend the Internal Revenue Code or 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004; to the Committee on Finance.

By Mr. CAMPBELL:

S. 2001. 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; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG (for himself, Mr. CLELAND, Mr. ALLEN, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. COCHRAN, Mr. CRAPO, Mr. DASCHLE, Mr. DEWINE, Mr. DOMENICI, Mr. EDWARDS, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NICKLES, Mr. SESSIONS, Mr. SPECTER, Mr. STEVENS, Mr. VOINOVICH, and Mr. DAYTON):

S. Res. 218. A resolution designating the week beginning March 17 , 2002, as ''National Safe Place Week''; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. HELMS, Mr. DEWINE, and Mr. TORRICELLI):

S. Res. 219. A resolution expressing support for the democratically elected Government of Colombia and its efforts to counter threats from United States-designated foreign terrorist organizations; to the Committee on Foreign Relations.

By Mr. GRASSLEY:

S. Res. 220. A resolution expressing the sense of the Senate regarding the continued attacks on democracy and the rule of law in Colombia, including the kidnappings of the elected representatives of the people of Colombia; to the Committee on Foreign Relations.

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. ALLARD, Ms. CANTWELL, Mr. GREGG, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. BIDEN, Mr. BUNNING, Mr. COCHRAN, Mr. ALLEN, Mr. THOMAS, and Mr. HUTCHINSON):

S. Res. 221. A resolution to commemorate and acknowledge the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 442

At the request of Mr. CAMPBELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 442, a bill to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms and to allow States to enter into compacts to recognize other States' concealed weapons permits.

S. 540

At the request of Mr. DEWINE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 913

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 952

At the request of Mr. GREGG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 952, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1140

At the request of Mr. HATCH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1140, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1899

At the request of Mr. BROWNBACK, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1915

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1915, a bill to amend the Internal Revenue Code of 1986 to treat natural gas distribution lines as 10-year property for depreciation purposes.

S. 1917

At the request of Mr. JEFFORDS, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. ROBERTS), the Senator from West Virginia (Mr. BYRD), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. 1933

At the request of Mr. SHELBY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1933, a bill to amend the Securities Exchange Act of 1934 and the Securities Act of 1933, to address liability standards in connection with violations of the Federal securities laws, and for other purposes.

S. 1967

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 1977

At the request of Mr. THURMOND, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1977, a bill to amend chapter 37 of title 28, United States Code, to provide for appointment of United States marshals by the Attorney General.

S. 1984

At the request of Mr. BUNNING, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1984, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to pregnant women needing such services, and for other purposes.

S. 1991

At the request of Mr. HOLLINGS, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1991, to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S.J. RES. 33

At the request of Mr. HOLLINGS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 33, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 207

At the request of Mr. BINGAMAN, the names of the Senator from Connecticut (Mr. DODD), the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. SCHUMER), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. Res. 207, a resolution designating March 31, 2002, and March 31, 2003, as ''National Civilian Conservation Corps Day.''

AMENDMENT NO. 2979

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 2979 .

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of amendment No. 2979 supra.

At the request of Mr. MURKOWSKI, his name was added as a cosponsor of amendment No. 2979 supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CARNAHAN:

S. 1997. A bill to require a pilot program to assess the adoption of the Air Force Expeditionary Medical Support System by the Air National Guard; to the Committee on Armed Services.

Mrs. CARNAHAN. Mr. President, as the last few months have shown, America's citizen soldiers and airmen are vital to Homeland Security.

Air Guard fighter pilots have patrolled the skies over our largest cities. Army Guard units police our air terminals and ports of entry.

These brave men and women stand sentry over our Nation. They are making America safer.

But we must be ready to respond if terrorists again succeed in bringing harm to American people. We must be ready to rescue the victims, care for the sick, and aid the injured. This will take cooperation from every level of government—local, State, and Federal agencies.

Dr. Jeffery Lowell is the St. Louis Mayor's Chief of a special team called the Medical Critical Incident Response Group. He is responsible for determining how the region's 30-plus hospitals will provide medical aid to the 2½ million residents of the St. Louis metropolitan area.

Dr. Lowell reports only that 70 to 80 critical care beds are available at any one time. But we need to prepare for the possibility that an attack could generate hundreds, perhaps thousands, of injuries.

Additionally, the entire St. Louis metropolitan area does not have enough emergency responders to care for so many victims. Help would need to come from other cities, other States. This would take time, many hours, even days. In situations like this, lost time means lost lives.

There is an answer to this problem, and it involves the same Guard men and women I mentioned earlier.

The answer is the Expeditionary Medical System, or EMEDS. EMEDS is a new rapid response medical system. It was created by the Air Force to rush its medics with blazing speed anywhere in the world they are needed, at a moment's notice.

Our military relies on this life-saving capability during wartime, but it could prove just as valuable to the civilian community here, in America.

The legislation I am introducing today would establish an EMEDS program in the Air Guard. This bill gives the Air Guard an EMEDS program so that we are prepared for any disaster or attack on the home front, as our troops have been on the war front.

Our Guard soldiers and airmen pride themselves on being light, lean, and lethal. EMEDS will make our Guard medics light, lean, and life-saving, able to react within minutes to an attack.

The new equipment and training that EMEDS would provide the Guard will allow it to respond to attacks or disasters within minutes. And once on site, Guard EMEDS will be able to remain there for days without re-supply, they are self-sustaining. They would assist local responders.

EMEDS will care for sick, provide emergency medicine to wounded, even perform life-saving surgery. Additionally, Guard EMEDS would be able to perform in a biological, chemical, or radiological warfare environment.

If the pilot program is successful, I would hope each State's Guard will acquire EMEDS capability. America needs this capability as its citizens grapple with the emerging threats facing them within the United States.

The National Guard is the perfect organization to provide Americans this valuable homeland defense initiative.

This bill is supported by the U.S. Air Force Surgeon General as well as several other national military organizations such as the Air Force Sergeants Association, National Guard Association and the Air Force Association.

I am proud to offer this bill. Guard EMEDS is a ground-breaking initiative. This first step toward ensuring that each State, through its Guard units, can medically respond to disasters and terrorist attacks with life-saving immediacy.

I believe this measure is of vital importance to our national security.

I urge my colleagues to support this bill's passage.

By Ms. STABENOW

S. 2000. A bill to amend the Internal Revenue Code of 1986 to provide for a special depreciation allowance for certain property acquired after December 31, 2001, and before January 1, 2004; to the Committee on Finance.

Ms. STABENOW. Mr. President, recently we passed legislation to protect families hurt in this recession by extending unemployment protection for an additional 13 weeks.

It was the right thing to do. Now let's finish the job by helping them get back to work. Let's pass a stimulus bill that will jump start the economy and create more employment.

I am introducing a bill that will encourage business investment in new equipment and technology by offering a 30-percent depreciation bonus on capital goods with a depreciation life of 20 years for less as defined by IRS.

The bonus would apply to purchases made by the end of 2003 to encourage spending now, not years from now.

This depreciation bonus is a broad-based incentive that would help businesses both large and small in almost every sector of our economy.

The IRS list of qualifying industries and equipment runs nine pages in very small type and there's not much that isn't covered.

It would help industries from autos to agriculture, from construction to computers, from energy to electronics, and more.

And not only would this bill help the manufacturing industries that make these products, spurring employment, but it would also help the businesses that buy these products by making their workers more productive.

I count this as a win/win situation. Let me give you an example of how this depreciation bonus would work. To keep the math simple, let's talk about a business that buys a computer for $1,000. Under IRS regulations, computers have a 5-year deduction life.

With the depreciation bonus, the business would immediately take a 30-percent deduction on the $1,000 computer, a deduction of $300, making the computer now worth $700.

Now the business would take all the standard depreciation deductions allowed over the 5-years, but at the $700 value. For a computer that would mean another 20-percent deduction in the first year. That's another $140.

That means a total deduction of $440, or 44 percent, in just the first year.

I support this bill because it is not targeted to specific industries or companies or individuals. Almost every business in America, large, small and in between, can benefit from this depreciation bonus.

I support this bill because it would be a needed short-term shot in the arm for the economy, without shooting holes in our long-term goal of fiscal responsibility.

I support this bill because it would create jobs, and support existing jobs, bolstering the consumer economy, which is two thirds of our Gross Domestic Product and vital to getting us out of this recession.

This bill has the support of a broad range of business and industrial groups. I urge my colleagues to support this legislation as well. Let's rev up the economy without running up debt.

I ask unanimous consent that a copy 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. 2000

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

SECTION 1. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

''(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—

''(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

''(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

''(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

''(2) QUALIFIED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified property' means property—

''(i)(I) to which this section applies which has a recovery period of 20 years or less or which is water utility property,

''(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

''(III) which is qualified leasehold improvement property, or

''(IV) which is eligible for depreciation under section 167(g),

''(ii) the original use of which commences with the taxpayer after December 31, 2001,

''(iii) which is—

''(I) acquired by the taxpayer after December 31, 2001, and before January 1, 2004, but only if no written binding contract for the acquisition was in effect before January 1, 2002, or

''(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after December 31, 2001, and before January 1, 2004, and

''(iv) which is placed in service by the taxpayer before January 1, 2004, or, in the case of property described in subparagraph (B), before January 1, 2005.

''(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

''(i) IN GENERAL.—The term 'qualified property' includes property—

''(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

''(II) which has a recovery period of at least 10 years or is transportation property, and

''(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

''(ii) ONLY PRE-JANUARY 1, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2004.

''(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term 'transportation property' means tangible personal property used in the trade or business of transporting persons or property.

''(C) EXCEPTIONS.—

''(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified property' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

''(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

''(II) after application of section 280F(b) (relating to listed property with limited business use).

''(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

''(D) SPECIAL RULES.—

''(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after December 31, 2001, and before January 1, 2004.

''(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

''(I) is originally placed in service after December 31, 2001, by a person, and

''(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

''(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

''(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by $4,600.

''(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

''(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) BINDING COMMITMENT TO LEASE TREATED AS LEASE.—A binding commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsection.

''(D) IMPROVEMENTS MADE BY LESSOR.—In the case of an improvement made by the person who was the lessor of such improvement when such improvement was placed in service, such improvement shall be qualified leasehold improvement property (if at all) only so long as such improvement is held by such person.''.

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) of the Internal Revenue Code of 1986 (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

''(iii) ADDITIONAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER DECEMBER 31, 2001, AND BEFORE JANUARY 1, 2004.—The deduction under section 168(k) shall be allowed.''

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''clause (ii)'' both places it appears and inserting ''clauses (ii) and (iii)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001, in taxable years ending after such date.

By Mr. CAMPBELL:

S. 2001. 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; to the Committee on Armed Services.

Mr. CAMPBELL. Mr. President, today I introduce the Fairness to All Fallen Vietnam War Service Members Act of 2002. Almost forty years ago, our country started sending a generation of young men off to fight in Vietnam. Over 58,000 American soldiers gave their lives to their country in and around the lands, skies, and seas of Vietnam.

The ultimate sacrifices many of these men have made are honored on the Vietnam Veterans Memorial Wall here in Washington, D.C. There are, however, names that are missing from the wall, names that rightfully should be there with their fallen fellow Americans. It is now time to correct that omission.

On the morning of June 3, 1969, the United States destroyer, U.S.S. *Frank E. Evans*, was cut in half during a training exercise by the Australian aircraft carrier, *Melbourne*. The front half of the destroyer sank in three minutes claiming the lives of seventy-four men.

While these men were not lost due to enemy fire, they were involved in serious combat only days before this tragedy. At the time of the accident, the U.S.S. *Frank E. Evans* was taking part in Operation Sea Spirit in the South China Sea which involved over 40 ships from Southeast Asia Treaty Organization Nations. These brave men were instrumental in forwarding American objectives in Vietnam.

The fact is these men died while serving their country and are due the

rights and honors they deserve, including being listed on the Vietnam Memorial Wall.

Two of my fellow Coloradans, Brian Crowson and Del A. Francis were on board on that fateful morning and survived this horrible accident. Sadly, 74 of their fellow sailors were not as fortunate.

There are many cases of men and women who were killed serving their country in Southeast Asia, yet they are not eligible to have their names placed on the Wall.

At a time when we rightly honor heroes across our country, should we not also take the necessary step to ensure that our past heroes are also honored?

This legislation directs the Secretary of Defense to determine an appropriate manner to recognize and honor Vietnam Veterans who died in service to our Nation but whose names were excluded from the Vietnam Veterans Memorial Wall. It further asks for input from government agencies and organizations that originally constructed the Vietnam Veterans Memorial Wall regarding the feasibility of adding additional names. Finally, the bill asks for appropriate alternative options for recognizing these veterans should it be deemed that there is no logistical way to add these names.

As a veterann of the Korean War, I personally understand the ultimate sacrifice many of our brave men and women have made for the price of freedom. This recognition should not be taken lightly.

I am honored to introduce this companion bill to H.R. 3443, which was introduced by my good friend and colleague in the House of Representatives, Congressman STEVE HORN.

I look forward to working with my colleagues here in the Senate as well as Representative HORN and the U.S.S. Frank E. Evans Association so that we can pass this long overdue 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. 2001

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 ''Fairness to All Fallen Vietnam War Service Members Act of 2002''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Public Law 96–297 (94 Stat. 827) authorized the Vietnam Veterans Memorial Fund, Inc., (the ''Memorial Fund'') to construct a memorial ''in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war''.

(2) The Memorial Fund determined that the most fitting tribute to those who served in the Vietnam war would be to permanently inscribe the names of the members of the Armed Forces who died during the Vietnam war, or who remained missing at the conclusion of the war, on a memorial wall.

(3) The Memorial Fund relied on the Department of Defense to compile the list of individuals whose names would be inscribed on the memorial wall and the criteria for inclusion on such list.

(4) The Memorial Fund established procedures under which mistakes and omissions in the inscription of names on the memorial wall could be corrected.

(5) Under such procedures, the Department of Defense established eligibility requirements that must be met before the Memorial Fund will make arrangements for the name of a veteran to be inscribed on the memorial wall.

(6) The Department of Defense determines the eligibility requirements and has periodically modified such requirements.

(7) As of February 1981, in order for the name of a veteran to be eligible for inscription on the memorial wall, the veteran must have—

(A) died in Vietnam between November 1, 1955, and December 31, 1960;

(B) died in a specified geographic combat zone on or after January 1, 1961;

(C) died as a result of physical wounds sustained in such combat zone; or

(D) died while participating in, or providing direct support to, a combat mission immediately en route to or returning from such combat zone.

(8) Public Law 106–214 (114 Stat. 335) authorizes the American Battle Monuments Commission to provide for the placement of a plaque within the Vietnam Veterans Memorial ''to honor those Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service, and whose names are not otherwise eligible for placement on the memorial wall''.

(9) The names of a number of veterans who died during the Vietnam war are not eligible for inscription on the memorial wall or the plaque.

(10) Examples of such names include the names of the 74 servicemembers who died aboard the USS Frank E. Evans (DD–174) on June 3, 1969, while the ship was briefly outside the combat zone participating in a training exercise.

SEC. 3. STUDY AND REPORT.

(a) STUDY.—The Secretary of Defense shall conduct a study that—

(1) identifies the veterans (as defined in section 101(2) of title 38, United States Code) who died on or after November 1, 1955, as a direct or indirect result of military operations in southeast Asia and whose names are not eligible for inscription on the memorial wall of the Vietnam Veterans Memorial;

(2) evaluates the feasibility and equitability of revising the eligibility requirements applicable to the inscription of names on the memorial wall to be more inclusive of such veterans; and

(3) evaluates the feasibility and equitability of creating an appropriate alternative means of recognition for such veterans.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report based on the study conducted under subsection (a). Such report shall include—

(1) the reasons (organized by category) that the names of the veterans identified under subsection (a)(1) are not eligible for inscription on the memorial wall under current eligibility requirements, and the number of veterans affected in each category;

(2) a list of the alternative eligibility requirements considered under subsection (a)(2);

(3) a list of the alternative means of recognition considered under subsection (a)(3); and

(4) the conclusions and recommendations of the Secretary of Defense with regard to the feasibility and equitability of each alternative considered.

(c) CONSULTATIONS.—In conducting the study under subsection (a) and preparing the report under subsection (b), the Secretary of Defense shall consult with—

(1) the Secretary of Veterans Affairs;

(2) the Secretary of the Interior;

(3) the Vietnam Veterans Memorial Fund, Inc.;

(4) the American Battle Monuments Commission;

(5) the Vietnam Women's Memorial, Inc.; and

(6) the National Capital Planning Commission.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 218—DESIGNATING THE WEEK BEGINNING MARCH 17, 2002, AS ''NATIONAL SAFE PLACE WEEK''

Mr. CRAIG (for himself, Mr. CLELAND, Mr. ALLEN, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BURNS, Mr. CAMPBELL, Ms. CANTWELL, Mr. COCHRAN, Mr. CRAPO, Mr. DASCHLE, Mr. DEWINE, Mr. DOMENICI, Mr. EDWARDS, Mr. ENZI, Mr. FIENGOLD, Mrs. FEINSTEIN, Mr. FRIST, Mr. HAGEL, Mr. HELMS, Mr. HUTCHINSON, Mr. INHOFE, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NICKLES, Mr. SESSIONS, Mr. SPECTER, Mr. STEVENS, Mr. VOINOVICH, and Mr. DAYTON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 218

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas Safe Place combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas Safe Place provides a direct means to assist programs in meeting performance standards relative to outreach/community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas over 641 communities in 39 states and more than 11,000 locations have established Safe Place programs;

Whereas over 53,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 17 through March 23, 2002 as ''National Safe Place Week'' and

(2) request that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

SENATE RESOLUTION 219—EXPRESSING SUPPORT FOR THE DEMOCRATICALLY ELECTED GOVERNMENT OF COLOMBIA AND ITS EFFORTS TO COUNTER THREATS FROM UNITED STATES-DESIGNATED FOREIGN TERRORIST ORGANIZATIONS

Mr. GRAHAM (for himself, Mr. HELMS, Mr. DEWINE, and Mr. TORRICELLI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 219

Whereas the democratically elected Government of Colombia, led by President Andres Pastrana, is the legitimate authority in the oldest representative democracy in South America;

Whereas the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury, is required to designate as foreign terrorist organizations those groups whose activities threaten the security of United States nationals or the national security interests of the United States pursuant to section 219 of the Immigration and Nationality Act;

Whereas the Secretary of State has designated 3 Colombian terrorist groups as foreign terrorist organizations, including the Revolutionary Armed Forces of Colombia (FARC), the United Self-Defense Forces of Colombia (AUC), and the National Liberation Army (ELN);

Whereas all 3 United States-designated foreign terrorist organizations regularly engage in criminal acts, including murder, kidnapping, and extortion perpetrated against Colombian civilians, government officials, security forces, and against foreign nationals, including United States citizens;

Whereas the FARC is holding 5 Colombian legislators, a presidential candidate, and Colombian police and army officers and soldiers as hostages and has recently escalated bombings against civilian targets, including a foiled attempt to destroy the city of Bogota's principal water reservoir;

Whereas, according to the Colombian government, the FARC has received training in terrorist techniques and technology from foreign nationals;

Whereas, since 1992, United States-designated foreign terrorist organizations in Colombia have committed serious crimes against United States citizens, kidnapping more than 50 Americans and murdering at least 10 Americans;

Whereas the Drug Enforcement Administration believes that members of the FARC and the AUC directly engage in narcotics trafficking;

Whereas individual members of Colombia's security forces have collaborated with illegal paramilitary organizations by, inter alia, in some instances allowing such organizations to pass through roadblocks, sharing tactical information with such organizations, and providing such organizations with supplies and ammunition;

Whereas while the Colombian government has made progress in its efforts to combat and capture members of illegal paramilitary organizations and taken positive steps to break links between individual members of the security forces and such organizations, further steps by the Colombian government are warranted;

Whereas in 1998, Colombian President Andres Pastrana began exhaustive efforts to negotiate a peace agreement with the FARC and implemented extraordinary confidence-building measures to advance these negotiations, including establishing a 16,000-square-mile safe haven for the FARC;

Whereas the Government of Colombia has also undertaken substantial efforts to negotiate a peace agreement with the ELN;

Whereas the United States has consistently supported the Government of Colombia's protracted efforts to negotiate a peace agreement with the FARC and supports the Government of Colombia in its continuing efforts to reach a negotiated agreement with the ELN;

Whereas the United States would welcome a negotiated, political solution to end the violence in Colombia;

Whereas, after the FARC hijacked a commercial airplane and took Colombian Senator Jorge Eduardo Gechem Turbay as a hostage into the government-created safe haven, President Pastrana ended his government's sponsorship of the peace negotiations with the FARC and ordered Colombia's security forces to reestablish legitimate governmental control in the safe haven;

Whereas President Pastrana has received strong expressions of support from foreign governments and international organizations for his decision to end the peace talks and dissolve the FARC's safe haven; and

Whereas the Government of Colombia's negotiations with the ELN are continuing despite the end of the negotiations with the FARC: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) expresses its support for the democratically elected Government of Colombia and the Colombian people as they strive to protect their democracy from terrorism and the scourge of illicit narcotics; and

(B) deplores the continuing criminal terrorist acts of murder, abduction, and extortion carried out by all United States-designated foreign terrorist organizations in Colombia against United States citizens, the civilian population of Colombia, and Colombian authorities; and

(2) it is the sense of the Senate that the President, without undue delay, should transmit to Congress for its consideration proposed legislation, consistent with United States law regarding the protection of human rights, to assist the Government of Colombia to protect its democracy from United States-designated foreign terrorist organizations and the scourge of illicit narcotics.

SENATE RESOLUTION 220—EXPRESSING THE SENSE OF THE SENATE REGARDING THE CONTINUED ATTACKS ON DEMOCRACY AND THE RULE OF LAW IN COLOMBIA, INCLUDING THE KIDNAPPINGS OF THE ELECTED REPRESENTATIVES OF THE PEOPLE OF COLOMBIA

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 220

Whereas Colombia is home to the oldest democracy in Latin America and has consistently been a friend of the United States;

Whereas Colombia has been affected by the violence generated by the terrorist acts of illegal armed groups;

Whereas the largest of these groups, the Revolutionary Armed Forces of Colombia (FARC), has used kidnapping, extortion, terrorism, and narcotics trafficking to raise money for its activities;

Whereas those most affected by the targets of these activities have been the people of Colombia;

Whereas in October 1997, almost 10,000,000 Colombians voted for a mandate for peace that asked all presidential candidates to find peace in Colombia through political negotiation;

Whereas in June 1998, 6,500,000 Colombians voted for President Andres Pastrana and his project for peace in Colombia;

Whereas, since his election, President Pastrana has worked consistently and persistently to find a peaceful solution to the ongoing conflict between the Government of Colombia and the insurgency groups operating within the borders of Colombia;

Whereas the Government of Colombia put forth several proposals for peace and made sacrifices in sovereign territory and commitments in funding in hopes of achieving peace in Colombia only to have these overtures repeatedly rejected;

Whereas, on January 20, 2002, the Government of Colombia and the FARC were able to agree on a schedule to be followed in order to define the future of the peace process;

Whereas, since this accord was signed by the FARC, the FARC has consistently and repeatedly taken violent actions against the people and the Government of Colombia in the form of terrorist attacks, including—

(1) car bombs;

(2) attacking government installations;

(3) mining new fields;

(4) homicides, including women and children;

(5) destroying electric pylons;

(6) bombing oil pipelines;

(7) destroying bridges; and

(8) attacks on the dam that provides water to Bogota;

Whereas five democratically elected representatives of the Colombian Congress are currently being held against their will after being kidnapped by the FARC, including—

(1) Representative Oscar Tulio Lizcano, a member of the Conservative Party and elected by the people of Colombia to represent the Province of Caldas, who was kidnapped in the municipality of Riosucio, Province of Caldas, on August 5, 2000, by members of the ''Aurelio Rodriguez Front'' of the ''Jose Maria Cordoba Block'' of the FARC;

(2) Senator Luis Eladio Perez, a member of the Liberal Party and elected by the people of Colombia, while visiting several municipalities on a political tour who was kidnapped in the town of Ipiales, Province of Nariflo, on June 10, 2001, by elements of the

FARC, as a second attempt to kidnap Senator Eladio, the first occurring at the end of May 2001, and frustrated by his security detail;

(3) Representative Orlando Beltran Cuellar, a member of the Liberal party from the Province of Huila and elected by the people of Colombia, who was kidnapped by the FARC in the municipality of Gigante, Province of Huila, on August 28, 2001;

(4) Representative Consuelo Gonzalez de Perdomo, a member of the Liberal Party from the Province of Huila and elected by the people of Colombia, who was kidnapped by the FARC in the municipality of Hobo, Province of Huila, on September 11, 2001; and

(5) Senator Jorge Eduardo Gechem Turbay, a member of the Liberal Party from the Province of Huila, elected by the people of Colombia, and President of the Colombian Senate's Peace Commission, who was kidnapped on February 20, 2002, when four members of the FARC hijacked a commercial AIRES aircraft traveling from Neiva to Bogota with 30 passengers on board and who was removed from the aircraft after it was forced to land on a rural road in the municipality of Hobo, Province of Huila; and

Whereas Saturday, February 23, Presidential Candidate Ingrid Betancourt and her campaign manager Clara Rojas were kidnapped by the FARC as she traveled to San Vicente del Caguan: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its strong support for the democratically elected Government of Colombia and the Colombian people in their struggle to protect their democracy from terrorism and the scourge of illicit narcotics;

(2) deplores the continuing criminal terrorist acts of murder, abduction, and extortion carried out by all illegal armed groups in Colombia against the civilian population of Colombia and Colombian authorities;

(3) condemns the kidnapping of elected representatives of the people of Colombia by the FARC and extends its sympathy to the families and friends of the kidnapped members of the Colombian Congress; and

(4) urges the President to develop a comprehensive strategic policy proposal, consistent with United States law regarding human rights and the environment, to assist the Government of Colombia in defending its democracy and rule of law from illegal armed groups and the scourge of illicit narcotics.

Mr. GRASSLEY. Mr. President, I am sending to the desk a sense-of-the-Senate resolution on the current situation in Colombia.

The resolution expresses outrage over the current attacks on democracy and democratic institutions in Colombia by a gang of vicious thugs. The most recent outrage, in a long history of outrages, was the hijacking of a commercial airliner filled with innocent people that was forced to land, and then the kidnapping at gun point of a distinguished Colombian Senator. That Senator remains a prisoner, his fate unknown and uncertain. Four other members of the Colombian Congress are also prisoners, and now so is one of the candidates for president in Colombia's upcoming elections. Other members have been murdered, their families threatened, their children terrorized. These are only the most publicly visible victims of Colombia's guerrilla thugs.

There can be no clearer testimony, if further evidence was called for, of the vicious nature of the actions of Colombia's insurgent movement, the FARC. They have branded themselves, if it was not clear before, as outright terrorists. Their actions are an assault on the rule of law and on democracy.

My resolution expresses the concern over the fate of those in a companion institution. Our sympathies must go to their families, our concern to their countryman in their time of threat an menace. I hope that other members will join me in expressing our unanimous concern for the fate of democracy and the rule of law in Colombia. The other body has passed a resolution expressing its concern. I hope we will as well.

SENATE RESOLUTION 221—TO COMMEMORATE AND ACKNOWLEDGE THE DEDICATION AND SACRIFICE MADE BY THE MEN AND WOMEN WHO HAVE LOST THEIR LIVES WHILE SERVING AS LAW ENFORCEMENT OFFICERS

Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. ALLARD, Ms. CANTWELL, Mr. GREGG, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. BIDEN, Mr. BUNNING, Mr. COCHRAN, Mr. ALLEN, Mr. THOMAS, and Mr. HUTCHINSON) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 221

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 700,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas 70 peace officers died at the World Trade Center in New York City on September 11, 2001, the most peace officers ever killed in a single incident in the history of the Nation;

Whereas more than 220 peace officers across the Nation were killed in the line of duty during 2001, 57 percent more police fatalities than the previous year, and the deadliest year for the law enforcement community since 1974;

Whereas every year, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 4,400 peace officers is killed in the line of duty; and

Whereas on May 15, 2002, more than 15,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2002 as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

Mr. CAMPBELL. Mr. President, today I am joined by the chairman and ranking member of the Senate Judiciary Committee, Senators LEAHY and HATCH, along with several other Senators in submitting this resolution to keep alive in the memory of all Americans the sacrifice and commitment of those law enforcement officers who lost their lives serving their communities. Specifically, this resolution would designate May 15, 2002, as National Peace Officers Memorial Day.

As a former deputy sheriff, I know first-hand the risks which law enforcement officers face everyday on the front lines protecting our communities. Currently, more than 700,000 men and women who serve this Nation as our guardians of law and order do so at a great risk. Every year, about 1 in 9 officers is assaulted, 1 in 25 officers is injured, and 1 in 4,400 officers is killed in the line of duty. There are few communities in this country that have not been impacted by the words: ''officer down.''

On September 11, 2001, 70 peace officers died at the World Trade Center in New York City as a result of a cowardly act of terrorism. This single act of terrorism resulted in the highest number of peace officers ever killed in a single incident in the history of this country. Thirty-seven of those fallen heroes served with the Port Authority of New York and New Jersey Police Department: twenty-three were New York City police officers; three worked for the New York Office of Court Administration; five were with the New York Office of Tax Enforcement; one was a FBI special agent; and one was a master special officer with the U.S. Secret Service. Before this event, the greatest loss of law enforcement like in a single incident occurred in 1917, when nine Milwaukee police officers were killed in a bomb blast at their police station.

In 2001, more than 200 Federal, State and local law enforcement officers give their lives in the line of duty. This represents more than a 57 percent increase in police fatalities over the previous year. And, in total, nearly 15,0000 men and women have made the supreme sacrifice.

The chairman of the National Law Enforcement Officers Memorial Fund, Craig W. Floyd, reminds us:

> The level of public support and appreciation for our law enforcement officers has increased dramatically since September 11. But the incredible bravery and selfless sacrifice our officers displayed that day was no different than every other day of the year in communities across America. We owe all of our police officers a huge debt of gratitude for the invaluable work they do.

On May 15, 2002, more than 15,000 peace officers are expected to gather in our Nation's Capitol to join with the families of their fallen comrades who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to their communities. In doing so, these heroes have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. This resolution is a fitting tribute for this special and solemn occasion.

I urge my colleagues to join us in supporting passage of this important resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2983. Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. SMITH, of New Hampshire, Mr. DOMENICI, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. HAGEL, Mr. CRAPO, Mr. THOMAS, Mr. INHOFE, Mr. THOMPSON, Mr. BOND, Mr. CAMPBELL, Mr. FRIST, Mr. KYL, Mr. CRAIG, Mrs. LINCOLN, Mr. HUTCHINSON, and Mr. SESSIONS) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

SA 2984. Mr. REID proposed an amendment to amendment SA 2983 proposed by Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. SMITH of New Hampshire, Mr. DOMENICI, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. HAGEL, Mr. CRAPO, Mr. THOMAS, Mr. INHOFE, Mr. THOMPSON, Mr. BOND, Mr. CAMPBELL, Mr. FRIST, Mr. KYL, Mr. CRAIG, Mrs. LINCOLN, Mr. HUTCHINSON, and Mr. SESSIONS) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2985. Mr. BUNNING (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 2986. Mr. BINGAMAN (for himself, Mr. BAUCUS, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CONRAD, Mr. DORGAN, Mr. INHOFE, Ms. LANDRIEU, Mrs. LINCOLN, Mr. THOMAS, Mr. SESSIONS, Mr. ROCKEFELLER, Mr. ENZI, Mr. MURKOWSKI, Mr. NICKLES, Mr. HUTCHINSON, and Mr. VOINOVICH) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2987. Mr. CRAIG proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2988. Mr. MURKOWSKI proposed an amendment to amendment SA 2979 proposed by Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. MURRAY, Mr. BINGAMAN, Mr. BREAUX, Mr. SMITH of Oregon, Mr. DOMENICI, Mrs. HUTCHISON, and Mr. WYDEN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2989. Mrs. FEINSTEIN (for herself, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, Mr. LEAHY, Mr. DURBIN, Mr. FITZGERALD, and Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2990. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

SA 2991. Mr. BINGAMAN (for Mr. AKAKA) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra.

TEXT OF AMENDMENTS

SA 2983. Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. SMITH of New Hampshire, Mr. DOMENICI, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. HAGEL, Mr. CRAPO, Mr. THOMAS, Mr. INHOFE, Mr. THOMPSON, Mr. BOND, Mr. CAMPBELL, Mr. FRIST, Mr. KYL, Mr. CRAIG, Mrs. LINCOLN, Mr. HUTCHINSON, and Mr. SESSIONS) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

On page 115, strike line 5 and all that follows through page 119, line 10 and insert the following:

Subtitle A—Price-Anderson Act Reauthorization

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2002''.

SEC. 502. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.

SEC. 503. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Seciton 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In agreements of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 2002, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 504. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Seciton 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 505. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.

SEC. 506. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by adding after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 507. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a (b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d. (1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties assessed under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.

SEC. 508. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 509. EFFECTIVE DATE.

The amendments made by sections 503(a) and 504 do not apply to any nuclear incident

that occurs before the date of the enactment of this subtitle.

SA 2984. Mr. REID proposed an amendment to amendment SA 2983 proposed by Mr. VOINOVICH (for himself, Mr. BINGAMAN, Mr. SMITH of New Hampshire, Mr. DOMENICI, Ms. LANDRIEU, Mr. MURKOWSKI, Mr. HAGEL, Mr. CRAPO, Mr. THOMAS, Mr. INHOFE, Mr. THOMPSON, Mr. BOND, Mr. CAMPBELL, Mr. FRIST, Mr. KYL, Mr. CRAIG, Mrs. LINCOLN, Mr. HUTCHINSON, and Mr. SESSIONS) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In lieu of the matter to be inserted, insert the following:

SEC. 5___. FINANCIAL PROTECTION FOR LICENSEES.

(a) STANDARD DEFERRED PREMIUM.—Section 170b.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(1)) is amended in the third sentence by striking ''$63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year'' and inserting ''$88,000,000 (subject to adjustment for inflation under subsection t.), but not more than $20,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''.

(b) FINANCIAL HARDSHIP.—Section 170b.(2)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)(2)(A)) is amended by striking ''paragraph (1)'' and all that follows and inserting ''paragraph (1) for any facility if more than 1 nuclear incident occurs in any 1 calendar year.''.

(c) NEW LICENSES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) by striking ''The Commission'' and inserting the following:

''(1) LICENSES ISSUED ON OR BEFORE AUGUST 1, 2002.—The Commission''; and

(2) by adding at the end the following:

''(2) LICENSES ISSUED AFTER AUGUST 1, 2002.—After August 1, 2002, as a condition to receiving a license for a utilization facility under this Act, the applicant, before receiving the license, shall obtain insurance coverage from the private insurance market for the full potential liability (including the public liability and any other liability) of the person that might arise as a result of a nuclear incident at the utilization facility.

SEC. 5___. GUARANTEE OF DEFERRED PREMIUM; FINANCIAL QUALIFICATIONS.

Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5) GUARANTEE OF DEFERRED PREMIUM.—

''(A) CONDITION OF INDEMNIFICATION.—Not later than 180 days after the date of enactment of this paragraph, and not less frequently than each year thereafter, the Commission, in consultation with the Securities and Exchange Commission, shall, as a condition of indemnification, require each licensee to demonstrate that the licensee has the financial ability to pay the full potential retrospective premium for each reactor through 1 or more of—

''(i) a surety bond;

''(ii) a letter of credit or loan;

''(iii) an insurance policy; or

''(iv) maintenance of an escrow deposit of government securities in reserves, a trust, or an equivalent instrument.

''(B) REORGANIZATION PROCEEDINGS.—If a licensee or creditors of a licensee file a petition under chapter 11 of title 11, United States Code, for reorganization of the licensee, the Commission—

''(i) shall review the ability of the licensee to—

''(I) pay the full amount of prospective and standard deferred premiums; and

''(II) ensure that adequate funds will be available for safe operation of the licensed facility; and

''(ii) if the Commission determines that the licensee is unable to meet the requirements of clause (i), shall not renew any indemnification of the licensee under this section.

''(6) FINANCIAL QUALIFICATIONS.—

''(A) IN GENERAL.—The Commission, in consultation with the Securities and Exchange Commission, shall establish criteria and procedures for determination of the minimum financial qualifications for new licensees (including license transferees) to ensure that the new licensee has the resources and instruments necessary to—

''(i) operate safely if it becomes necessary to shut down a reactor for 12 months or longer; and

''(ii) ensure payment of prospective and deferred premiums under this subsection.

''(B) CONDITION.—A license shall be conditioned on meeting and maintaining the minimum financial qualifications established under subparagraph (A).''.

SEC. 5___. PRESIDENTIAL COMMISSION ON INCIDENT CONSEQUENCES.

Section 170(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(l)) is amended—

(1) in paragraph (1), by striking ''1988'' and inserting ''2002'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''not less than 7 and not more than 11 members'' and inserting ''6, 8, 10, or 12 members''; and

(B) in subparagraph (B), by striking ''not more than a mere majority of the members are of the same political party'' and inserting ''there are equal numbers of members of each major political party''; and

(3) by striking paragraph (3) and inserting the following:

''(3) DUTIES.—

''(A) IN GENERAL.—The study commission shall conduct a comprehensive study of the economic, public health, and environmental impacts of nuclear incidents that may result in a full breach of containment and uncontained meltdown at a facility built in accordance with an existing design or a proposed design.

''(B) INPUTS.—The matters to be studied under subparagraph (A) include—

''(i) for each existing and proposed facility—

''(I) the public health effects; and

''(II) the economic costs attributable to public health effects, property damage, environmental damage, and evacuation and resettlement of affected populations;

of a worst-case nuclear incident; and

''(ii) the ability of the licensee of each existing or proposed facility to pay the standard deferred premium for a potential occurrence at each covered facility of the licensee and at a facility that is not covered by the licensee.

''(C) SENSITIVITY ANALYSIS.—

''(i) IN GENERAL.—In studying the matters under subparagraph (B)(i), the study commission shall conduct a sensitivity analysis based on various modeling input assumptions to determine the maximum potential consequences of a worst-case nuclear incident.

''(ii) ASSUMPTIONS.—The assumptions on which the sensitivity analysis is based shall include assumptions regarding—

''(I) nuclear incident scenarios;

''(II) weather patterns;

''(III) traffic patterns; and

''(IV) human behavior that may have an effect on evacuation of persons threatened by a nuclear incident.''.

SEC. 5___. ACTS OF TERRORISM.

Section 11q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended—

(1) by striking ''q. The term'' and inserting the following:

''q. NUCLEAR INCIDENT.—

''(1) IN GENERAL.—The term''; and

(2) by adding at the end the following:

''(2) OCCURRENCES.—

''(A) IN GENERAL.—In paragraph (1), the term 'occurrence' includes an act that the President determines to have been an act of domestic terrorism or international terrorism (as those terms are defined in section 2331 of title 18, United States Code).

''(B) NO JUDICIAL REVIEW.—A determination of the President under subparagraph (A) shall not be subject to judicial review.''.

SEC. 5___. TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.

Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—

''(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;

''(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and

''(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.''.

SA 2985, Mr. BUNNING (for himself and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _. INDUSTRIAL SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d) is amended by adding at the end the following new paragraph:

''(8)(A) It shall be a condition of any agreement of indemnification entered into under this subsection that the indemnified party comply with regulations issued under this paragraph.

''(B) Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall issue industrial health and safety regulations that shall apply to all Department of Energy contractors and subcontractors who are covered under agreements entered into under this subsection for operations at Department of Energy nuclear facilities. Such regulations shall provide a level of protection of worker health and safety that is substantially equivalent to or identical to that provided by the industrial and construction safety regulations of the Occupational Safety and Health Administration (29 CFR 1910 and 1926), and shall establish civil penalties for violation thereof that are substantially equivalent to or identical to the civil penalties applicable to violations of the industrial and construction safety regulations of the Occupational Safety and Health Administration. The Secretary shall amend regulations under this subparagraph as necessary.

''(C) No later than 240 days after the date of the enactment of this paragraph, all agreements described in subparagraph (B), and all contracts and subcontracts for the indemnified contractors and subcontractors, shall be modified to incorporate the requirements of the regulations issued under subparagraph (B). Such modifications shall require compliance with the requirements of the regulations not later than 1 year after the issuance of the regulations.

''(D) Enforcement of regulations issued under subparagraph (B), and inspections required in the course thereof, shall be conducted by the Office of Enforcement of the Office of Environment, Safety, and Health of the Department of Energy. The Secretary shall transmit to the Congress an annual report on the implementation of this subparagraph.''.

SA 2986, Mr. BINGAMAN (for himself Mr. BAUCUS, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CONRAD, Mr. DORGAN, Mr. INHOFE, Ms. LANDRIEU, Mrs. LINCOLN, Mr. THOMAS, Mr. SESSIONS, Mr. ROCKEFELLER, Mr. ENZI, Mr. MURKOWSKI, Mr. NICKLES, Mr. HUTCHINSON, and Mr. VOINOVICH) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following new section:

''SEC. 610. HYDRAULIC FRACTURING.

''Section 1421 of the Safe Drinking Water Act (42 U.S.C. Sec. 300h) is amended by adding at the end the following:

''(e) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—

''(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.—

''(A) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, and within specific regions, States, or portions of States.

''(B) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.

''(C) STUDY ELEMENTS.—The study conducted under subparagraph (A) shall, at a minimum, examine and make findings as to whether—

''(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, states or portions of States;

''(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and

''(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.

''(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation.

''(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (1)(B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

''(ii) At the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a state. Subparagraph (4) of this subsection shall apply to any such determination by the Administrator.

''(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking her broad study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

''(2) INDEPENDENT SCIENTIFIC REVIEW.—

''(A) IN GENERAL.—Prior to the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.

''(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on the—

''(i) findings related to the study conducted by the Administrator under paragraph (1);

''(ii) the scientific and technical basis for such findings; and

''(iii) recommendations, if any, for modifying the findings of the study.

''(3) REGULATORY DETERMINATION.—

''(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed or accumulated in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either:

''(i) that regulation of hydraulic fracturing under this part is necessary to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State; or

''(ii) that regulation described under clause (i) is unnecessary.

''(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

''(4) PROMULGATION OF REGULATIONS.—

''(A) REGULATION NECESSARY.—If the Administrator determines under paragraph (3) that regulation by hydraulic fracturing under this part is necessary to ensure that hydraulic fracturing does not endanger underground drinking water sources on a nationwide basis, or within a specific region, State or portions of a State, the Administrator shall, within 6 months after the issuance of that determination, and after public notice and opportunity for comment, promulgate regulations under section 1421 (42 U.S.C. 300h) to ensure that hydraulic fracturing will not endanger such underground sources of drinking water. However, for purposes of the Administrator's approval or disapproval under section 1422 of any State underground injection control program for regulating hydraulic fracturing, a State at any time may make the alternative demonstration provided for in section 1425 of this title.

''(B) REGULATION UNNECESSARY.—The Administrator shall not regulate or require States to regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This provision shall not apply to any State which has a program for the regulation of hydraulic fracturing that was approved by the Administrator under this part prior to the effective date of this subsection.

''(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

''(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term 'hydraulic fracturing' means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

''(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 300i).

''SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000 for fiscal year 2003, to remain available until expended, for a grant to the State of Alabama to assist in the implementation of its regulatory program under section 1425 of the Safe Drinking Water Act.''

SA 2987. Mr. CRAIG proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and

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

Strike subsection (e) of section 1254 and insert the following:

''(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251, the following amounts are authorized for activities under this section and for activities of the Fusion Energy Science Program.

''(1) for fiscal year 2003, $335,000,000;

''(2) for fiscal year 2004, $349,000,000;

''(3) for fiscal year 2005, $362,000,000; and

''(4) for fiscal year 2006, $377,000,000.''.

SA 2988. Mr. MURKOWSKI proposed an amendment to amendment SA 2979 proposed by Mr. MCCAIN (for himself, Mr. HOLLINGS, Mrs. MURRAY, Mr. BINGAMAN, Mr. BREAUX, Mr. SMITH of Oregon, Mr. DOMENICI, Mrs. HUTCHISON, and Mr. WYDEN) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.

Section 60123(b) of title 49, United States Code, is amended—

(1) by striking ''or'' after ''gas pipeline facility'' and inserting a comma; and

(2) by inserting after ''liquid pipeline facility'' the following: '', or either an intrastate gas pipeline facility or an intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce''.

SA 2989. Mrs. FEINSTEIN (for herself, Ms. CANTWELL, Mr. WYDEN, Mrs. BOXER, Mr. LEAHY, Mr. DURBIN, Mr. FITZGERALD, and Mr. CORZINE) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

At the end, add the following:

DIVISION ___—MISCELLANEOUS

TITLE I—ENERGY DERIVATIVES

SEC. ___1. JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION OVER ENERGY TRADING MARKETS.

(a) REPEAL OF DEFINITION OF EXEMPT COMMODITY.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by striking paragraph (14) and inserting the following:

''(14) [Repealed.]''.

(b) FERC LIAISON.—Section 2(a)(8) of the Commodity Exchange Act (7 U.S.C. 2(a)(8)) is amended by adding at the end the following:

''(C) FERC LIAISON.—The Commission shall, in cooperation with the Federal Energy Regulatory Commission, maintain a liaison between the Commission and the Federal Energy Regulatory Commission.''.

(c) EXEMPT TRANSACTIONS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by striking subsection (g) and inserting the following:

''(g) EXEMPT TRANSACTIONS.—

''(1) APPLICABILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), this Act shall not apply to any agreement, contract, or transaction in a commodity other than an agricultural commodity if the agreement, contract, or transaction—

''(i) is between persons that are eligible contract participants at the time at which the agreement, contract, or transaction is entered into;

''(ii) is subject to individual negotiation by the parties to the agreement, contract, or transaction; and

''(iii) is not executed or traded on an electronic trading facility.

''(B) EXCEPTIONS.—

''(i) IN GENERAL.—An agreement, contract, or transaction described in subparagraph (A) (other than an agreement, contract, or transaction in an excluded commodity) shall be subject to—

''(I) sections 4b, 4c(b), 4o, and 5b;

''(II) subsections (c) and (d) of section 6, 6c, 6d, and 8a, to the extent that those provisions—

''(aa) provide for the enforcement of the requirements specified in this paragraph and paragraphs (2), (3), and (4); and

''(bb) prohibit the manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market;

''(III) sections 6c, 6d, 8a, and 9(a)(2), to the extent that those provisions prohibit the manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market;

''(IV) section 12(e)(2); and

''(V) section 22(a)(4).

''(ii) EXCLUDED COMMODITIES.—An agreement, contract, or transaction described in subparagraph (A) in an excluded commodity shall be subject to—

''(I) sections 5a (to the extent provided in subsection (g) of that section), 5b, and 5d; and

''(II) section 12(e)(2).

''(2) BILATERAL DEALER MARKETS.—

''(A) IN GENERAL.—A person or group of persons that constitutes, maintains, administers, or provides a physical or electronic facility or system in which a person has the ability to offer, execute, trade, or confirm the execution of an agreement, contract, or transaction (other than an agreement, contract, or transaction in an excluded commodity), by making or accepting the bids and offers of all other participants on the facility or system (including facilities or systems described in clauses (i) and (iii) of section 1a(33)(B)), may offer to enter into, enter into, or confirm the execution of any agreement, contract, or transaction under paragraph (1) (other than an agreement, contract, or transaction in an excluded commodity) if the person or group of persons meets the requirement of subparagraph (B).

''(B) REQUIREMENT.—The requirement of this subparagraph is that a person or group of persons described in subparagraph (A) shall—

''(i) register with the Commission in any capacity that the Commission requires by rule, regulation, or order;

''(ii) file with the Commission any reports (including large trader position reports) that the Commission requires by rule, regulation, or order;

''(iii) maintain sufficient net capital, as determined by the Commission;

''(iv)(I) maintain books and records consistent with section 4i; and

''(II) make those books and records available to representatives of the Commission and the Department of Justice for inspection at all times; and

''(v) make available to the public any information that the Commission determines to be appropriate for public disclosure.

''(3) REPORTING REQUIREMENTS.—On request of the Commission, an eligible contract participant that trades on a facility or system described in paragraph (2)(A) shall provide to the Commission, within the time period specified in the request and in such form and manner as the Commission may require, any information relating to the transactions of the eligible contract participant on the facility or system that the Commission determines to be appropriate.

''(4) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Any agreement, contract, or transaction exempt under paragraph (1) (other than an agreement, contract, or transaction in an excluded commodity) that would otherwise be exempted by the Commission under section 4(c) shall be subject to—

''(A) sections 4b, 4c(b), and 4o; and

''(B) subsections (c) and (d) of section 6, 6c, 6d, 8a, and 9(a)(2), to the extent that those provisions prohibit the manipulation of the market price of any commodity in interstate commerce or for future delivery on or subject to the rules of any contract market.

''(5) EFFECT.—This subsection does not affect the power of the Federal Energy Regulatory Commission to regulate transactions described in paragraph (1) under the Federal Power Act (16 U.S.C. 791a et seq.).''.

(d) REPEAL OF GUIDELINES FOR TRANSACTIONS IN EXEMPT COMMODITIES.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) by striking subsection (h); and

(2) by redesignating subsection (i) as subsection (h).

(e) CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITION.—It shall be unlawful for any member of a registered entity, or for any correspondent, agent, or employee of any member, in or in connection with any order to make, or the making of, any contract of sale commodity in interstate commerce, made, or to be made on or subject to the rules of any registered entity, or for any person, in or in connection with any order to make, or the making of, any agreement, transaction, or contract in a commodity subject to this Act—

''(1) to cheat or defraud or attempt to cheat or defraud any person;

''(2) willfully to make or cause to be made to any person any false report or statement, or willfully to enter or cause to be entered any false record;

''(3) willfully to deceive or attempt to deceive any person by any means; or

''(4) to bucket the order, or to fill the order by offset against the order of any person, or willfully, knowingly, and without the prior consent of any person to become the buyer in respect to any selling order of any person, or to become the seller in respect to any buying order of any person.''.

(f) CONFORMING AMENDMENTS.—The Commodity Exchange Act is amended—

(1) in section 2(e) (7 U.S.C. 2(e))—

(A) in paragraph (1), by striking ''section 2(d)(2), 2(g), or 2(h)(3)'' and inserting ''subsection (d)(2) or (g)(1)(B)(ii)''; and

(B) in paragraph (3), by striking ''or to comply with section 2(h)(5)'';

(2) in section 2(h) (7 U.S.C. 2(h)) (as redesignated by subsection (d)), by striking ''2(h) or'';

(3) in section 4i (7 U.S.C. 6i)—

(A) by striking ''any contract market or'' and inserting ''any contract market,''; and

(B) by inserting '', or pursuant to an exemption under section 4(c)'' after ''transaction execution facility'';

(4) in section 5a(g)(1) (7 U.S.C. 7a(g)(1)), by striking '', or exempt under section 2(h) of this Act'';

(5) in section 5b (7 U.S.C. 7a–1)—

(A) in subsection (a)(1), by striking ''2(h) or''; and

(B) in subsection (b), by striking ''2(h) or''; and

(6) in section 12(e)(2)(B) (7 U.S.C. 16(e)(2)(B)), by striking ''2(h) or''.

SEC. ___2. RECRUITMENT AND RETENTION OF QUALIFIED PERSONNEL AT THE COMMODITY FUTURES TRADING COMMISSION.

(a) IN GENERAL.—Section 2(a)(6) of the Commodity Exchange Act (7 U.S.C. 2(a)(6)) is amended by adding at the end the following:

''(G) PERSONNEL MATTERS.—

''(i) IN GENERAL.—The Chairman may appoint and fix the compensation of any officers, attorneys, economists, examiners, and other employees that are necessary in the execution of the duties of the Commission.

''(ii) COMPENSATION.—

''(I) IN GENERAL.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Chairman without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

''(II) ADDITIONAL COMPENSATION.—The Chairman may provide additional compensation and benefits to employees of the Chairman if the same type and amount of compensation or benefits are provided, or are authorized to be provided, by any other Federal agency specified in section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

''(III) COMPARABILITY.—In setting and adjusting the total amount of compensation and benefits for employees under this subparagraph, the Chairman shall consult with, and seek to maintain comparability with, any other Federal agency specified in section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking ''or'';

(B) in subparagraph (D), by adding ''or'' at the end; and

(C) by adding at the end the following:

''(E) the Commodity Futures Trading Commission.''.

(2) Section 5316 of title 5, United States Code, is amended—

(A) by striking ''General Counsel, Commodity Futures Trading Commission.''; and

(B) by striking ''Executive Director, Commodity Futures Trading Commission.''.

(3) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) section 2(a)(6)(G) of the Commodity Exchange Act.''.

(4) Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended by inserting ''the Commodity Futures Trading Commission,'' after ''the Farm Credit Administration, ''.

SEC. ___3. JURISDICTION OF THE FEDERAL ENERGY REGULATORY COMMISSION OVER ENERGY TRADING MARKETS.

Section 402 of the Department of Energy Organization Act (42 U.S.C. 7172) is amended by adding at the end the following:

''(i) JURISDICTION OVER DERIVATIVES TRANSACTIONS.—

''(1) IN GENERAL.—To the extent that the Commission determines that any contract under the jurisdiction of the Commission is not in its jurisdiction, the transaction shall be under the jurisdiction of the Commodity Futures Trading Commission.

''(2) MEETINGS.—A designee of the Commission shall meet quarterly with a designee of the Commodity Futures Trading Commission, the Securities Exchange Commission, the Federal Trade Commission, and the Federal Reserve Board to discuss—

''(A) conditions and events in energy trading markets; and

''(B) any changes in Federal law (including regulations) that may be appropriate to regulate energy trading markets.

''(3) LIAISON.—The Commission shall, in cooperation with the Commodity Futures Trading Commission, maintain a liaison between the Commission and the Commodity Futures Trading Commission.''.

SA 2990. Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

After section 1413 insert the following:

SEC. 1414. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.

(a) FINDING.—Congress finds that the economic and energy security of the United States and Mexico is furthered through collaboration between the United States and Mexico on research related to energy technologies.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall establish a collaborative research, development, and deployment program to promote energy efficient, environmentally sound economic development along the United States-Mexico border to—

(A) mitigate hazardous waste;

(B) promote energy efficient materials processing technologies that minimize environmental damage; and

(C) protect the public health.

(2) CONSULTATION.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall consult with the Office of Energy Efficiency and Renewable Energy in carrying out paragraph (1)(B).

(c) PROGRAM MANAGEMENT.—The program under subsection (b) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.

(d) COST SHARING.—The cost of any project or activity carried out using funds provided under this section shall be shared as provided in section 1403.

(e) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section to mitigate hazardous waste, the Secretary shall emphasize the transfer of technology developed under the Environmental Management Science Program of the Department of Energy.

(f) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered between the United States and Mexico regarding intellectual property protection.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2003 and $6,000,000 for each of fiscal years 2004 through 2006, to remain available until expended.

SA 2991. Mr. BINGAMAN (for Mr. AKAKA) proposed an amendment to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

Strike section 1702 and insert the following:

SEC. 1702. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in paragraph (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in

part, through 1 or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, a report detailing the findings, conclusions, and recommendations resulting from the assessment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 7, 2002, at 9:30 a.m., in open session to receive testimony on the defense authorization request for fiscal year 2003 and the future years defense program.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 7, 2002, at 10 a.m. to conduct an oversight hearing on the ''The Semi-Annual Report on Monetary Policy of the Federal Reserve.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, March 7, at 2:30 p.m. in SD–366. The purpose of this hearing is to receive testimony on the following bills:

S. 213 and H.R. 37, to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails.

S. 1069 and H.R. 834, to amend the National Trails Systems Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian Tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System.

S. 1946, to amend the National Trails Systems Act to designate the Old Spanish Trail as a National Historic Trail.

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

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, March 7, 2002 at 10 a.m. to hear testimony on Bush proposal for Medicare modernization.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 7, 2002 at 10:15 a.m. to hold a hearing on the children's protocols.

Agenda

Witnesses

Panel 1: The Honorable Michael Southwick, Deputy Assistant Secretary for International Organization Affairs, Department of State, Washington, DC; Mr. Marshall Billingslea, Deputy Assistant Secretary for Negotiations Policy, Department of Defense, Washington, DC; Mr. John Malcolm, Deputy Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

Panel 2: Ms. Jo Becker, Children's Rights Advocacy Director, Human Rights Watch, New York, NY; RADM (Ret.) Eugene Carroll, Jr., USN, Vice President Emeritus, Center for Defense Information, Washington, DC; Rear Adm. Timothy O. Fanning, Jr., USNR (ret.), National President of the Navy League of the United States, Washington, DC.

COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 7, 2002 at 2:30 p.m. to hold a hearing on trafficking.

Agenda

Witnesses

Panel 1: The Honorable Paula Dobriansky, Undersecretary for Global Affairs, Department of State, Washington, DC; Mr. Viet D. Dinh, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel 2: Ms. Nancy Ely-Raphel, Senior Advisor, Office to Monitor and Combat Trafficking in Persons, Department of State, Washington, DC; Dr. Nguyen Van Hanh, Director, Office of Refugee Resettlement, Department of Health and Human Resources, Washington, DC.

Panel 3: Ms. Hae Jung Cho, Coalition to Abolish Slavery and Trafficking, Los Angeles, CA; Mrs. Ann Jordan, Director, Initiative Against Trafficking in Persons, International Human Rights Law Group, Washington, DC; Mrs. Carol Smolensky, Coordinator, End Child Prostitution and Trafficking—USA, New York, NY.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, March 7, 2002 at 9:30 a.m. to hold a hearing entitled ''Public Health and Natural resources: A Review of the Implementation of our Environmental Laws.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, March 7, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct an oversight hearing on the President's budget request for Indian Programs for fiscal year 2003.

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

COMMITTEE ON THE JUDICIARY

Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 7, 2002 at 10:00 a.m., in SD 226.

Final Agenda

I. Nominations

Charles W. Pickering, Sr. to be U.S. Circuit Court Judge for the 5th Circuit, Ralph Beistline to be U.S. District Court Judge for the District of Alaska, David Charles Bury to be U.S. District Court Judge for the District of Arizona, Randy Crane to be U.S. District Court Judge for the Southern District of Texas.

To be United States Attorney: Eric F. Melgren for the District of Kansas and Paul I. Perez for the Middle District of Florida.

To be United States Marshal: Theophile Alceste Duroncelet for the Eastern District of Louisiana, John Edward for the District of Vermont, Steven Gilbert Fitzgerald for the Western District of Wisconsin, Gregory Forest to be U.S. Marshal for the WD of NC, James Loren Kennedy for Southern District of Indiana, Dennis Cluff Mwerrill for the District of Oregon, James Thomas Plousis for the District of New Jersey, J.C. Raffety for the Northern District of West Virginia, Charles R. Reavis for the Eastern District of North Carolina, Michael Robert Regan for the Middle District of Pennsylvania, James Anthony Rose for the District of Wyoming, John Schickel for the Eastern District of Kentucky, Jesse Seroyer to be U.S. Marshal for the MD of AL, Timothy Dewayne Welch for the Northern District of Oklahoma, and William R. Whittington for the Western District of Louisiana.

II. Bills

S. 1615, Federal-Local Information Sharing Partnership Act of 2001 [Schumer/Hatch].

S. 1356, The Wartime Treatment of European Americans and Refugees Study Act. [Feingold/Grassley/Kennedy].

III. Resolutions

S. Res. 214, a resolution designating March 25, 2002, as ''Greek Independence Day: A National Day of Celebration of

Greek and American Democracy'' [Specter].

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 7, 2002, for a joint hearing with the House of Representatives' Committee on Veterans Affairs, to hear the legislative presentations of the Paralyzed Veterans of America, Jewish War Veterans, Blinded Veterans Association, the Non-Commissioned Officers Association, and the Military Order of the Purple Heart.

The hearing will take place in room 345 of the Cannon House Office Building at 10 a.m.

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

SUBCOMMITTEE ON STRATEGIC

Mr. REID. Mr. President, I ask unanimous consent that the subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 7, 2002, at 2:30 p.m., in open session to receive testimony on the Ballistic Missile Defense Program and budget in review of the Defense authorization request for fiscal year 2003.

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

ORDERS FOR FRIDAY, MARCH 8, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m., Friday, March 8; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the message from the House on H.R. 3090.

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

PROGRAM

Mr. REID. Madam President, we expect two rollcall votes beginning at 9:30 a.m., first on the stimulus bill, and second in relation to the McCain amendment to the energy reform bill.

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Mr. REID. Madam President, 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 6:43 p.m., adjourned until Friday, March 8, 2002, at 9:15 a.m.