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House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, September 3, 2003, at 2 p.m.

Senate

MONDAY, JULY 28, 2003

(Legislative day of Monday, July 21, 2003)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who speaks to hearts, attuned to hear, forgive us for closing our insights with the attitude that we have already arrived at the truth. Open our minds that we may weigh the evidence and trust Your wisdom to guide us. Use us as Your instruments in the struggle of good against evil, of truth against falsehood. Help us to avoid the proud spirit that causes us to feel self-made. Draw back the curtain behind where we, in a false security, congratulate ourselves. Instead, may we seek to know if we are doing Your will. Lord, help us to walk the road of wisdom, until the dayspring breaks and the shadows flee away.

Lord, we close this prayer by thanking You for the life and legacy of Bob Hope. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Campbell amendment No. 886, to replace ''tribal consortia'' with ''tribal energy resource development organizations.''

Durbin amendment No. 1384, to amend title 49, United States Code, to improve the system for enhancing automobile fuel efficiency.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Bond amendment No. 1386, to impose additional requirements for improving automobile fuel economy and reducing vehicle emissions.

The PRESIDENT pro tempore. The acting leader.

Mr. THOMAS. Mr. President, this morning the Senate has resumed consideration of S. 14, the Energy bill. The chairman and ranking member will continue to consider amendments during today's session.

SCHEDULE

On behalf of the leader, I encourage Members who want to offer amendments to do so as early as possible this week. Those Members should contact the bill managers for an orderly consideration of those amendments.

Under a previous agreement, at 5:20 p.m. the Senate shall proceed to executive session to consider the nomination of Earl Yeakel to be U.S. District Judge for the Western District of Texas. The Senate will vote on the Yeakel nomination at 5:30. That will be the first rollcall vote of the day. Members should anticipate additional votes in relation to Energy amendments or any other items that can be cleared for action.

In addition, the Senate will consider the trade amendments with Chile and Singapore. If all debate can be completed on those bills, the votes will also occur during today's session of the Senate.

Today begins the final week prior to the August recess. Senators can, therefore, expect busy sessions with rollcall votes throughout each day and Members should schedule themselves accordingly.

The PRESIDENT pro tempore. The Democratic whip.

Mr. REID. Mr. President, I just received a phone call from a Senator, and the Senator is on an airplane. Therefore, I will have to protect her rights. She has indicated she does not wish us to move off the amendment that is now before the Senate, so there will be no way to offer other amendments until

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

we have this matter resolved. I am not able to speak to her at this stage, but I will attempt to do so.

She simply will not allow anything to be set aside until we dispose of the amendment that is before us.

The other thing I want to say is, if the distinguished acting majority leader would be generous, the Senator from Florida is here and wishes to speak for up to 3 minutes as in morning business prior to our getting on to the legislation. I would ask if that would be OK with the acting majority leader.

Mr. THOMAS. Mr. President, I have no objection to the 3 minutes. I would like to ask unanimous consent that we be able to go ahead and speak on the electricity amendment even though we will not be able to offer it.

Mr. REID. We would not need unanimous consent to do that anyway, so that would be fine.

Mr. THOMAS. Very well. I have no objection.

Mr. REID. Mr. President, I ask unanimous consent that the Senator from Florida be recognized to speak for up to 3 minutes.

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

The Senator from Florida is recognized.

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

The PRESIDENT pro tempore. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, in keeping with the agreement with the minority leader, I will not introduce the amendment at this time, but I would like to talk about the amendment.

Mr. President, what we are going to deal with today is an amendment, which will be a second-degree amendment and substitute for the electric title in the Energy bill. As you know, we have talked about the Energy bill for a good long time on the Senate floor. We have talked about it in committee, and we talked about it last year. So what has happened is the chairman of the committee has done a great job of seeking to take the information that came forward in our discussions in the past about the electric title of the Energy bill and make it more compatible with the issues that have arisen during the previous discussions, and to put it together into an amendment. That is what we will be dealing with.

I am very pleased we have come together on the committee with an amendment that deals with most of the concerns about people, with a recognition that there is a changing world in terms of electrical supply and the way it is distributed throughout the country. If we are, in fact, to develop an Energy policy that is designed to give guidance to what happens regarding energy over the next several years, then this is a very important amendment and very important portion of the Energy bill.

As we look at ourselves and our families and businesses and our economy, there is probably nothing that impacts us more than electricity. It is in everything we do—whether it is lights, heat, businesses, whatever, we are involved with electricity. Each of us wants to have it for ourselves and our families. So we need to make some changes and some policy that moves us in that direction. The challenges facing the electric industry affect our economy and our environment, and developing a policy on this electric component is one of the most challenging aspects of the entire energy debate.

Chairman DOMENICI's efforts and his leadership on this issue have been tremendous. He has worked with all the interested parties to develop a very carefully crafted and balanced product. I will comment a little later on the whole package of letters of support we have received from various associations and users. These letters of support come from the National Rural Electric Cooperative Association, American Public Power Association, the Large Public Power Council, each advocating passage of the electric substitute amendment without modification.

We have talked about the number of amendments that are out there. Here is one we have already gone through, seeking to talk about and having opportunity for input from all the various interests. We believe this section is ready for adoption without modification. There are letters of support from the electric industry itself. The administration has also expressed its support for the electricity amendment.

In a letter dated July 25, the Secretary of Energy wrote that the Domenici amendment ''will effectively modernize our Nation's antiquated electricity laws.'' Secretary Abraham stated that the amendment ''protects consumers, ensures the development of wholesale markets that are transparent and free of manipulation, facilitates open access to the transmission system, increases electric supply, promotes energy efficiency, improves reliability, encourages demand response, and appropriately balances Federal and State responsibilities.''

These supporters in the administration are right. The proposed electricity title is much needed and will accomplish some of the following: It establishes mandatory reliability rules. What is more important to us in electricity than reliability? It expands the transmission system efficiently on a regional basis. It will promote more open access to the transmission grid. The way things have changed, more and more electricity is developed in market generators and has to be moved to the market in order to make it work. You have to have a transmission grid.

It ensures priority on transmission lines for native load customers. This is so that where transmission lines serve certain areas, they are the first priority, and later you can add to the transmission grid.

It will allocate the costs of expanding the transmission system fairly, so that the cost doesn't have to be shared excessively by those already on the line with new users.

It repeals the PUHCA to allow for more investment. This law was passed some time ago. It limits who can be involved in the ownership and investment of electric utilities and transmissions. It changes that so that there still are restrictions to be enforced by the enforcement agencies, but it allows for more investment.

It reforms PURPA. That is the law that required the purchase of various kinds of alternative energies at a lower price than the market might demand. It still allows for that purchase, and it will require it in some instances, but it takes away that mandatory aspect and allows competitive markets to work. It strengthens consumer protection also with increased transparency and oversight.

In the last several years, on the west coast we have seen the need for oversight and transparency. This provides for that. These are important issues that need to be addressed as part of a comprehensive, integrated, strategic energy policy.

Let me remind us that this is a policy we are talking about. So we need to have some foresight into it. It is not daily detail, it is a policy for where we go in the future to provide the kind of result that we would like to see.

Our action now on this amendment will help reduce regulatory uncertainty. It will provide much needed direction in an industry that is at a crossroads. That is where we are. The Domenici electricity amendment is the best solution available, and it deserves all of our support. It also deserves it soon, so that we can complete this job and get it out on the ground in the country.

Let me take some time to describe the electricity amendment in a fairly broad sense. The first part of the electricity amendment proposes modifications and additions to the Federal Power Act's definitions. These proposed changes are needed to accommodate conforming changes and defining terms of art used by the industry. Specifically, the terms affected are: electric utility; transmitting utility; regional transmission organizations, RTOs; independent transmission organizations, or ITOs.

Subtitle A has to do with reliability. The reliability subtitle sets forth a new framework to ensure greater reliability in the transmission grid. Today, transmission grid stability is maintained through voluntary compliance with reliability rules promulgated by the North American Electric Reliability Council.

This subtitle directs FERC, the Federal Energy Regulatory Commission, to implement a final rule to certify an electric reliability organization that will set and enforce mandatory reliability rules for the safe operation of the transmission grid.

Mandatory reliability rules are needed due to the increased number and the complexity of transmission on the grid and more extensive wholesale competitive markets. This reliability subtitle is based on consensus language developed by the North American Electric Reliability Council and the Western Governors Association.

I will point out here that there are substantial differences in different parts of the country with respect particularly to the movement of energy. In the West where there is more generated, sometimes the movement is out of the generation market into the consumptive market, where in the Northeast, for example, there is less generation and more movement there. So you need to make these changes and that is what the reliability subtitle seeks to do.

The provision is supported by a number of other groups and associations because they know greater reliability means greater opportunity—greater opportunity for investment.

In addition to NERC and the Western Governors Association, supporters of the reliability section include the Edison Electric Institute, the Institute of Electrical and Electronics Engineers, the Canadian Electricity Association, the National Association of Regulatory Utility Commissioners, the National Association of State Utility Consumer Advocates, the American Public Power Association, the National Electrical Manufacturers Association, the National Rural Electric Cooperative Association, American Electric Power, Pepco Holdings, Inc., the Transmission Access Policy Study Group, TXU Corporation, and the Western Electricity Coordinating Council.

That is a broad representation of the whole Nation in terms of what we need to be doing with reliability.

As to subtitle B, regional markets, here again the subtitle recognizes the regional differences and seeks to promote the regional market in a careful and fair manner.

The first section of this subtitle delays the finalization of the Federal Energy Regulatory Commission's standard market design proposed rulemaking until July 1, 2005. This was a rule that came out from FERC some time ago that, in the view of most people, took too much authority to the national level and did not leave enough with the local and regional level. This is designed to change that situation. FERC seems agreeable to that change. This delays any order of that kind until July 1, 2005.

Given the controversy surrounding SMD and FERC's willingness to revisit and revise its approach in the white paper, a delay until July 1, 2005, preceded by a notice of proposed rulemaking and opportunity for public comment is, we believe, a balanced solution. The timeframe allows FERC to develop a rulemaking true to the principles and terms outlined in the white paper regarding deference to the States—that is very important, deference to the States—and permits those regions that are working on their own unique marketing designs to continue to do so.

This is a recognition of the fact there needs to be some Federal oversight. We are going to have a national movement of electricity and, at the same time, recognize those unique aspects of various regions, and this is designed to balance that situation.

This subtitle includes a sense of Congress that RTO formation be voluntary. The subtitle also provides that nothing in the Energy bill authorizes FERC to mandate the formation of RTOs. We will hear more about that point, I am sure. The fact is it does not mandate; it allows the States and regions to make these decisions, which I think is very important.

This subtitle emphasizes RTO formation, which is very important, and it promotes fair and open access to electric transmission service; benefits retail consumers; facilitates wholesale competition; improves efficiencies in the transmission grid management; promotes grid reliability; removes opportunities for unduly discriminatory or preferential transmission practices; and provides for efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale markets.

There has been a great change in how electricity is generated and distributed. A number of years ago, a company had the job of being a distribution unit, to go to the retail, to go to your house, my house, and businesses in a community. They generated their own electricity, and it was a confined package right there. Over the last number of years, more than 30 percent of wholesale power is generated by what we call market generators that do not make retail distribution. Therefore, to be competitive and to give us a better price, that electricity has to move about to the companies that do the distribution, and that is what this whole issue is about.

This subtitle authorizes Federal power marketing agencies, such as the Bonneville Power Administration and Western Area Power Administration, to join RTOs. They are a very important part of the generation and distribution in these areas, and they, too, can come along with the States to put together these regional organizations.

This subtitle includes a regional consideration section which encourages discussion between States and FERC on how to improve transmission and wholesale markets. Issues to be considered include elimination of pancake rates, that is, multiple cumulative charges for transmission service across successive locations in a single region, and the resolution of seams issues, to improve transmission exchanges between regions. These are very important to a uniform statewide average rate of transmission pricing.

Subtitle C, which involves transmission access and protecting service obligations, is very important. The first section of this subtitle is designed to ensure load-serving entities are a priority on the transmission grid to fulfill their service obligation to the native load end users. This section balances the service obligation needs of both transmission owners and transmission-dependent entities, such as municipals and co-ops. The section allows this priority only to the extent required to provide the load-serving entities' native load obligation. This means if you have powerplants, retail merchants, and customers, and you want to use that line to go on to new customers, the first priority is to those being served, the native load, and that is important to our part of the country.

FERC-lite is just what it says: The ideas that were put forth by the Federal agency now are toned down with more emphasis given to the opportunity for States and regions to have input.

The open access, or FERC-lite section, promotes principles of fair access to the transmission system by requiring that all transmitting utilities, regulated or unregulated, have rates, terms, and conditions for transmission service that are not discriminatory or preferential.

The FERC-lite provision will not diminish the local control benefits upon which many unregulated transmitting utilities depend. Small unregulated transmitting utilities, such as distribution co-ops, as well as unregulated transmitting utilities that do not own or operate significant transmission facilities, are exempt from the FERC-lite.

The section on participant funding directs FERC to issue regulations about the allocation of costs associated with transmission expansion. This section clarifies who has to pay for what in transmission expansion. This clarification will promote certainty and investment in our energy infrastructure. It really defines benefits. Those who benefit from the expansion will be expected to pay for the expansion.

Under this section, a regional transmission organization, an RTO, or an independent system operator may submit a plan regarding transmission costs to FERC, and FERC will give substantial deference to the comments filed by State regulatory authorities, other appropriate State officials, and stakeholders of the RTO or ISO regarding such a plan.

With regard to subtitle D, amendments to the Public Utility Regulatory Policies Act of 1978, the most challenging part of the PURPA reform addressed in this section has to do with mandatory purchase and sale requirements affecting qualified facilities, or QF. Many have argued that PURPA has resulted in above-market electricity prices because it forces utilities to buy power they may not need. Thanks to the hard work of Senators NICKLES, LANDRIEU, and ALEXANDER, a compromise was reached which will ensure

that qualifying facilities are legitimate and not just generation facilities masquerading as QFs and abusing QF benefits.

The compromise prospectively terminates the mandatory purchase and sale requirements affecting QFs when a competitive wholesale market exists and sets forth new criteria for future QFs to ensure they are fundamentally designed to support commercial or industrial processes.

The stakeholders, which include the American Chemistry Council, International Paper, and the Alliance for Competitive Energy, worked together to help craft this language with the Senators and strongly support the principles of ensuring fair and legitimate practices.

This subtitle also includes provisions on net metering, smart metering, and demand response that require States to consider the benefits of these policies. What this really means is instead of being forced to buy the energy that is excessive to some manufacturing group, it will have to be in a competitive market. They will be legitimate qualifying facilities and will not be forced, as it was in the past, but yet will still be able to include these producers as available energy.

Subtitle E is provisions regarding the Public Utility Holding Company Act of 1935. This is an outdated statute that imposes barriers to competition and discourages investment in generation and transmission. PUHCA limits that are now in place limit geographic and product diversification and impose many burdensome filing requirements.

PUHCA is also a barrier to the formation of regional energy markets because it would apply to regional transmission organizations.

Repealing PUHCA does not preclude State and Federal regulators from protecting ratepayers. They can still take a look at who is doing the investing and whether the returns generated go back to the right group and create a good price for users, and they will be able to invest, not divert, the money, but they will continue to be overseen by existing regulators. The Department of Justice and the Federal Trade Commission will continue to protect against antitrust violations.

The Securities and Exchange Commission, which currently oversees PUHCA, has recommended on a number of occasions that PUHCA be repealed and certain consumer protections transferred to FERC. That is what we seek to do here.

Market transparency and antimanipulation enforcement, of course, are very important subjects, now more than ever because of what happened in California and elsewhere on the west coast.

This subtitle directs FERC to issue rules to establish an electronic information system to provide information about the availability and the price of wholesale market and transmission services to ensure that such information will be treated with confidentiality, when necessary, and used to protect consumers in competitive markets.

Here again the allegation—and I am sure to some extent it is true—was these are the kinds of manipulations that happened in California and on the west coast, and this is designed to prohibit the filing of false information regarding the price of wholesale electricity and the availability of transmission capacity. It prohibits round-trip trading, where there were apparently some funny tricks played on the west coast. This will prohibit those kinds of things. It expands those who can file complaints and who will be subject to FERC investigation; increases the penalty under the Federal Power Act and the National Gas Act; amends the Federal Power Act refund effective date to the date of filing. It makes it work so the purpose for which it was designed can be carried out.

Subtitle G is consumer protections. Of course, all of us are interested in that. A number of consumer protections are included in the amendment. The first one includes a revised section 203 of the Federal Power Act which will offer FERC limited expansion of its merger review authority. Justification for this expansion review is needed to balance the repeal of PUHCA, which we just talked about, and the potential effects on holding company structures. So we are making some of the changes that need to be made because of outdated laws and we are replacing the oversight that needs to be there so it will still be transparent and visible.

The new section would apply to transactions only that are in excess of $10 million. So this is designed to deal with major transactions.

In addition, 203 would highlight factors such as consumer protection financial integrity, evaluating whether a transaction is consistent with the public interest. These are things that all of us recognize need to be there. That is why utility commissions have been in effect in States to sort of have an oversight. Even though we want the private market to be stronger and more effective, there still needs to be protection for consumers because there are not lots of choices always in terms of energy.

A new section requires FERC to adopt rules for consideration of applicants. It also directs the Federal Trade Commission to issue rules regarding information disclosures.

So overall, the Domenici electricity amendment is balanced. It is a fair package that creates a more efficient electricity grid, increases investment in utility infrastructure, and enhances consumer protections. These are basically the issues we will be faced with again in the future. We want electricity available. We want it at a reasonable price. We know the market can have something to do with that if there is competition, but if there is competition there has to be oversight.

If we are going to be able to move electricity, there has to be a grid. If there is going to be a grid, there has to be agreement among States in regions. These are the kinds of things we deal with. It is fairly complicated. On the other hand, there are pretty basic things that need to be done and have not been done for a very long time.

Of course, we must keep in mind, as we do all of these things, some of the basic fundamentals we want to protect, and that is there are State opportunities to make a decision for local power; that we can show the difference between regional needs by having RTOs that have the authority to do this. If we are going to have a nationwide grid to be able to move power to make it more efficiently used, there has to be some Federal authority as well. This seeks to develop that balance.

This amendment is balanced. It is a fair package. It creates a more efficient grid, increases investment, and enhances consumer protections. The amendment is supported by the administration as well as a number of stakeholders' groups such as the National Rural Electric Cooperative.

I have a number of letters in support of the amendment and I ask unanimous consent that they be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, DC, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The purpose of this letter is to provide the Administration's views on your proposed electricity substitute amendment to the Energy Policy Act of 2003. The Administration applauds your efforts and leadership to ensure that a balanced electricity title is included in the energy bill under consideration by the Senate.

We support your substitute electricity amendment and believe it will effectively modernize our Nation's antiquated electricity laws. Your amendment promotes transmission expansion, facilitates open access to the transmission system, increases electricity supply, promotes energy efficiency, improves reliability, encourages demand response, and appropriately balances Federal and State responsibilities.

Furthermore, we believe your amendment will protect consumers and ensure that developing wholesale markets are transparent and free of manipulation. Repealing the Public Utility Holding Company Act (PUHCA) and reforming the Public Utility Regulatory Policies Act (PURPA) will eliminate outdated laws on the books and infuse much needed capital into this sector.

The Administration applauds your commitment to passing comprehensive energy legislation and looks forward to working with you in conference to ensure the final bill reflects the President's priorities as set forth in the National Energy Policy and promotes energy and economic security for America.

Sincerely,

SPENCER ABRAHAM.

U.S. SENATE,
Washington, DC, July 24, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN DOMENICI: I am writing to express my support for your efforts to develop comprehensive energy legislation and to share my views on some issues which I believe to be critical to the establishment of a competitive electricity market that will benefit our nation's consumers.

The Senate Committee on Energy and Natural Resources with your leadership has grappled with a number of complex and contentious issues with respect to electricity. From my perspective, the central issues at stake in the debate surrounding the energy bill's electricity title involve the Federal Energy Regulatory Commission's (''FERC'') authority over regional transmission organizations (''RTO''), its proposed rules for the implementation of standard market design (''SMD''), and the repeal of the Public Utility Holding Company Act of 1935 (''PUHCA'').

As you know, in an effort to bring greater order to the currently balkanized national grid, the Federal Energy Regulatory Commission issued FERC Order No. 2000, which directed utilities with transmission assets within their jurisdiction to join RTOs on a voluntary basis. Although FERC Order No. 2000 contained permissive language with respect to participation in an RTO, FERC maintains authority under the Federal Power Act to mandate participation. While most utilities have joined an RTO, some still have not, and the FERC, in the interests of promoting open and competitive interstate markets for electricity, may deem it necessary to compel a utility's participation in an RTO. Further, FERC's ability to mandate participation in an RTO serves as an important remedy where a utility is found to have abused market power. I am concerned that legislation might be adopted to eviscerate this agency's existing authority and thwart its efforts at promoting competition and a level playing field. I encourage you to preserve the FERC's authority with respect to RTOs.

I am also concerned about efforts to curtail the FERC's SMD rules. As you are aware, the rulemaking that is presently underway at the FERC seeks to establish a single cohesive set of rules governing the procedures and pricing of the transmission of electricity. SMD represents an important step toward a truly seamless and competitive national grid. Any delay in this effort would only slow our nation's progress toward this important goal. I urge you to omit language delaying the implementation of this rule from comprehensive energy legislation.

I would also like to express my support for the repeal of the Public Utility Holding Company Act of 1935 (''PUHCA''). PUHCA was enacted to eliminate unfair practices and other abuses by electricity and gas holding companies by requiring federal control ad regulation of interstate public utility holding companies. However, in the decades following the passage of this Depression-era law, the proliferation of federal, state, and local regulators and changes in market conditions have led to questions regarding the relevance of PUHCA in today's marketplace. As electricity markets have grown more competitive, PUHCA has hampered investment in new transmission lines, rendering our already taxed transmission assets more burdened than they need be. PUHCA repeal, in conjunction with reasonable safeguards for consumers, is an essential ingredient in moving towards a competitive national marketplace for electricity.

As you work to complete comprehensive energy legislation, I urge you to resist efforts to curtail FERC efforts to promote competition and support the repeal of PUHCA. Thank you for your attention to this matter.

Very truly yours,

PETER G. FITZGERALD.

U.S. SENATE,
Washington, DC, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

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

DEAR CHAIRMAN DOMENICI AND RANKING MEMBER BINGAMAN: We are writing to urge you to continue our nation's efforts to move toward competitive wholesale electricity markets that will benefit consumers and businesses. National competitive markets, where multiple buyers and sellers can negotiate bargains and pass cost savings along to consumers, are the best approach to the challenges facing the electricity industry.

We would like to bring to your attention a number of issues addressed in the electricity title of the Senate Energy Bill (S. 14) that have implications for residents and businesses in the Northeast-Midwest region.

Delay of Standard Market Design—S. 14 and the proposed substitute amendment delays the implementation of the Federal Energy Regulatory Commission's (FERC) standard market design until July 2005. Electricity markets have outgrown state boundaries. We are writing to express our concern with the proposed delay of standard market design and the provision to make participation in regional transmission organizations voluntary. The delay has serious implications for residents and businesses in the Northeast-Midwest region and throughout the nation.

A standard market design would streamline the wholesale electricity industry, encourage transmission investments and move the lower 48 states toward a more competitive electricity market. Congested power lines, which are the result of the current electricity system, cost customers and businesses throughout the United States billions of dollars each year, whereas competitive wholesale power markets could deliver billions of dollars in economic benefits.

Schwab Capital Markets detailed the importance of standardized markets to increasing investment in our nation's transmission grid and electricity generation. Testifying before the House Subcommittee on Energy and Air Quality, Christine Tezak with Schwab stated: ''We believe that capital will be less expensive for all market participants if FERC continues (and is permitted to continue) its efforts to provide reasonably clear and consistent rules for this business . . . Schwab WRG continues to view continued efforts to move forward with the restructuring of the electricity industry to be the best investment environment for the widest variety of participants in the electricity marketplace—whether they provide generation, transmission, distribution or a combination of these services—and most importantly, the most likely to provide sustained long-term benefits to consumers.'' Further, Ms. Tezak stated: ''Congress needs to decide whether or not it still believes in the 1992 Energy Policy Act. Today, Congress is becoming an increasing part of the reason capital is hard to attract to this business. Congress is calling for FERC to slow down, Wall Street is frustrated FERC won't move faster.''

S. 14 makes participation of Federal utilities in Regional Transmission Organizations voluntary. Federal taxpayer dollars were used to develop and maintain Federal power marketing agencies such as the Tennessee Valley Authority and Bonneville Power. The energy generated by these facilities should benefit all Americans. TVA and Bonneville should be required to participate in RTOs so communities throughout the United States have access to the power generated at these Federal facilities.

The Energy Bill must put national interest above the interest of a few vertically-integrated utilities that want to maintain regional monopolies. We encourage you to support standardizing electricity markets and prevent further delay of these efforts.

Participant Funding—S. 14 and the proposed substitute amendment directs FERC to establish rules to ''ensure that the costs of any transmission expansion or interconnection be allocated in such a way that all users of the affected transmission system bear the appropriate share of costs.'' The language requires FERC to fairly align the costs and benefits of transmission upgrades, a judgment that can include a consideration of relevant local factors. This is not only the most equitable approach but also the one most likely to ensure that transmission development will keep pace with growing electricity demand.

Combined Heat and Power—S. 14 currently contains the ''Carper-Collins'' language which keeps in place incentives to operate combined heat and power facilities until true competition exists in electricity markets. This language retains, for a limited time, the provisions of the Public Utility Regulatory Policy Act (PURPA) which requires utilities to provide back-up power and buy electricity from qualifying combined heat and power facilities. As soon as competitive electricity markets are established, these requirements are repealed. Since combined heat and power saves energy, reduces greenhouse gas emissions, increases energy independence, and is good for the competitiveness of American manufacturing, we urge you to retain such provisions.

We urge you to complete the work Congress started with the Energy Policy Act of 1992 to provide reliable, low-cost electricity to customers. Please stand strong against pressure to reverse course on Congress' efforts to establish better working, competitive markets, and to continue working towards competitive electricity markets.

Sincerely,

JACK REED.
OLYMPIA J. SNOWE.
EDWARD M. KENNEDY.
ARLEN SPECTER.
SUSAN COLLINS.
DEBBIE STABENOW.
FRANK R. LAUTENBERG.
CARL LEVIN.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, DC, July 24, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Senate Hart Building, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the American Public Power Association (APPA), I want to express our strong support for your substitute amendment for the electricity title of S. 14, the Energy Policy Act of 2003.

The substitute represents a balanced approach that makes several improvements to the electricity title as it was reported out of your Committee. In particular, APPA appreciates your inclusion of additional consumer protections by providing the Federal Energy Regulatory Commission (FERC) with additional authority to review mergers while not including inflexible time constraints upon FERC review of merger applications. In addition, your substitute provides clear direction to FERC to establish a policy on market-

based rates that assures rates will be just and reasonable. While we remain concerned over the repeal of the Public Utility Holding Company Act, the inclusion of these additional consumer protections helps to mitigate those concerns.

We also commend you for your efforts in drafting service obligation/native load language that preserves the existing firm transmission rights of load-serving entities. APPA strongly supports the service obligation/native load language in your substitute as it equally protects the rights of transmission owners and transmission dependent utilities.

Your substitute is a very carefully crafted package. While we do not necessarily support each individual provision, we do strongly support the compromise in its totality without modification. In addition, we will ask APPA members to urge their Senators to support your substitute. We anticipate that you will resist changes to your substitute during floor consideration and that you will support all aspects of the substitute in the House-Senate conference.

We appreciate your efforts to improve the electricity title and look forward to working further with you and your staff to preserve the language in your substitute through conference committee.

Sincerely,

ALAN H. RICHARDSON,
President & CEO.

THE LARGE PUBLIC POWER COUNCIL,
Washington, DC, July 24, 2003.

Hon. PETE V. DOMENICI,
Chairman, Senate Energy and Natural Resources Committee, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN DOMENICI: On behalf of the Large Power Public Council (LPPC) I am writing to let you know that we support the electricity substitute, without modification, which you plan to offer during Senate consideration of the Energy legislation.

We are grateful for your attention to our concerns and your willingness to craft solutions to the problems of large public power systems. It has been a pleasure working with you and with your staff.

LPPC is comprised of 24 of the largest locally owned and operated electric systems in the nation. LPPC members have long supported a truly competitive electricity market that is designed to benefit consumers. Your tireless efforts toward that end deserve our endorsement.

As a separate matter, we would urge you to consider favorably efforts to modernize TVA's organic statute.

Thank you again for your hard work. We look forward to helping you pass this substitute next week on the Senate floor.

Sincerely,

JAN SCHORI,
Chair.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Arlington, VA, July 25, 2003.

Re Domenici amendment to the Electricity Title of S. 14.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: The National Rural Electric Cooperative Association (NRECA) supports passage of the carefully crafted Domenici amendment without modification.

NRECA represents over nine hundred consumer-owned electric cooperatives that serve more than 36,000,000 electric consumers. Our priority in the national energy policy debate is consumers. NRECA believes that S. 14, as modified by the Domenici amendment, protects consumers while providing the opportunity for growth and stability in competitive wholesale electric markets.

The language in the Domenici amendment will protect electric cooperatives from unnecessary costs and regulations. Your amendment closely parallels the small utility provisions included in last year's electricity title (HR 4).

The merger review language in your amendment establishes a framework ensuring that utility mergers adequately protect the public interest. This consumer protection package is vitally important to offset the potential consequences of the repeal of the Public Utility Holding Company Act.

We commend you for your work in the difficult drafting of the service obligation and native load language that preserves the existing firm transmission rights of load-serving entities. NRECA supports the equal protection for the rights of transmission owners and transmission dependent utilities.

On behalf of electric consumers, NRECA urges adoption of the Domenici amendment to S. 14 and applauds you for your leadership.

Sincerely,

GLENN ENGLISH,
Chief Executive Officer.

JULY 18, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: Over the past several years, Congress and the Federal Energy Regulatory Commission have struggled to create a definitive set of rules with respect to establishing restructured wholesale electricity markets. As state regulators from diverse regions of the country, we are concerned that continued and prolonged uncertainty at the federal level could ultimately impede our efforts to provide reliable and affordable power to our states' homes and businesses.

Positive steps in recent months taken by the Federal Energy Regulatory Commission have begun to establish clear rules and defined roles for market participants and stakeholder organizations, opening the door for increased benefits in our states for consumers and industries. FERC has been working closely with state regulators, and in regional technical conferences, to cooperatively develop the flexible tools needed to strengthen our electric markets.

The U.S. Congress is positioned to empower the FERC to move forward with necessary reforms by adopting language in S. 14, The National Energy Policy Act that would promote the development of wholesale markets and electricity grids. Supporting the creation of dynamic wholesale power markets could be one of the most significant legacies of this Act.

That said, as Congress considers the electricity title of the National Energy Policy Act, we are concerned with two specific points that are being raised in the debate on this legislation:

1. There should be no language that would delay FERC's efforts to develop rules governing the wholesale electricity market, as these rules are essential to ensuring the creation of robust wholesale markets that benefit consumers. Delay may seem like a safe or appealing compromise, however, this will undoubtedly lead to lengthy and costly regulatory and judicial challenges that could impact pending docket items and cost consumers millions of dollars. Congress should not create further roadblocks to the regulatory process of creating RTOs. States and regions, working with FERC, must begin the formation of RTOs without delay.

2. We oppose any Congressional action that would make RTO participation voluntary, as this would be harmful to existing and emerging RTOs. FERC should be permitted to oversee the process of RTO formation and serve as regional traffic cop to ensure that consumers benefit from competition in terms of competitive prices, increased choices, and improved services and reliability.

America's electricity network is at a crossroads. Individual states are moving forward, but the FERC must be empowered to take the necessary steps to ensure our nation has the electricity and transmission grid to meet the needs of our states' consumers and industries. Wholesale markets are putting downward pressure on prices and leading to greater investment in infrastructure and supply, resulting in greater reliability. We encourage Congress to adopt national energy legislation that would advance the nation's electric systems and the development of RTOs.

Thank you for your consideration of our thoughts and concerns. Please do not hesitate to contact us if you have any questions regarding this issue or the perspective and views of our states.

Sincerely,

Thomas L. Welch, Chairman, Maine Public Utilities Commission.

Laura Chappelle, Chairman, Michigan Public Service Commission.

Roy Hemmingway, Chairman, Oregon Public Utility Commission.

Rebecca A. Klein, Chairman, Texas Public Utility Commission.

Kevin Wright, Commissioner, Illinois Commerce Commission.

Carol M. Murphy, Commissioner, New Jersey Board of Public Utilities.

Glen R. Thomas, Commissioner, Pennsylvania Public Utility Commission.

Jay O. Stovall, Commissioner, Montana Public Service Commission.

MIDAMERICAN ENERGY HOLDINGS CO.,
Omaha, NE, July 25, 2003.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DOMENICI: I am writing to express MidAmerican Energy Holding Company's unqualified support for the substitute electricity title you have developed for the comprehensive energy bill, MidAmerican is a diversified energy company operating in twenty-five states, with electric and gas utility, interstate natural gas pipeline, renewable energy, and independent generation operations.

These electricity modernization provisions will create a more efficient electricity grid, increase investment in utility infrastructure, and enhance our nation's consumer protection laws. The United States' electricity system desperately needs new infrastructure to support the competitive wholesale electricity markets that the Energy Policy Act of 1992 created. By eliminating existing barriers to investment and clarifying the regulatory landscape, the provisions of this title will help open the doors to new capital entering the industry.

We strongly support your efforts and oppose any amendments that would upset this carefully balanced proposal. Having spent much of the last ten years working to help build consensus on the need to modernize our electricity laws, I hope the Senate will move quickly to approve the substitute electricity title and the comprehensive energy bill.

Sincerely,

DAVID L. SOKOL,
Chairman and CEO.

NORTH AMERICAN
ELECTRIC RELIABILITY COUNCIL,
Princeton, NJ, July 25, 2003.

Hon. PETE DOMENICI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: As the Senate resumes consideration of the energy legislation, we are writing to reaffirm our continuing support for the reliability language contained in section 1111 of S. 14 and in the amendment in the nature of a substitute for the electricity title of S. 14 that you released on July 24, 2003. Joining NERC in support of the reliability language are the following: American Electric Power, American Public Power Association, Canadian Electricity Association, Edison Electric Institute, Institute of Electrical and Electronics Engineers—USA, National Association of Regulatory Utility Commissioners, National Association of State Utility Consumer Advocates, National Electrical Manufacturers Association, National Rural Electric Cooperative Association, Pepco Holdings, Inc., Transmission Access Policy Study Group, TXU Corporation, Western Electricity Coordinating Council, and the Western Governors Association.

These provisions meet the fundamental need for establishment of a system of mandatory and enforceable reliability rules applicable to all users, owners, and operators of the North American bulk power grid. The provisions build on the existing voluntary reliability system by authorizing an independent, industry-led organization to set and enforce such mandatory reliability rules, subject to Federal Energy Regulatory Commission oversight in the United States.

The legislative provisions are carefully crafted to bring the expertise of industry to bear in the formulation, implementation, and ultimately enforcement of the reliability rules. The amendment in the nature of a substitute adds a savings clause to the reliability language clarifying that the Electric Reliability Organization provided for in the legislation will not be considered an agency of the United States Government. We support that addition. That clarification is fully consistent with the determinations already made regarding the functions to be exercised by the Electric Reliability Organization in the new mandatory reliability system.

We commend you for your commitment to passage of this vital legislation before the upcoming Congressional recess, and look forward to working with you to support enactment of the reliability language as soon as possible.

Sincerely,

MICHEHL R. GENT,
President and CEO.

INTERSTATE NATURAL GAS
ASSOCIATION OF AMERICA,
Washington, DC, July 25, 2003.

Hon. PETE DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Interstate Natural Gas Association of America (INGAA) wants to thank you for your tenacious efforts to move comprehensive energy legislation through the Senate. We believe that the Energy Policy Act of 2003 (S. 14) strikes a fair balance between energy efficiency, environmental protection, and the need for increased energy resources. This legislation will also play an important role in addressing the nation's tight natural gas supply situation, and INGAA urges its swift adoption.

As you know, North America is blessed with abundant natural gas supplies. Unfortunately, conflicting government policy has both encouraged the increased use of natural gas, while hindering the further development of natural gas supplies and infrastructure. As Federal Reserve Chairman Alan Greenspan has observed, the conflict between increasing demand and decreasing supply has to be resolved in some way, and it is currently being resolved through higher natural gas prices.

INGAA strongly supports your efforts to increase natural gas exploration and production on federal lands. We also support your provisions regarding natural gas market transparency and prohibitions on fraudulent and/or manipulative trading practices, which will help to restore stability and confidence to the market. With respect to natural gas infrastructure, INGAA supports provisions encouraging the construction of an Alaska natural gas pipeline and the development of new LNG importation facilities.

We appreciate the comprehensive approach you have taken in addressing natural gas supply and infrastructure needs. INGAA will continue supporting your efforts to enact balanced energy policy legislation during the current session of Congress. Please let us know if we assist in your efforts.

Respectfully,

DONALD F. SANTA, Jr.,
Executive Vice President.

JULY 25, 2003.

Hon. PETE DOMENICI,
Senate Energy and Natural Resource Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Natural Gas Supply Association (NGSA) and the Independent Petroleum Association of America (IPAA) representing the majority of natural gas producers in the United States want to take this opportunity to comment on your legislative proposal to ban fraud and manipulative behavior during the reporting of natural gas transactions to energy price indices.

As you know from our previous communications, we have been working hard to find workable solutions for greater market transparency, which should enhance the confidence of stakeholders in the natural gas markets. In fact, the industry has been successful in crafting an industry consensus document (also referred to as the ''Kennesaw agreement'') supported by many stakeholders in the natural gas market. Attached is a copy of that document.

We fully support your desire to bring greater transparency to the energy markets, prevent manipulative behavior in those markets, and punish those that knowingly and willfully report false information. Consequently, we support your proposal and look forward to working with you to ensure that the energy marketplace reflects these objectives.

Sincerely,

Independent Petroleum Association of America.

Natural Gas Supply Association.

Mr. THOMAS. There is a letter from the Secretary of Energy:

> We support your substitute electricity amendment and believe it will effectively modernize our Nation's antiquated electricity laws.

There is also a letter from Senator FITZGERALD of Illinois. There is another letter that talks about the amendment. It is signed by eight Senators who are looking more for the effects of a competitive wholesale electric system, and a standard market design. They are supporting what is done with respect to the standard market design.

Another letter is from the American Public Power Association. It says:

> . . . I want to express our strong support for your substitute amendment . . .

They are a very important player, of course, in this.

The Large Public Power Council also says:

> . . . we support the electricity substitute, without modification . . .

According to this group, we do not get into trying to make a number of changes now.

The National Rural Electric Cooperative Association, which, of course, serves more than 36 million electric consumers, particularly for those of us who live in rural States, supports the passage of the carefully drafted Domenici amendment without modification.

We also have a letter from the Interstate Natural Gas Association of America. Remember that natural gas people have a real interest in this as well in terms of the generation of electric power. They say:

> We believe that the Energy Policy Act of 2003 strikes a fair balance between energy efficiency, environmental protection, and the need for increased energy resources.

America's Oil and Gas Producers Independent Petroleum Association, the American Gas Association, all of these groups are in complete support of moving ahead with the amendment without modification. I think it is pretty impressive that all of these groups are in support, such as the North American Electric Reliability Council, which is the one that has to do with reliability. So these are some of the areas that are covered and are supported on this particular amendment.

I know this is detailed and lengthy, but this is a very important aspect and a very important element. It is something that has been worked on for a couple of years, by both the committee and on the floor. This whole title having to do with the electricity part of energy has been redrafted and this institution will bring it together so that hopefully we can move forward with very few, if any, amendments, to this section.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. NELSON of Florida. Mr. President, I thank the distinguished presiding Senator, the great Senator from the State of Alaska. I had the privilege of visiting his State en route to China with the majority leader a couple months ago. We used, as a convenient place for refueling, the Air Force base in Anchorage. That is a wonderful land the Presiding Officer comes from. It

was a great privilege to visit, especially with our troops that are providing for the defense of our country.

Speaking of that, I continue to be amazed at the courage and the ability of our men and women in uniform in service to this country and those not in uniform in places such as Iraq, where I visited 2 weeks ago. In talking with those soldiers, anyone could see how dedicated they are. At the same time, we recognize those soldiers are uncomfortable. It is hot, 120 degrees, and it is dangerous.

As a matter of fact, we see the effects of premeditated assassination, the so-called resistance. It is taking form in three different ways. It is extremely lethal. Indeed, over the past week, on the average, two of our American soldiers per day have been murdered, some of them by RPGs, rocket-propelled grenades, often fired into armored convoys; some of them by landmines detonated by remote control device placed usually where the road narrows; and some of them purely by assassination with a small handgun, as in the case of the Florida soldier killed the night before I arrived. The Florida soldier was pulling guard duty. A delegation had gone into the university and they were protecting them, looking out for their interests. In the midst of the melee, someone in the crowd comes up behind him and taps him on the shoulder. He turns around and they shoot him in that unprotected area above the body armor and below the helmet.

This is the kind of premeditated assassination we see. It is clearly my hope, and the hope of everyone, that we would have some diminution of this killing as the Saddam Hussein regime is brought to account now with the demise of the two sons and along with what I think will be the capture—whether alive or not, I don't know—of Saddam Hussein himself.

Iraq has become a place, as reports in the press have indicated, where others are coming into Iraq to try to do damage to American interests. So it is going to cause us to be all the more vigilant. Clearly, the stakes have never been higher for the United States to stabilize Iraq, both politically and economically, just as we need to do so in Afghanistan in our war against terror.

I came here today to speak on the Energy bill which is before us. I want to discuss this issue that not only affects the lives of every American but also impacts the Nation's security. That is what we are debating, energy policy. These energy issues we are going to be debating this week affect everyone. They affect the air we breathe. The policy affects the cars we drive, the lights that illuminate our lives, and the electricity bills we pay.

I would like to be able to go home this August, after we recess, and tell people in my home State of Florida that the Senate made a difference, that we have changed some of the energy policy so that we are going to, hopefully, have more efficient homes and more efficient cars and cleaner air and, most importantly, more peace of mind. It is my hope what this Senate will do is decrease our dependence on foreign oil.

I served in the House of Representatives years ago. I had come into the Congress in 1978. We were in an energy shortage. A bunch of nations on the other side of planet Earth had joined a cartel and decided to reduce production. That had caused panic buying, it caused the price of energy—the price of oil—to go way up. The United States, as it was trying to enact an energy policy at the time, looking for alternative fuels, looking toward encouraging renewable sources of energy such as wind and Sun, also did something else. We have salt domes underneath the ground, down in Louisiana. We started filling those salt domes with a strategic petroleum reserve so we would be able to tap into an instantly ready source of oil if the spigot in those foreign lands was shut off. What is the likelihood of that in the future?

A study of military history will teach us about certain chokepoints, geographical chokepoints. For example, the Straits of Gibraltar are considered a military chokepoint. Let me tell you about one of the most dramatic chokepoints I ever saw, and I saw it from the window of a spacecraft, 203 miles above the Earth as our ground track on the orbit came right down the Persian Gulf, looking straight down at the Strait of Hormuz, a 19-mile-wide area, a chokepoint, a military chokepoint of the Persian Gulf, that 19-mile-wide strait through which most of the supertankers of the world have to pass.

Talk about a target for a terrorist. Indeed, the Strait of Hormuz—if the terrorists were ever to be successful in sinking a couple of supertankers there, you can imagine what would happen to the flow of the oil to the industrialized world. We would immediately be in crisis.

Are we going to continue to rely on foreign oil for our daily consumption?

Remember back a while, we made a commitment that we would stabilize our greenhouse gas emissions. That was done over 10 years ago. I hope now the Senate has decided to make good on that promise and put in place a climate change policy and a modest cap and trade system that is going to help us stop our ever increasing emission of harmful pollutants into our fragile atmosphere.

I am somewhat amused and perplexed that there continues this debate over whether or not global warming is real. About 98 percent of the scientists say it is real. If you come from a State such as mine, Florida, with its hundreds and hundreds of miles of coastline, you had better be prepared for it being real. Yet almost all of those affected—the business industry, the insurance industry—are ignoring the fact the climate on planet Earth is warming.

Let me tell you what that will do for a place such as Florida. As the seas rise, as the temperature rises, the coastal areas are threatened. They are threatened not only by the rise of the level of the sea but by the rise of the level in temperature which brings about much more violent storms and much greater plague and pestilence.

So often we do not confront a problem until it is upon us. Yet the fact is, global warming is upon us. So what should we do? We should be concerned about that outer layer of the atmosphere, of it having the appropriate environmental ability to deflect the ultraviolet rays that come into the atmosphere and eat up the atmosphere. Emissions from fossil fuel burning go into the atmosphere, and they start to diminish that ozone layer which protects against the ultraviolet rays, the result of which is that it has this greenhouse effect on planet Earth, starting to warm up the planet.

Sooner or later, we are going to have to face the music. That is what is happening to our planet. Yet are we enacting governmental policies that will protect us? That is what I am hoping, that we will have a Senate that will stand up, before the heat of this August recess, and say we are going to do something about it.

I would also like to go home this August and say to my constituents that, although we have been talking about diversifying our fuel sources for years, we are now starting to make progress; we have tax credits; we have tax incentives; we have loan guarantees; we have renewable portfolio standards in place to spur production and use of clean and renewable fuels. I hope this is possible because we are living in historic times and the policies we enact should reflect the gravity of the issues we face.

I am intrigued that all across this land, particularly in areas of high wind velocity, now we are building wind farms. To farmers, a wind farm can now be a profitable venture, leasing their land for the erection of high-technology windmills that will generate electricity.

Sooner or later, we are going to figure out how to harness another major source of energy, the energy of the tides of the ocean.

We already know how to harness the energy of the sun. Everything here is a question of economics. Is it economical to do so? It is, the more the price of oil goes up. As the cost of oil goes up because of diminishing supply—be that just by virtue of time or be that by virtue of interdiction of that supply such as a terrorist sinking a supertanker or whatever the reason is—we ought to be looking to these alternative and renewable fuels.

Over and over again, Members of the Senate and Members of the House have decried the fact that our Nation's energy consumption is held hostage by the oil production of these other nations, some of which we don't get along

with too well. That should bother us. It should make us want to enact policies we know will lessen our consumption of foreign oil.

(Mrs. DOLE assumed the Chair.)

I would like to go home this August and tell our constituents we are enacting changes in those policies, and we are going to protect ourselves.

I see our new Presiding Officer, the great Senator from the State of North Carolina. I will never forget when I was in the House and one of the first wind energy systems was built in Boone, NC. This is going back 20 years. I will never forget it. Everybody was upset because the more the windmill turned, the more it disrupted the television coverage in Boone, NC. But today we have the benefit of propeller technology in the placing of these wind energy systems, which are these tall windmills with propellers which are as sophisticated in their design as those for airplanes. So we don't have to have all of that outcry that occurred in Boone two decades ago. Boone, NC was a pioneer. It was part of a NASA research project. We were looking for opportunities other than the consumption of foreign oil then. We are doing a lot better in our technology today. But we have to enact policies that will wean us from our dependence on that foreign oil.

One policy that has a proven track record for decreasing our consumption of oil is increasing the miles per gallon on our automobiles. It has a fancy name. It is called Corporate Average Fuel Economy, otherwise known as CAFE. From 1975 to 1985, when CAFE or the mileage-per-gallon increases were mandated, we dramatically lowered our consumption of foreign oil.

According to the National Academy of Sciences, the increase in fuel economy standards in that decade, 1975–1985, saved—get this—43 billion gallons of gasoline, which is the equivalent of 2.8 million barrels of oil per day. But since 1985, our Nation's fuel economy has stagnated, and our consumption of foreign oil has skyrocketed. Indeed, between 1990 and 1999, oil consumption in the United States rose 15 percent and, unfortunately, American oil imports from foreign lands rose 40 percent. Why? Because we stopped requiring increases in fuel economy standards.

In our last few attempts to restart the program, we were stopped by a combination of very powerful lobbying groups. One of them—the automobile makers—said they could not do it. They said it was going to cost jobs. They said it was going to decrease consumer choice and that it was going to hurt vehicle safety. But that is exactly what they said in the 1970s. The auto makers successfully rose to the challenge then, and they can successfully rise to that challenge now. In fact, the increase in the fuel economy standards helped the auto makers stay competitive with their Japanese competitors in the 1970s and the 1980s. Smaller vehicles did not take over their fleets as they predicted. Eighty-five percent of the historical fuel economy gains came from technology with no impact on the vehicle weight or the vehicle size.

I encourage this Senate on the eve of us going home to be forward thinking and not backward looking. This is the 21st century. We know that American auto manufacturers have the technological capability to increase CAFE standards and to maintain safety without denying the American public any choices in the type of vehicle they drive. It can be done. We just have to have the will to do it.

The American people, after this traumatic experience of losing over 3,000 people on September 11 of 2001, clearly have a renewed desire to see their Members of Congress act in the best interests of national security. Is weaning ourselves from our dependence on oil from foreign lands in the interest of national security? Can you imagine what our Middle East policy would be if we didn't have to import oil from the Persian Gulf region? Our foreign policy would be a lot easier to conduct.

Senator DURBIN is going to have an amendment that will require cars and SUVs and minivans and cross-over utility vehicles to achieve CAFE standards of 40 miles per gallon by when, by next year? No. By 2015. That would be 11 or 12 years from now. It would require by the same year of 2015 trucks and vans to have a mile-per-gallon standard of 27.5 miles per gallon. It can be done. I certainly urge our colleagues here to support Senator DURBIN's amendment.

I guess one of the bigger disappointments I have had legislatively in the 2½ years I have been in the Senate is that we can't come together and recognize something that has so much common sense. We already have hybrid vehicles driving around getting 50-plus miles per gallon, and they get it not only on the open road but they get it in city driving. That is because the technology has developed to the point where a computer will switch that engine from a gasoline engine over to an electric engine and back and forth.

When we are using the gasoline engine we are powering the battery so the electric engine can be used, and it goes back and forth without any notice to the driver or the passenger and with no diminution on the electrical needs of the automobile and no diminution on any sane driver who doesn't want to squeal their wheels at every stoplight. The technology is there.

I urge the Senate to go beyond with technology.

On board every space shuttle is a machine that makes electricity. It makes electricity from a combination of two fuels: hydrogen and oxygen. And it has as a byproduct—water. As a matter of fact, so much water is produced that at the end of every flight day, the crews will have to dump excess water. It is amazing, when you dump that water out into the cold vacuum of space, you see that dumped water spray out, and all of a sudden those water particles crystallize. In the glint of the sunlight, it is a beautiful view.

But what started this process was that we were making electricity on board for the space shuttle with the fuel of hydrogen. We can do the same to power our vehicles. We know most of our consumption of energy is done in the transportation sector—airplanes, trains, buses, cars, ships. We know most of the consumption of that energy is automobiles and trucks. So can you imagine, if we would put our minds to it—just like we put our minds to it when President Kennedy said: We are going to the moon and back within the decade of the 1960s—and we did it—can you imagine, if we would put our minds to it, in an Apollo-like program, if we developed a hydrogen engine that was cheap enough that could power our automobiles, the new ones, and the trucks? The technology is there. The capability is there. The application of the new technologies can bring the cost down. The only thing we are lacking is the will.

Can you imagine if, suddenly, we did not have this dependence on foreign, imported oil how much freer the United States would be in our conduct around the world, in our military policy, in our foreign policy, in our ability to be self-sustaining in our own energy needs, and not giving up any of the creature comforts that we Americans are so blessed to have to our advantage? Yet when we get to a vote on some of these items on this Energy bill, we may get beat. I just simply do not understand that.

So I am pleading with our colleagues in the Senate, as we debate this Energy bill, let's think about America in the future, over the course of the next decade, over the course of the next 25 years. Let's think about the decisionmakers on this floor in future decades and what we are shackling them with as a matter of military and foreign policy if we do not break our habit of depending on foreign oil. We can do it. We just have to have the will.

Madam President, I thank you for this opportunity to share these ideas. Unless the manager of the bill wants otherwise, 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. THOMAS. 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. THOMAS. Madam President, I am pleased that we are able to go ahead and talk about energy. I must say, I am not as pleased by the fact that we seem to be holding things up a bit. We have been on this issue now for 2 years. We have also, this year, already been on the Senate floor for 10 or 12 days on this issue.

Last year, we were not able to complete the Energy bill because it was pulled out of committee. We did not go through the committee. This year, we

went through the whole process in committee. We brought forth a bill that was approved by the committee. Now we find ourselves, however, held up because somebody objects to moving forward.

Really, we have a week to do a job that deals with one of the most important bills we have before us. Frankly, it is discouraging when we find obstacles to moving forward simply because somebody has to wait until they get here on the Senate floor before an amendment can be offered. In any event, that is where we are. I object to the obstacles that are being put forward to the idea that we ought to move forward with this bill.

In any event, let me talk just generally about the bill. The Senator from Florida has talked about some of the needs that are required. There is nothing more important to our economy, to employment, and to our families in this country than energy. We have an opportunity to deal with some of the problems that obstruct us from moving forward with energy. We seem to become all wrapped up in little regional political issues that keep us from accomplishing the goal of moving forward, and it is frustrating. But there is a need to have a policy that moves us forward.

One of the things, of course, we hear about more than anything else, in terms of energy, is natural gas. We had our Federal Reserve Chairman here to talk about the need for gas supply and the potential shortage of gas we anticipate, partly because of the need for air-conditioning in the heat of summer and, certainly, the need for heat in the cold of winter. So natural gas is one of the things we have talked about the most.

Quite frankly, there are some opportunities for increased domestic production of gas. The idea of importing gas is not, in my view, the best solution. We have an opportunity to have domestic production. We can do that. That is partly what this bill is about. We have provisions in the finance section of this bill that are incentives for production.

We also find that we have a substantial amount of natural gas resources in the West. Much of it is on Federal land. We find ourselves, however, inhibited by the permitting process and the time it takes to do permitting in order to get gas on to the market. That is an area of potential. We can do that and, at the same time, protect the environment. We have already shown we can do that.

There has to be a movement of gas from the source to the supplier. That requires pipelines. It is very clear that some of these things need to be done.

This bill is a comprehensive and balanced bill. It deals with conservation. The Senator from Florida was talking about CAFE standards, but we have been through CAFE standards a number of times. There will be bills on the Senate floor that have to do with CAFE standards, and we will be supporting the movement of CAFE standards.

This bill talks about alternative sources of energy, which is something we ought to be looking at, whether they be wind or sun or hydrogen. The President has in his budget proposal over $1 billion to do research on hydrogen. Well, it is great to talk about hydrogen and to talk about using those types of automobiles, but we are not ready for that. Not only do we not have the system to produce it, we do not have the distribution system. But we will have it, and it is something we ought to work on. It is already in the process; it isn't as if it is a brand-new idea. We are looking for some opportunities to use the coal supply to develop hydrogen, which would give us a fuel more easily moved about than coal. Hydrogen can be made from coal. So there is a good deal of attention in this bill for alternatives.

We talk about conservation, alternatives, and also research and cleanliness in our energy supply. Again, coal is the largest fossil fuel supply we have in this country.

We need to continue to work on clean coal. We need good air quality. There is a good deal of money in this bill for moving forward.

One of the problems with our gas supply is, over the last number of years the 30 plants that have been developed for electric generation are all gas fired. On the other hand, coal is really, for a number of reasons, probably the best source. You can see that in prices, in the supply available. But still, because of not having a policy, we have used small gas plants close to the market and have used the wrong fuel.

We need domestic production. Sixty percent of our oil is brought in from other places. We can do something about that. We can do it with domestic production and other uses.

Certainly, this bill also addresses the modernization of the system of electricity, the modernization of the system of oil and gas. That is one of the most vital issues before us, to get a policy and a plan to move forward to make sure that energy is available, to the extent possible, domestically and that we don't depend on other countries for oil.

Wyoming, of course, is a State that has a good deal of energy resources. A number of years ago, I attended a meeting. Someone was there from England saying: We have never run out of a fuel. That is interesting, isn't it? We started with wood. We moved to coal. We moved to others. But after a while, we always find some other fuel to go forward. That is part of the science and research that is in this bill, so that as we find shortages, as we find more efficiencies, we can move forward into other kinds of opportunities.

I hope we can move forward and are not held up excessively to get the job done. It is here. We have a challenge to get it done this week. We have already discussed all these issues. We should be able to come to a decision on those issues that are still controversial, or, where there are different views, everyone who has a different view should be able to express that and vote on them when we have to. But we need to move forward. The idea that we are unable to get together to move seems to me to be inconsistent with the purpose of our being here.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am a member of the Energy Committee along with my colleague from Wyoming. I happen to share his desire to get the Energy bill done. With regard to the statement by the majority leader that it is going to have to be done this week, with the number of amendments out there and the difficulty we have, it is very unlikely it will get done this week. My hope is that we can find a way to move most of the way down the road, and understand that, if necessary, when we come back we will finish it quickly.

We need to get an Energy bill to the President's desk on a timely basis. It should not be just any Energy bill. It has to be an Energy bill that works, one that advances the interests of America. We have 5 days in the workweek. We end on Friday. Today the chairman and ranking member are both out for a funeral. That is something no one can control. So at least much of today is not going to be particularly productive in advancing the bill.

Given what we are going to face this winter in natural gas prices, given the problems we have in a range of areas, it would be in the interest of the country, Republicans and Democrats, to finish an Energy bill.

Let me mention a couple things we need to do in a serious way. Simply to paste together an electricity title and say, let's get it out there and get it voted on—if you missed what happened in California and this ''restructuring'' notion that has been around, you missed one of the largest bilking of consumers ever to occur. A circumstance existed in California where some companies were able to control supplies and, as a result of controlling and manipulating supplies and recreating congestion, they bilked California and west coast consumers to the tune of billions of dollars.

We need some consumer protection. I need to understand what the electricity title does. This headlong rush to restructure in electricity is one that can pose some significant problems for consumers. Restructuring means you will move electricity around the country from low-cost areas to high-cost areas and replace electricity from low-cost areas with more expensive electricity. Studies I have seen tell us that rural States such as North Dakota and others are going to lose and will have to pay much higher costs for electricity. Perhaps if we are past the urge

to restructure and to create the circumstance that allowed what happened on the west coast, particularly in California, we can have an electricity title that really works for energy and for consumers.

There are four steps to this bill that are necessary. One is to incentivize production. I agree with my colleague from Wyoming. Oil, natural gas, coal—all can and will play a significant role in our future. We should incentivize that in thoughtful ways. If debate on the Energy bill this year becomes a debate about ANWR and CAFE, then the American people lose. These are just two hood-ornament debates, and we will lose.

What we need to do is find a way to pole-vault over what we have been doing and do something dramatically different in the future.

I introduced the first bill this year, before the President called for it in his State of the Union Address, to move us towards a hydrogen fuel cell future. We have been putting gasoline through America's carburetors for almost a century. If our future is to find a way to keep putting gasoline through carburetors and debate how efficient they are, in my judgment we don't have much of a future with respect to energy; we will always be dependent on finding energy from off our shores.

Fifty-five percent of the oil is now found outside our borders, much of it from very troubled areas of the world. We could wake up one morning and discover that the supply of oil coming in has been interrupted by the concerted act of terrorists, and we could find our economy flat on its back, because the American economy runs on energy. The assured future supply of energy is essential to jobs and economic opportunity. Fifty-five percent of our oil now comes from offshore. That is set to go to 68 percent. It is an unforgivable dereliction of duty if we policymakers don't decide that that has to change. That is dangerous to our future, and we must change it.

How do we do it? Four steps: Incentivize additional production in a thoughtful way and compatible with our environmental interests. Two, promote conservation. We waste an enormous amount of energy. Conservation should be a significant part of any Energy bill. Three, an efficiency title that provides efficiencies with respect to all those appliances we use every single day. And four, the development of incentives for limitless and renewable sources of energy.

Let me talk for a moment about that because that is one of the reasons I believe so strongly this bill must move. I am a big believer in wind energy. My State is ranked No. 1 by the Department of Energy in wind energy potential. We understand that the new turbines with which you can take energy from the wind and turn it into electricity are much more effective and much more efficient than they have ever been in the past. The ability to put up a 1-megawatt turbine and take energy from the air and turn it into electricity and put it on the line and use it to extend the energy supply makes great sense. It is nonpolluting. It is available wherever the wind blows. That makes great sense.

The problem is, we have a lot of interests and a lot of projects on wind energy on the drawing boards ready to go, and we have this production tax credit that starts and stops and starts and stops, that is available for a year, 2 years, 3 years—maybe 1 year, and by the time it is implemented, if you put a new 3-year provision in, you may only get a year and a half or 2 years out of it because by the time the bill is implemented, you have already wasted part of that.

For those who are interested in developing these new sources of energy, renewable and limitless sources of energy, this Congress ought to pass an Energy bill, and that Energy bill should have a 5-year extension on the production tax credit. This one only has 3. Nonetheless, whether it is 3 or 5, you need to get a bill passed in order for that to be part of the calculation of those who have projects on the boards and want to build these projects.

Speaking for me, although I regret I don't think we will be able to finish the Energy bill this week, I want an Energy bill. I want one that works. I want a good bill, one that goes to the White House for signature. I don't know what we are going to get done this week. I know today, as I said, the chairman and ranking member are necessarily absent for a funeral. Tomorrow there is a meeting at the White House that, I suppose, will take an hour and a half or 2 hours out of the day for Energy Committee members. There are a series of things going on. I feel strongly we need to send some signals to our country, to the American people, that we are putting together policies for the future.

I mentioned a moment ago that a hydrogen fuel cell future is very important for our country. This Congress passed my amendment—frankly, I was surprised by it—that said let's set targets and timetables for this. We all say use hydrogen, which is ubiquitous—use it to power fuel cells and then to power our vehicles. It is twice as efficient in getting power to the wheel as putting gasoline through a carburetor. So let's do that, we say. In order to do that, you cannot decide tomorrow that is going to happen because we are still in the development stage of fuel cells. There are fuel cells that are commercially available and operating. I have ridden on a fuel cell bus, driven a fuel cell car run by hydrogen. They exist, but they still literally are in the developmental stage.

Then, in addition to deciding here is our future, you have to do a number of other things. You have to deal with the issues of the production of hydrogen, exactly how to produce it and from what. There are a series of opportunities. You can produce it from natural gas or from coal. You can take electricity from the wind and use the electricity in electrolysis and separate hydrogen from oxygen and water and pull the hydrogen out of the water.

In addition to production, you have storage, transportation, and infrastructure. Who will build the service stations where you can fill up with hydrogen? These are things I think will last some while in terms of their early stages to solve and to create an infrastructure that leads us to a new energy day. The President spoke about it in the State of the Union Address. Prior to that, I offered legislation in the Congress calling for a fuel cell hydrogen future. So I embrace the President's goals. In fact, I significantly enhanced them with my colleagues on the Energy Committee, nearly tripling the amount of money the President suggested. I got the full Senate to set targets and timetables—150,000 vehicles by 2010, 2 million vehicles by 2020—saying let's set targets and timetables, instead of saying 20 years from now, where are we, and saying that is where we are. We need to set up a road map and say, here is what we as a country aspire to do, here is what we aspire to achieve for our country's energy future.

The reason using a hydrogen fuel cell economy to solve this country's energy future is important is these significant increases in energy use in the country are through transportation—particularly vehicles, but transportation. That is where the line is. That is the line that is going up. With CAFE standards, which we will debate on the floor of the Senate, people will say, let's solve that line that goes up with more efficient carburetors or engines. Look, I am for more efficient carburetors and engines, but that will not solve the problem, as long as we have gasoline that costs less than bottled water. By the way, you can do that with an SUV. You may have four kids in the back and you drive up to the gas station and buy gas and then buy bottled water for the occupants in the car. Per gallon, it will cost you more for the water. As long as gasoline costs more than water, people are going to want to drive 5,000-pound vehicles.

The fact is, they are going to want to drive the big vehicles. That is a fact. That is what is happening in this country. The conversion has been quite extraordinary. Although I think CAFE standards are useful, and it is a provocative debate, and to the extent we can encourage additional efficiencies with internal combustion engines and carburetors through which all of the gasoline flows, that is fine, but that is not going to solve the problem of the increasing transportation line of energy usage. As long as we import most of our oil, with much of it coming from troubled parts of the world, this country is held hostage. How do you resolve that? You pole-vault to a different ground, it seems to me.

After three-quarters to one whole century of putting gasoline through

carburetors, I agree with the President; let's decide to have a different energy future and use hydrogen and fuel cells that are twice as efficient as now exist in getting power to the wheel from an internal combustion engine. Let's use the fuel cells and hydrogen as a fuel source and have our children and grandchildren be able to escape being held hostage from foreign supplies of oil.

Now, let me say again, I want to end where I started. I want this bill to pass. I want a bill to pass and I want it to be a good bill. That means the bill can be improved with amendments. You have to have debate on issues on which Senators have a right to offer amendments. I would like to see a bill pass the Senate and the House. If we can get to conference in September, perhaps we can get a bill to the President and have it signed in late September or October.

I would like to be able to say—especially in my State, where we have these promising wind energy projects—that the production tax credit has been extended, it is certain, and it is done, and you can count on it. As a result of that, we are going to produce more energy.

As I conclude, I will say, incidentally, we have had a rewrite of the electricity title. I believe that was made available Thursday night. There were rumors the majority party was rewriting an electricity title, but I was not aware of how it was being written or by whom. Someone just pushed aside all these issues that have been raised about restructuring.

As you know, for 4 or 5 years, we have had this urge for restructuring. Where does that come from? From some of the biggest users of electricity who want to pay lower costs for electricity. They want there to be retail competition for electricity. That retail economy situation—called restructuring—would embrace wholesale and retail competition for electricity and would give the opportunity in this country for electricity to flow to various marketplaces unimpeded. There has been a study by the U.S. Department of Agriculture about the ultimate impact of restructuring. I can tell you what it says about my State. It says consumers of North Dakota would end up paying a substantial additional price for electricity under so-called restructuring. Aside from the dislocations of it all, if you want to wonder about what restructuring might mean, especially when you have very big interests controlling energy—and that is not like a phone call, by the way, when you make a phone call and you may get a busy signal. Energy is different. When you need energy and energy isn't there, you are cold or hot. They are both universal in nature in terms of need, but energy is different.

We need a supply of energy in this country that moves to the areas of need in a way where you don't have large interests in supply and manipulating the marketplace. The FERC has just released a study with respect to the west coast. We all know what happened there. We know people colluded with—Enron had plans and they were named and we uncovered them—Fat Boy, Get Shorty, Death Star. Sounds like comic books, doesn't it? Those are not comic books; they are internal memos from one corporation that was using strategies to cheat and to steal. That cheating and stealing from west coast consumers amounted to billions and billions and billions of dollars.

Now, is it important to have in an energy bill protections for consumers to make sure that doesn't ever happen again? Some would push it away and say let's put some soft words in here. We will get a thesaurus and find out what seems appealing, and we will put all these soft words and say we have done it. Well, take a hard look at the energy title and make sure that even as we have done what is necessary to make sure we have a supply of energy, we have also done what is necessary to protect the American consumer against the manipulation of that supply and the overpricing of that supply to the detriment of the American consumers.

There is a lot to do. I followed my colleague from Wyoming in his presentation, and I must say to Senator THOMAS, we don't disagree that we should do this bill. Speaking for myself, I will do everything I can this week to try to cooperate.

I hope we can offer amendments, have the debate, dispose of amendments, and move on to the next subject. I hope at the end of the day we have passed an Energy bill of which we are proud, one that really does advance this country's energy interests because as we head into this fall, we understand, more than ever, what is going to happen to natural gas prices. They are going to spike dramatically. But even more than that immediate natural gas price spike, we understand, with the mosaic of what we see in the Middle East and elsewhere around the world, this country will be enormously foolish if it does not pay substantial attention to the fact that we are held hostage to foreign supplies of oil in a way that is very detrimental to our long-term economic outlook.

I hope we can work together. Speaking for myself, I want us to move and get our work done, get a bill to the President's desk, and when his signature is put on that bill, we can all say: We really did advance this country's energy future in a significant way.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I thank my friend from North Dakota for joining in wanting to get our work done and pointing out the importance of doing that work. Certainly that is what we are here to do, and I hope we can continue to do our work.

I agree with the point of view of the Senator from North Dakota in terms of transparency, antimanipulation, and enforcement. Actually, this subtitle deals with that issue. Certainly, there is no reason why we should not deal with it. It directs FERC to issue rules to establish an electronic information system to provide information on the availability and the price of wholesale energy and transmission services, to ensure such information is treated confidentially, and prohibit the filing of false information regarding the price of wholesale electricity and availability of capacity. These are some of the items that were used in the California/west coast experience.

It prohibits round-trip trading, which was one of the issues Enron was most involved with apparently—at least that is what they were accused of doing. This subtitle expands who can file complaints in a case which is the subject of a FERC investigation. It deals with this whole question of what happened in California. It amends the Power Act to refund effective dates of filing. Many of these items in this chapter were designed to deal with the issue in California.

I think it would be a mistake to seek to blame the California crisis solely on manipulation. There were a number of issues involved in the California case. California designed their own market rules, if we recall, when they insisted there be a limit on the price for retail but did not do so on wholesale. Those are issues that cannot continue. It was flawed. They also had a shortage of supply. They did not want to work on supply at all. They expected somebody else to bring in the supply, and it did not happen.

Mr. DORGAN. Will the Senator yield?

Mr. THOMAS. Certainly.

Mr. DORGAN. The Senator makes two important points. On the supply side, we have evidence that the supply was manipulated. That has been a great concern to FERC. While supply is important in terms of price, when there are large participants in the marketplace that take plants offline for the purpose of reducing supply and jacking up the price they receive, that is manipulation. We want to have an electricity title which deals with all of these issues, all forms of manipulation.

The Senator mentioned supply, and I wanted to make the point, that especially in California substantial criminal behavior existed. As we know, FERC has already prevented some companies now from trading. Enron, of course, is essentially bankrupt and cannot trade there. There was substantial wrongdoing and criminal activity, much of which is still under active investigation by the Department of Justice. That is why having an electricity title that is good and well done is very important.

I thank the Senator for yielding.

Mr. THOMAS. Madam President, I certainly agree with the Senator's point. That, of course, is one of the reasons we need to finish this bill. We talk

all the time about restructuring. Frankly, the fact is, the electric industry and the suppliers have already changed, and we are behind times.

This is not so much a matter of restructuring as it is to design a set of policies and a set of restrictions and constraints that fit with what is happening in the industry. Much of that a few years ago—selling power three times and going through a number of people and different hands—did not happen. Now it is happening. Now we have to do something to catch up. That is part of what we are doing in this bill.

Mr. DORGAN. If the Senator will yield further, if, in fact, these are image trades or virtual trades to crank up a price and injure the consumer, in which a company is moving a kilowatt hour or MCF to another State, then back in, buying and selling to and from itself to jack up the price and cheat the consumer, in some cases, I am sure the Senator from Wyoming agrees, we should not conform to a new practice, but when we think the new practice is stealing from consumers, we ought to stop it and prevent it from ever happening again.

Mr. THOMAS. That is exactly what we are seeking to do, and that is what price transparency will help eliminate. I could not agree more.

Also, there has been a good deal of discussion about CAFE standards. Obviously, that has to do with conservation. It has to do with being more efficient in our use of fuel. We will be talking about CAFE standards. In fact, there will be a number of different amendments offered on CAFE standards. We look forward to those amendments. We spent a good deal of time last year discussing three amendments, and, as a consequence, we should be able to discuss and dispose of these amendments more easily this year because we have already been through the debate.

The Senate has already adopted an amendment by Senator LANDRIEU that will require the President to develop a plan to reduce domestic petroleum consumption by 1 million barrels a day by 2013. A major reduction in oil consumption most likely will be achieved through reduction in the use of transportation fuels. As a result, the Landrieu amendment probably will focus on measuring fuel economy. That amendment may take the place of other amendments that will be offered.

I think we will support an amendment offered by Senators Bond and Levin. Under that amendment, standards will be based on sound science and solid technical data. It is one thing to say, Gee, we would like to have increased mileage; we would like to make 40, 50 miles on SUVs, but the idea of using sound science and technical data is something we have to consider.

This amendment we will support mandates the experts to set new CAFE numbers considering jobs, safety, technology, and other factors because there are factors that go into what we can do, what will be available to consumers, what will be possible in the marketplace. This amendment we will support has a commonsense approach which will not adversely affect employment, safety, and consumer choice.

The Bond-Levin amendment is supported by the National Chamber of Commerce, AFL–CIO, National Manufacturers Association, and the National Farm Bureau, and 30 other organizations. It is combined with tax incentives for advanced vehicle technologies. That provision, obviously, has to be in the bill. That is in the finance package.

The amendment offers a sensible way to achieve fuel efficiency and reduce dependency on foreign oil. It does it in a way that will not hurt the economy, increase the cost of vehicles to consumers, or endanger lives by reducing the safety aspects.

By comparison, there is another amendment that will increase the cost of new cars, trucks, and SUVs by as much as $1,200, according to the Energy Information Administration. It would limit consumer choice by forcing automakers to produce smaller vehicles that do not meet the consumers' needs; it will lead to the loss of hundreds of thousands of jobs of hard-working Americans; reduce economic growth by as much as $107 billion over 20 years and have adverse impacts.

Again, we are faced with finding a goal we want to achieve and a sensible, legitimate way to reach that goal. We will continue talking about that issue.

We will be looking at new fuels, such as hydrogen. As I said before, the President has already in his budget a tremendous amount of money for that kind of research. We will be looking for the opportunity to make sure there are positive opportunities to review how sales of energy are being made so that what happened in California will not happen again.

We will be looking at ways to conserve energy, such as CAFE standards, without impeding the safety and the marketability of vehicles. So these are all things that go there. We are ready to talk about them. We have some plans to accommodate them and to achieve them, but, quite frankly, in order to do that, we have to get at it, get our amendments in, and take away some of the objections to moving forward so that we are not caught up in another sort of quiet filibuster.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. I ask unanimous consent to speak in morning business for 5 minutes.

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

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

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

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

Mr. THOMAS. I think, while we are waiting, I would like to review again some of the general concepts that are in the bill. We have talked some, of course, and will continue all week, to talk about energy. That is what we are focused on. Unfortunately, we seem to be held up moving forward. However, that is not always a new thing on Mondays.

I would like to briefly comment on what we hope will be the pending amendment, the electric title, but there is much more to the bill than that, of course. I would like to comment on what I think generally are the titles and the highlights of the Energy bill.

Title I is on oil and gas. It does a lot. No. 1, it permanently authorizes this strategic petroleum reserve, the reserve held by the Government in case there are crises. This will permanently authorize that strategic reserve.

It provides for production incentives for marginal wells. We find in Wyoming, where we have had oil production for a good many years, when marginal wells get down to having low production they become uneconomic to produce. Yet the accumulation of all the production from small producing wells is substantial. This provides for incentives to encourage continued production—done mostly by taxes.

Royalty relief for deepwater production, that is exactly the same kind of thing. They can be in the gulf, for example. They are sometimes more expensive, but a great opportunity for more energy production. That is part of it as well, incentives for those kinds of wells.

Streamlining permitting is also something that is very important. We have a great opportunity, particularly in the West, to produce more oil and gas. We have people willing to do that. One of the problems right now in the Powder River Basin of Wyoming, where they are having a substantial amount of production on coal bed methane, which is a new process, it is taking an excessive amount of time to get permitting to do that. Therefore, the production has not gone on as it might. So there are efforts to streamline the permitting for critical energy corridors.

I have to also add it is not done to the detriment of the environment. The same rules are there. It is simply that it can be done by the agencies much more quickly than it has been in the past.

Another is the authorization for an Alaska natural gas pipeline. This would facilitate bringing 35 trillion cubic feet of gas to the lower States. There will be debate about how it is funded. Nevertheless, certainly over the long period of time a lot of the resources can come from there.

Title II deals with coal. I mentioned this morning, coal is our largest supply of fossil fuels. Of course, one of the difficulties has been making it a clean air proposition. We are certainly looking for more research to do that. We are looking for more clear air regulation that will allow for the production of electricity with coal without damaging the air—and there is a good deal of dollars. The bill authorizes $2 billion for the deployment of clean air technology.

There is a title on Indian energy. Many Indian reservations have substantial supplies of energy, coal, and gas and other supplies that have not been in production. Part of it is because of all the requirements they have had to go through, even more than on other Federal lands. They have to go through the BIA, as well as the Bureau of Land Management, as well as the State, and the result of that has been it has been higher cost to produce on reservations, so they have not produced. Therefore we have not had the production for all of us in the country and at the same time not had the economic assistance for the tribes, which is also very important.

Nuclear energy is involved here, the permanent reauthorization of Price-Anderson, a liability insurance system. There would not be any nuclear plants without that assistance. The fact is, there have not been new nuclear plants for a good long time, despite the fact that in Illinois, for example, I think 28 percent—a good percentage of the electricity is produced by nuclear plants. It is a clean air deal. It is the best thing you can do in order to produce electricity and take care of the air. But, of course, we are all a little skeptical of nuclear and what to do with the waste. But there should be and will be research as to how to better produce.

As we know, France, Norway, and the Scandinavian states do a great deal of nuclear production. They also have better means of taking care of nuclear wastes than we do here in the United States. So here is an opportunity to do that.

Title V involves renewable energy. Here again, we have already heard about some of it today. There is a great deal of interest in renewable energy, whether it be wind energy or Sun energy, other kinds—geothermal energy. All those things have great potential.

The fact is, production by renewables only amounts to about 3 percent of total production in the country at this time, so it is not a major element, but it has the potential to be, and therefore we need to be continuing to work to provide an opportunity to make that more efficient. We have a considerable amount of wind energy in Wyoming. We have a lot of wind. As a matter of fact, the first windmill that was put up in Medicine Bow, WY, was an experiment a number of years ago. It had a huge propeller, and it blew away before it was able to be effective. Now they have changed them. Some are even cylindrical pipes, and the wind goes in and around. Perhaps those will be better over time. We need more research on doing that.

Transportation, of course. We have already talked a great deal about CAFE standards. There will be more discussion about that. I don't think anyone is not agreeable to the idea that we ought to increase the standard of fuel consumption for automobiles, but we have to do it where the expectations of technology are such that you can do it, and it has to be in a way that does not impose excessive costs on everyone immediately. Again, that is a good one.

This bill authorizes $1.8 billion for the present hydrogen fuel cell initiative, to develop clean, renewable hydrogen power for cars. I don't think there is any doubt that we can do it. As a matter of fact, there are hydrogen cars now. But there are some basic problems that we have not yet resolved. How do you make hydrogen? From where do you get it? Someone on the floor this morning was talking about doing it in space vehicles. The cost for space vehicles is quite different from that for my Ford Explorer. I think it will have to go a long way before that analogy fits in the cars you and I want to use. The other real issue is distribution. Think how many gasoline stations there are around where we drive our cars. I suppose you are going to have to have something similar to that for hydrogen, if that is going to happen.

Will it happen? Sure. I think it is one of the things that will happen in the future. So that is here.

Research and development, of course, in general is here. There is a good deal of authorization and funding authority there. Again, it is the kind of thing we need to work on.

We have already talked this morning about the electric title, which is very important.

We have not yet considered but will consider soon the tax incentives. Here again is the effort we are making to increase domestic production. That will be a result of the incentives that we put into place through taxes. The same is true with alternative energy for vehicles and fuel incentives. This will be done by tax incentives. Conservation efficiency, clean coal, and all of those things are very important.

This is really a far-reaching bill. I think most people will agree with most aspects of it. If we can get it going and get it to the President soon, I think that is essential. I believe we are going to do some other things this afternoon, but I hope we continue moving back to energy. That is the challenge we have for this week. I hope we take full advantage of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The amazing clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

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

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1386

Mr. LEVIN. Madam President, I am speaking this afternoon in support of the pending Bond-Levin amendment relative to fuel efficiency in our automobiles and how we achieve that fuel efficiency.

Our amendment will increase fuel economy in automobiles. It will protect the environment. It will decrease our dependence on foreign oil. But it will do this in a way that will not harm the U.S. economy or put hard-working Americans out of work.

Our amendment achieves the goal of better fuel economy with greater reliance on positive incentives to advance leap-ahead technologies such as hybrids and fuel cells. That includes promoting these technologies with greater increases in joint research and development and Government purchases.

Our amendment requires the Department of Transportation to increase the CAFE standard. It is a mandate, but the key difference between our amendment and some of the alternatives is that our mandated increase will be left up to the Department of Transportation and will not be just an arbitrarily determined number on the part of the Senate.

Let me go through some of the goals and how we achieve those goals in the Bond-Levin amendment.

First, we need to improve fuel economy. We can, and we should, do it in a way that protects the environment, that diminishes our dependence on imported oil, and that allows the U.S. economy and our domestic manufacturing industry to thrive.

Those goals are not in conflict with each other. We can improve fuel economy, but we can do it in a way that does not harm domestic manufacturing and the U.S. economy if we do it right. And that is a big ''if.'' If we do it wrong, we could have a very negative effect on jobs and the American economy. And, as a matter of fact, if we do it wrong, we not only can damage the American economy, but we could see little improvement in the environment, given the way in which the current structure of fuel economy mandates is set up.

It is a discriminatory structure that has discriminated against domestics in ways that were probably unforeseen

when this structure was adopted 30 years or so ago, but nonetheless it has had that effect.

What we do is ensure that fuel economy will be improved. But we do not set an arbitrary standard. We require the agency that has the expertise and the experience to set an increased fuel economy standard for both trucks and for light vehicles.

This is not the place, on the Senate floor, to make a complex decision that should involve a whole host of factors: What is achievable technologically, what is the cost, what are the safety impacts, what are the impacts on American jobs, and a whole host of other factors that need to be considered before a new fuel economy standard is set. That should not just be seized out of the air arbitrarily and put into law on the Senate floor. That ought to be done by an agency that has the expertise and experience to do it, that looks at all of the factors that should go into the decision, and then does it in an usual, regulatory way with notice and comment.

The second part of our three-part policy is to increase funding for research, development, and demonstration of new, advanced, clean and fuel-efficient vehicles. We provide $50 million. We would authorize that in funds for the Department of Energy to develop advanced hybrid vehicles. And that would be a significant increase.

Hybrids run on both gasoline and electricity and are far more fuel efficient than conventional vehicles. We would provide an increase in funds for the Department of Energy to work collaboratively with industry to do some research and develop clean diesel technologies. It would be a significant increase in what is otherwise provided.

Because diesel engines are much more fuel efficient than gasoline engines, furthering clean diesel will help reduce gasoline consumption. And because diesel vehicles must meet very stringent emissions standards in the very near future, this will not be detrimental to the environment. Again, diesel vehicles are subject to the new clean air standards. These emissions standards must be met by diesels. If we can advance clean diesel technology, we will be saving gasoline because they are more fuel efficient than gasoline.

The third part of our policy harnesses the purchasing power of the Federal Government. In order to try to get the vehicles we are talking about—including hybrids and fuel cell vehicles—commercially adopted onto the roads, we have to use the purchasing power of the Federal Government. So we would require the Federal Government, when it is purchasing vehicles, to purchase hybrid trucks for its fleets of light trucks that are otherwise not covered by the Energy Policy Act.

Using hybrid trucks in Federal fleets will improve the fuel efficiency of the Federal fleet because hybrids are far more fuel efficient than conventional gasoline vehicles. And, at the same time, we would be creating a significant and reliable market for hybrid trucks. This is not buying vehicles that are otherwise not needed. This would be a requirement to purchase vehicles that the Federal Government is buying but to require that we buy the hybrids so we can help create the market that is so essential for the auto industry in order to have confidence that the vehicles will be purchased when they produce them.

In a related amendment, not part of the Bond-Levin amendment—I will be offering an amendment to the energy tax amendment which will come from the Finance Committee—we will be providing tax incentives to help advance the purchase of clean vehicles and clean fuel.

Our tax amendment—again, this is not part of Bond-Levin; it will be offered as an amendment to what is offered by the Finance Committee—would increase the tax credit available to consumers who purchase hybrid vehicles and provide a new tax credit for fuel-efficient lean-burn vehicles, to help push these vehicles into the marketplace. We would also extend the period of time for tax incentives for fuel cell vehicles for 3 additional years, from 2011 to 2014.

We would also provide tax credits for consumers who buy heavy-duty diesel vehicles that are significantly cleaner than what is required by law.

Finally, we would provide producers with tax credits for purchasing ultra-low-sulfur diesel fuel which the next generation of diesel vehicles would need to meet the upcoming round of extremely low emission standards.

I want to spend a few more minutes discussing the fuel economy part of our amendment. Clearly, we all want to improve fuel economy. That is a goal all of us share. But how we increase it is absolutely critical. Our amendment increases it by requiring the Department of Transportation to increase CAFE. However, rather than setting an arbitrary number for fuel economy on the floor of the Senate, we require the National Highway Traffic Safety Administration, NHTSA, to conduct a rulemaking process to increase fuel efficiency. The resulting rules will apply to both passenger cars and light trucks. Pickup trucks, minivans, and SUVs are included in the definition of light trucks.

But rather than legislating an arbitrary number, what the Bond-Levin amendment does is to tell NHTSA—the agency designed to do this—to rationally take into account a number of important considerations when setting a new standard: safety; consumer choice; the need for oil independence; the need for fuel savings; any unfair or competitive disadvantage that is created or continued by use of the CAFE system; impact on jobs; and a number of other factors. If NHTSA fails to act in the required timeframe under our amendment, Congress can consider legislation under expedited procedures to mandate an increase in fuel economy standards.

If we fail to set fuel economy standards in a deliberate manner, if we just do it arbitrarily by adopting a number in the Senate floor, we create a further competitive disadvantage to domestic manufacturers.

From its inception, CAFE has given an unfair competitive advantage to foreign manufacturers, not because they have more fuel efficient technologies; they do not. I emphasize that because there are folks who do believe that foreign cars are more fuel efficient than domestic cars. In the same category of cars, the same weight classifications, they are not. American-made cars are at least comparable in terms of fuel efficiency, and in many cases they have superior fuel efficiency to foreign-made models in that same weight class, the ones with which they compete.

It is because foreign manufacturers have historically focused more on smaller cars and smaller trucks than American manufacturers that they have that advantage. It is not because their vehicles are more technologically advanced or more fuel efficient in the same weight class. The reason this has worked this way is that the CAFE system, when it was designed, gave an advantage to manufacturers by looking at the entire fleet of cars rather than dividing the fleet into comparable size vehicles or comparable weight vehicles. Any automaker that built primarily small cars found it easy to meet the CAFE standard, while the manufacturers that built the full line of cars, including five-and six-passenger cars that American families have traditionally bought, found it much more difficult to meet the fleet average requirement of CAFE. So the fleet average does not reflect the efficiency of comparably sized vehicles.

In looking at the fleets as a whole, there is a built-in bias against domestic manufacturers although, again, domestically built vehicles are at least equally fuel efficient, pound for pound, in the same weight classification, as are the imported vehicles.

Foreign car manufacturers have been able to expand their production of larger cars and pickup trucks, minivans, and SUVs under the fleet average methodology that is called CAFE.

CAFE did not constrain them. The historic focus of those manufacturers on small vehicles gave them the headroom to sell large numbers of larger vehicles while still meeting the CAFE requirements for the fleet average; again, not because they are more fuel efficient.

So CAFE has had an unfair discriminatory impact against U.S. jobs because of how it was designed. I hope that was an inadvertent design and not an intended consequence when CAFE was designed many decades ago, but it has been the consequence. It is utterly amazing that we would tolerate the continuation, much less the expansion, of that consequence without considering the impact of all the factors that go into CAFE.

The proposals that have been supported by some in the Senate to provide an arbitrary increase in CAFE standards do not solve the problem of unfair competitive disadvantage. Instead, that arbitrary selection of a number would make it worse. Manufacturers who have traditionally produced smaller vehicles would have considerably less difficulty meeting the new standards than domestic manufacturers would.

The National Academy of Sciences recognizes this in its 2001 report. In talking about the current CAFE system, the National Academy of Sciences said the following:

> . . . one concept of equity among manufacturers requires equal treatment of equivalent vehicles made by different manufacturers. The current CAFE standards fail this test.

The National Academy went on to say the following:

> A policy decision to simply increase the standard for light-duty trucks to the same level as for passenger cars would operate in this inequitable manner. . . .those manufacturers whose production was concentrated in light-duty trucks [that is SUVs, minivans, and pickups] would be financially penalized relative to those manufacturers whose production was concentrated in cars.

Well, domestic manufacturers have a high concentration in light truck production, and they will be unfairly disadvantaged by this approach. Yet that is the approach advocated by some of our colleagues.

The competitive disadvantage of increased CAFE standards on domestic manufacturers is an important factor, but it is ignored in CAFE amendments that just set arbitrary standards. This competitive disadvantage for domestic manufacturers is not some abstract issue, this is an American jobs issue.

It is difficult to overestimate the importance of the automotive sector to the American economy. The automotive manufacturing sector alone is directly responsible for over 2 million jobs, and there are about 10 million people who are employed in fields directly related to motor vehicles.

Advocates of setting an arbitrary higher CAFE standard assert that the economic impact of CAFE will be minimal.

They claim that lost auto industry jobs will be offset by jobs created elsewhere. If they are wrong—and I believe they are—the potential negative impacts are massive.

According to the National Academy of Sciences report on the impacts of the CAFE program, union membership has fallen from 1.4 million members in 1980 to only 670,000 by the year 2000. U.S. automakers are losing jobs and market share partly due to the arbitrary CAFE program. In the last 20 years, this hemorrhaging of over 700,000 U.S. jobs was countered by the creation of only 35,000 jobs in assembly plants built in the United States by foreign-owned manufacturers. That is a National Academy of Sciences finding from their report.

Over the last 4 years alone, the big three have lost 34,000 jobs.

That is an 11-percent loss of jobs in just 4 years. There is a better way than just an arbitrary increase by the Senate in the CAFE number. We can achieve our shared goals of decreasing our dependence on foreign oil and reducing carbon dioxide emissions by developing innovative, new technologies that will, hopefully, ultimately eliminate or significantly reduce the use of fossil fuels that create those emissions.

Our approach, the Bond-Levin amendment, and a separate tax amendment that will be offered, would require an increase in fuel economy by NHTSA but require consideration of all the factors relevant to any increase and not simply derive an arbitrary figure on the floor of the Senate. We would ramp up public-private cooperative investment in research and development of advanced vehicle technologies. We will use the purchasing power of Government to speed up the commercial production of these technologies. And, again, in a separate amendment, we would use tax credits to provide powerful incentives for the purchase of advanced clean technology vehicles.

I have been a supporter for a long time of developing fuel cell vehicles. The Administration's FreedomCAR and FreedomFuel programs are a good step but they are not sufficient to move us forward quickly to a hydrogen future. So we offered an amendment in last year's Energy bill that pushed the development of hydrogen vehicles and infrastructure.

This year, provisions such as these are already incorporated in the underlying bill. The amendment that will be offered separately to the tax section of the bill would extend the fuel cell vehicle credits provided in the finance package from 2011 to 2014.

We must lay the groundwork for the development of a hydrogen future. We also need to focus on the immediate future and provide incentives for efficient hybrid vehicles and clean diesel vehicles. Hybrid vehicles, which draw power from both electric motor and an internal combustion engine, can be up to 100 percent more efficient than conventional vehicles. Clean diesel vehicles, which new regulations make just as clean vehicles running on gasoline, also provide important efficiency gains that are important, especially in light and heavy-duty trucks.

The Department of Energy has calculated that if diesel were used in only 30 percent of potential light truck applications by the year 2020, it would reduce U.S. crude oil imports by 700,000 barrels per day. Clean diesel increases fuel economy by 20 to 40 percent and decreases current engines' carbon dioxide emissions by that same percentage.

We must put the pieces in place today that will lead to revolutionary breakthroughs in automotive technology tomorrow. If we take this approach, we will do far more to make this Nation less dependent on foreign oil and far more to reduce our emissions of greenhouse gases than we will ever accomplish with increased CAFE standards. The incremental gains are so costly to achieve and but use the resources that otherwise would be used for leap-ahead technologies that would achieve so much more.

Currently, auto companies around the world are working on longer term, breakthrough technologies that will provide potentially dramatic increases in vehicle fuel economy. This research work—on projects such as fuel cells, advanced batteries, and hybrid technologies—requires substantial resources.

These resources should be invested in leap-ahead technologies. The more we spend on the very marginal increases in technology, which would be at great cost required, we are going to be misusing the resources this Nation should be placing on the leap-ahead technologies.

Technology changes require very long times to be introduced into the manufacturer's product lines. Any policy that is implemented too quickly and too aggressively has the potential to adversely affect manufacturers, their suppliers, their employees, and consumers. If the automakers are required to focus so much on dramatic near-term improvements in vehicle fuel economy, resources will have to be diverted from those promising longer term projects and from providing the amenities desired by American families.

The Bond-Levin approach preserves the appropriate balance between development of near-term technologies for fuel economy improvement and the development of promising longer term projects. We use greater incentives; we use partnerships; we rely less and less on these arbitrary mandates. Where a mandate is appropriate, the agency with expertise, the agency with experience, the agency that would use all of the relevant factors in the determination of that new mandate would be the one that would be given the responsibility to increase those fuel standards. That is our approach. It is a positive approach toward greater energy efficiency, and it does so in a way which does not cost jobs—important jobs, manufacturing jobs in this country.

AMENDMENT NO. 1386, AS MODIFIED

Mr. LEVIN. Mr. President, I send a technical modification to the Bond-Levin amendment to the desk, and I ask unanimous consent that the amendment be modified.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment (No. 1386), as modified, is as follows:

On page 264, after line 21, add the following:

SEC. 716. PROVISION NOT TO TAKE EFFECT.

Section 711 shall not take effect.

SEC. 717. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

''(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

''(1) Technological feasibility.

''(2) Economic practicability.

''(3) The effect of other motor vehicle standards of the Government on fuel economy.

''(4) The need of the United States to conserve energy.

''(5) The desirability of reducing United States dependence on imported oil.

''(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

''(7) The effects of increased fuel economy on air quality.

''(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

''(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

''(10) The cost and lead time necessary for the introduction of the necessary new technologies.

''(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

''(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

''(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.''.

SEC. 718. INCREASED FUEL ECONOMY STANDARDS.

(a) NEW REGULATIONS REQUIRED.—

(1) NON-PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for non-passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the non-passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section. The new regulations under this paragraph shall apply for model years after the 2007 model year, subject to subsection (b).

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than April 1, 2006.

(2) PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than 2½ years after the date of the enactment of this Act.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ''or such other number as the Secretary prescribes under subsection (c)''.

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2004 through 2008 for carrying out this section and for administering the regulations issued pursuant to this section.

SEC. 719. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 718, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: ''A bill to establish new average fuel economy standards for certain motor vehicles.''.

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

''That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

'''(__) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.''', the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:

''That, section 32902(b) of title 49, United States Code, is amended to read as follows:

'''(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.''', the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed under this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

Subtitle C—Advanced Clean Vehicles

SEC. 731. HYBRID VEHICLES RESEARCH AND DEVELOPMENT.

(a) RECHARGEABLE ENERGY STORAGE SYSTEMS AND OTHER TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount $50,000,000 for research and development activities under this section.

SEC. 732. DIESEL FUELED VEHICLES RESEARCH AND DEVELOPMENT.

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOALS.—The Secretary shall carry out subsection (a) with a view to achieving the following goals:

(1) COMPLIANCE WITH CERTAIN EMISSION STANDARDS BY 2010.—Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) TIER-2 EMISSION STANDARDS.—The tier 2 emission standards.

(B) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The heavy-duty emission standards of 2007.

(2) POST-2010 HIGHLY EFFICIENT TECHNOLOGIES.—Developing the next generation of low emissions, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2004, 2005, and 2006 in the amount of $75,000,000 for research and development of advanced combustion engines and advanced fuels.

SEC. 733. PROCUREMENT OF ALTERNATIVE FUELED PASSENGER AUTOMOBILES.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only alternative fueled vehicles are procured by or for each agency fleet of passenger automobiles that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(b) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of alternative fueled vehicles in subsection (a) to—

(1) the procurement for such agency of any vehicles described in subparagraphs (A) through (F) of section 303(b)(3) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(3)); or

(2) a procurement of vehicles for such agency if the procurement of alternative fueled vehicles cannot meet the requirements of the agency for vehicles due to insufficient availability of the alternative fuel used to power such vehicles.

(c) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of alternative fueled vehicles in fiscal year 2005 and subsequent fiscal years.

SEC. 734. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable nonhybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.

(b) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 735. DEFINITIONS.

In this subtitle:

(1) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' means—

(A) an alternative fueled vehicle, as defined in section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3));

(B) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) biodiesel, as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(C) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) bioderived hydrocarbons (including aliphatic compounds) produced from agricultural and animal waste.

(2) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The term ''heavy-duty emission standards of 2007'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

(3) HYBRID VEHICLE.—The term ''hybrid vehicle'' means—

(A) a motor vehicle that draws propulsion energy from on board sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) MOTOR VEHICLE.—The term ''motor vehicle'' means any vehicle that is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and that has at least four wheels.

(5) TIER 2 EMISSION STANDARDS DEFINED.—The term ''tier 2 emission standards'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under section 202 of the Clean Air Act (42 U.S.C. 7521) to apply to passenger automobiles, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

(6) TERMS DEFINED IN EPA REGULATIONS.—The terms ''passenger automobile'' and ''light truck'' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

Mr. LEVIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask unanimous consent that following the remarks by the distinguished Senator from Idaho, I be allowed to speak as in morning business for such time as I may consume.

The PRESIDING OFFICER (Mr. SUNUNU). Is there objection?

Without objection, it is so ordered.

The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank the Senator for his comments on the Levin-Bond, Bond-Levin amendment, which is critical to a clarification and establishment of the CAFE standards as we understand them and that fit the industry of our country—the automobile industry—and that effectively match up with where we want to take fleet averages and all of that over the course of time. It is certainly, in my opinion, a much more responsible approach than that which is being proposed by the Senator from Illinois, Mr. DURBIN.

I do believe the Durbin amendments on CAFE standards would have a devastating impact on the automobile industry. As the Senator from Michigan has said, new technologies introduced into the automobile transportation fleets of this country not only take time but cost a tremendous amount of money and, in the course of that, oftentimes change the whole character of industries. We need to be extremely careful about that.

For example, the Durbin amendment proposal calls for passenger cars and light truck CAFE standards to be set at 40 miles per gallon and 27.5 miles per gallon, respectively, by 2015. At the same time, minivans and other SUVs are shifted from a light truck fleet to a car fleet; vehicles up to 14,000 pounds are added to the regular fleet. It is a combination and a formula that, while I have spent a good deal of time over the years trying to understand, I am not at all confident I can effectively explain it for the record or for those who are advocating it or for those who are simply listening and trying to understand the importance of this debate.

We do have an alternative in the Bond-Levin approach, which I think balances out what we have said historically in CAFE standards that cause our industry, in a progressive fashion, to drive in the right direction, to do what is appropriate and necessary within the confines of not only building safe automobiles, safe transportation, but that which is increasingly efficient for the consuming public.

We are on S. 14, a comprehensive Energy bill for this country. The Senate has been working to pass a comprehensive Energy bill for 3 years. I find it fascinating that it is so impossible to do. We passed the Department of Homeland Security bill in 1 day. In 1 day of debate, the Senate took a very huge portion of Government and over 100,000 employees and changed their direction and future. We have already been on an Energy bill this year and in this session for several weeks. Yet we are being told we cannot get it done this week, with some 300 amendments offered.

Then when we suggested we would come in and start early and work late, the minority recommended that they would offer optimum flexibility, and

they have just denied us now in the last several hours the very flexibility they promised—that we could offer amendments, lay them aside, go to other amendments, debate those, lay them aside until the appropriate number were assembled, and then we could use the process of stacking and do so to bring about the votes that would expedite the time and effectively utilize the very limited time we have—the time that we think is extremely necessary and that we can, in fact, complete our work.

The Senate already this year, as I have mentioned, has considered an Energy bill for 12 days, and the bill before us is not some secret. It is not like the bill last year that was crafted in the office of then-Majority Leader DASCHLE and was brought to the floor and substituted several times in a way we did not know what it was made up of or where it was going until we saw it when it was before the Senate for consideration.

This bill was crafted in the committee. It was brought up in a normal fashion, it was voted out in a bipartisan fashion, and the only real unknown was the electrical title which was available by Friday of this past week to all who had not been involved in its crafting. My colleagues had the opportunity over the weekend to look at it.

We wanted to offer that electrical title amendment to the bill this afternoon so we could all see it, begin to understand it, debate it, and, if necessary, leave it before the Senate a day or so to be sure we could clearly deal with it in the appropriate fashion.

I hope that what happened several hours ago, denying us the ability to lay aside amendments and move to other amendments, does not become a pattern. If it does, then this Senator will come to the Chamber and talk about the good faith or the lack thereof, the desire or the lack thereof, in wanting to produce a national energy policy for our country. I wish to talk about the need of that policy now and into the future.

If one reads the St. Louis newspaper today, one will read about natural gas prices taking a Missouri farmer from $295 a ton for nitrogen fertilizer to as much as $430 a ton because of the runup in gas prices. If that is happening in Missouri, I darn well bet it is happening to my farmers in Idaho or the U.S. chemical companies closing plants and laying off workers and looking to expand their production overseas as a result of high gas prices. The Wall Street Journal said: The United States is expected to import approximately $9 billion more in chemicals this year than last year. Why? Because we are running the chemical industry out of our country because this Congress, this Senate, in 3 years has refused to produce a national energy policy for our country that, once again, not only recognizes that energy will be available but that it will be stable, that there will be a reliable supply at a predictable cost, and not one that goes from $3 a cubic thousand feet to $6, as we have seen gas spike in just the last several months, totally disallowing any industry that uses large volumes of natural gas any way of predicting or projecting costs of development, costs of refinement and, therefore, price to consumer in the market.

We cannot afford for this country to increasingly buy its chemicals overseas as we buy our crude oil from overseas. It will result in $9 billion more in the imbalance of our trade simply because Congress cannot function. The blame will lie at our feet because we have been 3 years trying to perfect a national energy policy for our country.

I oftentimes remember the first meeting I had with President-elect George W. Bush in the majority leader's office. He had been talking about a lot of issues for our country—education, Leave No Child Behind, a whole combination of issues. But that day he said: While all of these other issues are important, and we will get to them—and, of course, we all remember his high priority in the campaign about delivering tax cuts—what we have to do right now is develop a national energy policy. He said: I know of nothing more critical to our Nation and its future than doing just that.

As we know, the moment he was our President, he immediately appointed our Vice President to head up a task force to build a national energy policy strategy and, out of that strategy, to recommend to Congress changes in law and provisions we might undertake to build a strong, stable national energy base for our country.

Oh, my goodness, that was well over 2 years ago. They got their work done in less than 6 months, and yet we cannot get our work done here at a time when gas prices are spiking, at a time when the memories of the blackouts and brownouts in California are still very much alive in the minds of most citizens on the west coast who either lost their jobs or had their jobs damaged and which created less security.

I was in San Jose, CA, about a month ago talking to the high-tech community. Oh, they had a lot of priorities, but their first priority was energy, and they needed to know if there was going to be a stable supply of energy because if there was not, they knew they would have to move their production facilities to a location where that energy supply existed.

The Silicon Valley not the high-tech hub of the Western World? It is very feasible that could happen someday because the State of California and our country as a whole have not developed a national energy policy. If chemical companies move offshore because of the price of energy, high-tech can follow, and will follow, and shame on us as a people and shame on us as a Senate if we cannot produce a national energy policy and put it on the President's desk so that those fears can be laid aside and we produce a source of energy for our country that is highly stable and secure.

''Rising prices, combined with a cold winter, are adding an extra $500 to $700 per month to the gas bill of the Villa Pizza Restaurant in Hanford, CT.'' So speaks the Hanford newspaper.

''Eighty percent of our Nation's 35,000 laundromats have raised prices in the past year due to high natural gas prices.'' That is according to the Associated Press.

Mr. President, did you ever think your laundry bill was going to go up because the Congress of the United States could not act? It is happening, and that is exactly what the Associated Press is saying. Because of the gas that feeds the dryers at the laundromat, it now costs double what it cost a year ago. A couple more quarters need to go into the machine every time someone activates it.

We do not think about that at the time, but collectively, for the economy of our country, these kinds of implications in an energy policy, or absence thereof, are devastating in the broad sense.

Alan Greenspan, Chairman of the Federal Reserve, before the Energy Committee just a few weeks ago, was talking about the stability of an economy and the growth of an economy built upon the foundation of a stable supply of energy of all kinds for this Nation.

S. 14 is the most comprehensive national energy policy statement I believe the Senate has produced in my time in the Senate. It talks about production of all kinds of energy—from wind to solar, nuclear, hydro, coal, and gas. It talks about restructuring in the new electrical title to create greater uniformity and to create a national transmission system for wholesale electricity in this country, about which we ought to be talking.

It talks about conservation because while we are producing more energy for a growing economy, we ought to be using less energy per item of work, per unit of production. That is called conservation, and any one of us who has ever studied national energy policy in our country clearly recognizes the value and the importance of conserving while we produce more. We cannot conserve our way out, and we cannot conserve ourselves into a growing economy, but at the same time the balance and the greater efficiencies produced by conservation are critical as we combine them with new and increased production.

S. 14 is clearly written in the backdrop and the understanding that the American people want clean sources of energy, that our environment is critical and important, that we want to be able to work, we want to be able to produce jobs, and we want to be able to do so in a clean environment.

America's environmental ethic is profound today and S. 14 clearly reflects the importance of that. It clearly

reflects the importance of producing new energy sources and old energy sources made cleaner, and all of that being strong and important as it relates to new jobs.

Let's talk about jobs for a moment. I am very pleased we passed new tax laws. I am very pleased those new tax incentives and rewards are hitting the marketplace at this moment and the consumer's and investor's pocket. I believe out of that, new jobs will be created and possibly there will be a bit more consumer spending.

That child tax credit check that is hitting America's homes, I see Home Depot has picked up on it. They are saying, come out and spend your money and build a better home, make an addition, do some remodeling, and we will help you do it. That is called the free enterprise system at work, and that will generate jobs.

If we want to talk about a jobs bill, then pass S. 14. Pass a bill that will bring natural gas out of Alaska through Canada and into the lower 48. There will be hundreds of thousands of new jobs that will be created for the construction of that pipeline—not only those who will manufacture the pipe, but those who will clear the right-of-way and build the foundation and create the connectivity that will be combined to bring that gas to the lower 48, and of course, all of the other kinds of jobs, exploration, development and the new technologies.

The Senator from Michigan was talking about fuel cells a few moments ago. I was up in his State. I was at the Ford Laboratories at Dearborn a couple of years ago and drove a new hydrogen fuel-celled car. I hope that in my senior years I can buy a hydrogen fuel-celled car; its only pollution is a drop of water being emitted out the tailpipe of the car. I hope that is a form of new transportation for the future. If it is, it will create hundreds of thousands of new jobs; not just in crafting the car but in producing the hydrogen, in supplying the hydrogen, in building the refuel stations and the combination of things that go along with building a new energy source for a transportation fleet for our country.

That is what this bill is all about. Why is there so much resistance to it? Why some 300-plus amendments? I have looked at many of them, and from what I could see there are 25 or 30 amendments within that 300 that are legitimate, that have reasonable concern. I believe there are at least 200 of them that are there for a political statement or for blocking purposes.

The other side argues that we just cannot get our work done, that we need weeks more to deal with something we have already spent 12 days on, that we have already spent 3 years on. Why do we need 3 weeks more? Why can we not begin to work at 9 tomorrow morning and work until 8 tomorrow night and everybody come to the floor and, in a timely way, debate amendments, vote them up or down, move to table them, move ourselves through this issue, and offer to the American people a comprehensive national energy policy that can make it to the President's desk, that can become law, that begins to put the kind of effort together to produce the nearly 400,000-plus jobs that are available inside this bill spread over a decade of development and growth of the kind reflective in S. 14?

How many of us got up this morning and simply walked over and flipped on the light switch and the lights came on? And how many mornings in one's life have they done that and the lights came on? Why, they come on every morning. We expect them to. We Americans have grown to believe that our energy is always there and always around us, and we take it for granted.

My wife and I flew back from Idaho yesterday. With my wife and I sitting on that jet airliner, it consumed hundreds of gallons of jet fuel just to get us from Idaho to Washington, DC. We took it for granted. Thousands of other Americans were doing the same thing yesterday. They do it every day of the week. They go to the airport. They get on an airplane. Thousands of gallons of jet fuel later, they arrive at their destination and they take it all for granted.

Somebody had to find it. Somebody had to transport it. Somebody had to refine it and somebody had to put it in the airplane. It is all energy.

Our great country is as rich as it is today, and our people are as fortunate as they are, in large part because we have always been able to look 10, 15, and 20 years down the road and build the infrastructure and do the research and do the exploration that brought on continual flows of abundant, reasonably priced energy. It has only been in the last two decades that we stopped producing, but we kept on consuming, and gas prices began to go through the roof. Brownouts and blackouts began to occur because we were not allowed to look into the future and say: Here is where we are going and here is what we are going to produce.

That is what S. 14 does. That is why it is so critical to our country at this moment in time that we become less dependent on foreign sources, more dependent on ourselves and our own production, our own initiative, our own capability, and we do so with conservation, with production, and that we are environmentally sensitive when we do it. That is all embodied in S. 14.

Why are we going to let this languish when we need to be passing it and getting it to the President's desk? One more year? Two more years? Let gas prices to the average consumer go up $200 or $300 a month and just say that is okay when we know that through increased exploration and development that does not have to happen?

So I challenge my colleagues over the course of the week that is at hand that we start tonight and we work through Tuesday, Wednesday, Thursday and, as our leader said, Friday and Saturday and beyond if necessary, and let's get our work done for the American people, let's amend, let's pass S. 14, a national energy policy, and get ourselves to conference with the House to make this issue happen.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I understand there is a unanimous consent that I be recognized for such time as I shall consume.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. I say to the Senator from the great State of Idaho how accurate he is. If there is anything he overlooked, it was in addition to our having electricity, power, and energy in the country, it is also the No. 1 national security issue.

I can remember, as can the Senator from Idaho, way back in the Reagan administration when we were about 37 percent dependent on foreign countries for our ability to fight a war, and we still did not have an energy policy. As did the Senator from Idaho, I talked to President Bush, then-Governor Bush, before he ran, and he committed himself to an energy policy. It is absolutely essential. I agree we should stay whatever time it takes to get it done.

SCIENCE OF CLIMATE CHANGE

Mr. INHOFE. Mr. President, the comments made by the Senator from Idaho are such a good prelude to work into what I am about to say. I am chairman of the Environment and Public Works Committee, and in this capacity I have a responsibility because the decisions the committee will reach impact and influence the health and security of America.

What I am about to do—and it is for this reason that I am doing something that is politically stupid—I am going to expose the most powerful, most highly financed lobby in Washington, the far left environmental extremists.

The Senator from Idaho talked about the fact that we have to have electricity. Right now, we are dependent upon fossil fuels for 52 percent of our electricity in America. There are people trying to get us to do away with that. If that should happen, I think he has articulated very well what would happen to America if all of a sudden we had to go to natural gas. Already we are seeing some companies moving to Europe and other places because they are thinking that maybe we will buy on to this hoax that will stop us from being able to have fossil fuels. That is why when I became chairman of the committee, I established three guiding principles for that committee.

No. 1, we are going to make our decisions not on a political agenda but on sound science. No. 2, we are going to have a cost-benefit analysis. At least let the American people know what types of costs are involved in some of

these regulations that do not make any sense. No. 3, to change the attitude, an attitudinal change on the various bureaucracies, so they will be there not to rule the people but to serve the people. Without these principles we cannot make effective public policy decisions. They are necessary to both improve the environment and encourage economic growth and prosperity.

To the average person hearing, all you want is sound science, that sounds perfectly normal. Why would we not want sound science? Why predicate decisions on something that has nothing to do with sound science? But leftwing environmental communities insist sound science is outrageous. For them a pro-environment policy can only mean top-down command-and-control rules dictated by bureaucrats; science is irrelevant, instead for extremists. Politics and power are the motivating forces for making public policy. Sadly, that is true in the current debate over many environmental issues. Too often, emotions stoked by irresponsible rhetoric rather than facts based on objective science shape the contours of environmental policy.

A rather telling example arose during President Bush's first days in office when emotionalism overwhelmed science in the debate over arsenic standards in drinking water. Environmentalist groups, including the Sierra Club and the Natural Resources Defense Council, vilified President Bush for poisoning children because he questioned the scientific bases of the arsenic regulation implemented in the final days of the Clinton administration. The debate featured television ads financed by environmental extremist groups with children asking for another glass of arsenic-laced water. The science underlying the standard, which was flimsy, was hardly mentioned or held up to any scrutiny. In other words, millions of dollars were spent to make people think President Bush wanted to kill children. This is the kind of extremism we are facing on a daily basis.

The Senate went through a similar exercise we all remember in 1992. I was serving in the other body, but I was here during debate. That year some Members seized on data from NASA suggesting that an ozone hole was developing in the Northern Hemisphere. The Senate then rushed into panic mode, ramming through by a vote of 96–0 an accelerated ban on certain chlorofluorocarbon refrigerants. Only 2 weeks later NASA produced new data showing that their initial finding was a gross exaggeration and the ozone hole never appeared.

The issue of catastrophic global warming, which I will speak about today, fits perfectly this mode. Much of the debate over global warming is predicated on fear rather than science. Global-warming alarmists see a future plagued by catastrophic flooding, war, terrorism, economic dislocations, drought, crop failures, mosquito-borne diseases, and harsh weather, all caused by manmade greenhouse gas emissions. Hans Blix, the guy who could not find anything with both hands, chief of the U.S. weapons inspectors, sounded both ridiculous and alarmist when he said in March: I am more worried about global warming than I am of any major military conflict.

It is no wonder he could not find any weapons of mass destruction.

Science writer David Appell, who has written for such publications as the Scientist News and Scientific American, parroted Blix when he said global warming would ''threaten fundamental food and water resources, it would lead to displacement of billions of people in huge waves of revenues, spawn terrorism, topple governments, spread disease across the globe.''

Appell's next point deserves special emphasis because it demonstrates the sheer lunacy of the environmental extremists. He said global warming would be chaos by any measure, far greater even than the sum total of chaos of the global wars of the 20th century, and so in this sense, Blix is right to be concerned.

Sounds like a weapon of mass destruction to me. And that is what we are hearing.

No wonder the late political scientist Aaron Wildavsky called global warming alarmism the mother of all environmental scares.

Appel and Blix sound very much like those who warned us in the 1970s that the planet was headed for a catastrophic global cooling.

On April 28, 1975, Newsweek printed the article ''The Cooling World'' in which the magazine warned:

> There are ominous signs that the earth's weather patterns have begun to change dramatically and that these changes may portend a drastic decline in food protection—with serious political implications for just about every nation on earth.

Wait, these are the same guys who talk about global warming today.

In a similar form, Time Magazine, June 24, 1974, declared ''Another Ice Age.''

> However widely the weather varies from place to place and time to time, when meteorologists take an average of temperatures around the globe, they find that the atmosphere has been growing gradually cooler for the past 3 decades.

Then we had the Science News article that talks of the same thing, and an article from Science Digest titled ''Earth's Cooling Climate.''

> Decline in temperatures since 1940 raises question of man's role.

In 1974, the National Science Board, the governing body of the National Science Foundation, stated: During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade.

Two years earlier, the board had observed

> judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age.

That was the same timeframe that the global-warming alarmists are concerned about global warming. How quickly things change. Fear of the coming ice age is old hat, but fear that manmade greenhouse gases are causing temperatures to rise to harmful levels is in vogue now. That is popular. Go in any establishment in Washington and the liberals are talking about global warming. They do not care about what is happening with other countries and the weapons of mass destruction. They are concerned about global warming. That is the in thing to talk about.

Alarmists brazenly assert that this phenomenon is fact and the science of climate change is settled. In fact, it is far from settled. Indeed, it is seriously disputed.

I ask unanimous consent to have printed at the end of my remarks a July 8th editorial of this year by former Carter administration Energy Secretary James Schlesinger on the science of climate change.

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

(See exhibit 1)

Mr. INHOFE. Dr. Schlesinger takes issue with alarmists who assert there is a scientific consensus supporting their views. He says, ''There is an idea among the public that 'the science is settled.' That remains far from the truth.''

Keep in mind, this is not someone from a Republican administration.

I refer to a chart demonstrating this is not really a partisan issue. There is no one more knowledgeable on energy than the former Secretary of Energy under the Carter administration. He has been saying there is scientific disagreement over global warming. It is controversial.

But anyone who pays even cursory attention to the issue understands that scientists vigorously disagree over whether human activities are responsible for global warming or whether those activities will precipitate national disasters. Only the scaremongers agree. I submit, furthermore, that not only is there a debate but the debate is shifting away from those who subscribe to global-warming alarmism.

After studying the issue over the last several years, I believe the balance of the evidence offers strong proof that natural variability, not manmade, is the overwhelming factor influencing climate, and that manmade gases are virtually irrelevant.

It is also important to question whether global warming is even a problem for human existence. Thus far, no one has seriously demonstrated any scientific proof that increased global temperatures would lead to the catastrophic predictions by alarmists. In fact, it appears just the opposite is true, that increases in global temperature have a beneficial effect on how we live our lives.

For these reasons, I will discuss an important body of scientific evidence and research that refutes the anthropogenic—which means manmade—theory

of catastrophic global warmings. I believe this research offers compelling proof that human activities have little or no impact on climate. This research, well documented in scientific literature, directly challenges the environment world view of the media, so they typically do not receive proper attention and discussion.

Certainly, members of the media would rather level personal attacks on scientists who question ''accepted'' global warming theories than engage on the science. So you have two groups at work here: The environmental extremists doling out to you the lies and the money to politicians and the liberal media that nests with them. This is an unfortunate artifact of the debate, a relentless increase in personal attacks on certain members of the scientific community who question so-called conventional wisdom.

I believe it is extremely important for the future of this country that the facts and the science get a fair hearing. Without proper knowledge and understanding, alarmists will scare the country into enacting its ultimate goal: Making energy suppression in the form of harmful mandatory restrictions on carbon dioxide and other greenhouse emissions the official policy of the United States of America.

Such a policy would induce serious economic harm, especially for the low-income and minority populations. Energy suppression, as official Government and nonpartisan private analyses have amply confirmed, means higher prices for food, higher prices for medical care, and higher prices for electricity, as well as massive job losses and drastic reductions in gross domestic product, all the while providing virtually no environmental benefit. In other words, it is a raw deal for the American people but especially the poor.

In a minute we are going to shift to the Kyoto Treaty. The issue of global warming garnered significant international attention through the Kyoto Treaty, which requires signatories to reduce their greenhouse gas emissions by considerable amounts below the 1990 levels. The Clinton administration, led by former Vice President Al Gore, signed the Kyoto Treaty on November 12, 1998, but never submitted it to the Senate for ratification. Let's remember what our Constitution says: If we want to join a treaty, the President takes the lead and then he submits it to be ratified by the U.S. Senate. It has never been submitted to us.

The treaty explicitly acknowledges as true that manmade emissions, principally from the use of fossil fuels, are causing global temperatures to rise, eventually to catastrophic levels. Kyoto enthusiasts believe if we dramatically cut back or even eliminate the use of fossil fuels, the climate system will respond by sending global temperatures back to normal levels—whatever normal levels would be.

In 1997, the Senate sent a powerful message that Kyoto was not acceptable. In this resolution that was passed, called the Byrd-Hagel resolution, they said it is the sense of the Senate—this is very significant—that:

> The United States should not be a signatory to any protocol to, or other agreement regarding, the United Nations framework convention on climate change of 1992, at negotiations in Kyoto in December of 1997, or thereafter, which would—

Would do what? No. 1:

> mandate new commitments to limit or reduce greenhouse gas emissions for the Annex 1 parties, unless the protocol or other agreement also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for developing country parties within the same compliance period.

What they are saying, and what we voted on here right in this room, in this body, is that we are not going to ratify anything that does not impose the same regulations on developing countries as it does developed nations.

And second:

> that it would result in serious harm to the economy of the United States.

Obviously, that is very significant at this time. The treaty would have required the United States to reduce its emissions 31 percent below the level otherwise predicted for 2010. Put another way, the United States would have had to cut 552 million metric tons of CO_2 per year by the year 2008 through 2012.

As the Business Roundtable pointed out:

> [That target is] the equivalent of having to eliminate all current emissions from either the United States transportation sector—

That is everything that is moving out there in transportation—

> or the utilities sector, [that would be] residential and commercial, or industry.

In other words, you have to eliminate everything in order to reach that.

The most widely cited and definitive study came from Wharton Econometric Forecasting Associates. According to Wharton Econometric Forecasting Associates' economists, Kyoto would cost 2.4 million U.S. jobs and reduce GDP by 3.2 percent, or about $300 billion annually, an amount greater than the total expenditure on primary and secondary education in America. Certainly that would result in the serious harm to the economy of the United States that was voted on by this body without one dissenting vote.

Because of Kyoto, American consumers would face higher food, medical, and housing costs. For food, an increase of 11 percent; for medicine, an increase of 14 percent; and for housing, an increase of 7 percent. At the same time, an average household of four would see its real income drop by $2,700 in 2010, and each year thereafter.

Under Kyoto, energy and electricity prices would nearly double and the gasoline prices would go up an additional 65 cents a gallon.

I hope somebody is listening out there.

Some of the environmental community have dismissed the Wharton report as a tainted product. I point them to the 1998 analysis of the Clinton Energy Information Administration, the statistical arm of the Department of Energy, which largely confirmed Wharton's analysis. Keep in mind, all these disastrous results of Kyoto are predicted by the Wharton Econometric Forecasting Associates, a private consulting company founded by professors from the University of Pennsylvania's Wharton Business School.

This month the Congressional Budget Office provided further proof that Kyoto-like carbon regulatory schemes are regressive and harmful to economic growth and prosperity.

As the CBO—that is, the Congressional Budget Office—found:

> The price increases resulting from a carbon cap would be regressive—that is, they would place a greater burden on lower-income households than higher-income households.

As to the broader macroeconomic effects of the carbon cap and trade schemes, the CBO said:

> A cap-and-trade program for carbon emissions could impose significant costs on the economy in the form of welfare losses. Welfare losses are real costs to the economy in that they would not be recovered anywhere else in the form of higher income. Those losses would be borne by people in their role as shareholders, consumers and workers.

Some might respond that the Government can simply redistribute the wealth, redistribute the income, in a form of welfare programs to mitigate the impact, but the CBO found otherwise. The CBO said:

> The Government could use the allowance value to partly redistribute the costs of a carbon cap-and-trade program, but it could not cover these costs entirely. [And, further,] Available research indicates that providing compensation could actually raise the cost to the economy of a carbon cap.

That is what CBO said just this month.

Despite these facts, groups such as Greenpeace blindly assert that Kyoto ''will not impose significant costs'' and ''will not be an economic burden.''

Among the many questions this provokes, one may ask: Won't be a burden on whom exactly? Greenpeace doesn't elaborate. But according to a recent study by the Center for Energy and Economic Development sponsored by the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce, if the U.S. ratifies the Kyoto or passes domestic climate policies effectively implementing the treaty, the result would be to:

> disproportionately harm America's minority communities and place the economic advancement of millions of U.S. Blacks and Hispanics at risk.

This was the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce.

Among the study's key findings—and this is one that is very significant here, too, when we talk about unemployment rates—this line would be unemployment rates without Kyoto. It goes straight across. We can see it starting at about 10.5 percent, going across from the current time to 2012.

This line down here is the line for Hispanics. This is unemployment rates.

The study concluded, if we should have to comply with Kyoto regulations, it would go up, unemployment would go up at that particular rate and, for Hispanics, at this particular rate.

It also affects the poverty rates for Blacks and Hispanics. Again, for Blacks, the poverty rate, if you take this as a baseline and take it straight across from the year 2000 to 2012, this being a little over 26 percent, then you follow with Kyoto, look at what happens to the poverty rate—the same thing happening down here for Hispanics. In other words, it is discriminatory against these particular individuals.

Among the study's key findings—again, let me remind you, this is not some organization that should be questioned; this is the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce, and among their findings: Kyoto will cost 511,000 jobs held by Hispanic workers and 864,000 jobs held by Black workers. Poverty rates for minority families will increase dramatically, and because Kyoto will bring about higher energy prices, many minority businesses will be lost.

This is not Senator JIM INHOFE talking, this is the National Black Chamber of Commerce and U.S. Hispanic Chamber of Commerce.

It is interesting to note, the environmental left purports to advocate policies based on their alleged good for humanity, especially the most vulnerable. Kyoto is no exception. Yet Kyoto and Kyoto-like policies developed in this body would cause the greatest harm to the very poorest of Americans.

Environmental alarmists, as an article of faith, peddled the notion that climate change, as Green Peace put it, is ''the biggest environmental threat facing . . . developing countries.''

Such thinking runs totally contrary to the public declaration of the 2002 World Summit on Sustainable Development, a program sponsored by the United Nations, which found that poverty is the No. 1 one threat to developing countries.

I would like at this point to talk a little bit about John Christy. Dr. John Christy is director of the Earth System Science Center at the University of Alabama, Huntsville, who passionately reiterated the point about poverty in the May 22 letter to the House Resources Committee Chairman, RICHARD POMBO of California. As an addendum to his testimony during the committee's hearing on the Kyoto Protocol, Dr. Christy, an Alabama State climatologist, talked eloquently about his service as a missionary in Africa.

I am going to dwell a little on this because I have had a mission in west Africa for quite a number of years and I have been there and have seen what he is about to describe as a reality. We talked about the poverty in America. We talked about what is going to happen to minorities—Blacks and Hispanics in America.

Let us look at where the poverty is the worst. Dr. Christy said, ''Poverty is the worst polluter.'' As he noted, bringing modern, inexpensive electricity to developing countries would raise living standards and lead to a cleaner environment. Kyoto, he said, would be counterproductive, and, as I interpret him, immoral, for Kyoto would divert precious resources away from helping those truly in need to a problem that doesn't exist and a solution that would have no environmental benefit.

The following is an excerpt of a letter worth quoting at length. This is Dr. Christy talking about his experience in Africa:

> The typical home was a mud-walled, thatched-roof structure. Smoke from the cooking fire fueled by undried wood was especially irritating to breathe as one entered the home. The fine particles and toxic emissions from these in-house, open fires assured serious lung and eye diseases for a lifetime. And, keeping such fires fueled and burning required a major amount of time, preventing the people from engaging in other less environmentally damaging pursuits.
>
> I've always believed that establishing a series of coal-fired power plants in countries such as Kenya (with simple electrification to the villages) would be the best advancement for the African people and the African environment. An electric light bulb, a microwave oven and a small heater in each home would make a dramatic difference in the overall standard of living. No longer would a major portion of time be spent on gathering inefficient and toxic fuel. The serious health problems of hauling heavy loads and lung poisoning would be much reduced. Women would be freed to engage in activities of greater productivity and advancement. Light on demand would allow for more learning to take place and other activities to be completed. Electricity would also foster a more efficient transfer of important information from radio or television. And finally, the preservation of some of the most beautiful and diverse habitats on the planet would be possible if wood were eliminated as a source of energy.
>
> Providing energy from sources other than biomass (wood and dung), such as coal-produced electricity, would bring longer and better lives to the people of the developing world and greater opportunity for the preservation of their natural ecosystems. Let me assure you, notwithstanding the views of extreme environmentalists, that Africans do indeed want a higher standard of living. They want to live longer and healthier with less burden bearing and with more opportunities to advance. New sources of affordable, accessible energy would set them down the road of achieving such aspirations.
>
> These experiences made it clear to me that affordable, accessible energy was desperately needed in African countries.
>
> As in Africa, ideas for limiting energy use, as embodied in the Kyoto protocol, create the greatest hardships for the poorest among us. As I mentioned in the Hearing, enacting any of these noble-sounding initiatives to deal with climate change through increased energy costs, might make a wealthy urbanite or politician feel good about themselves, but they would not improve the environment and would most certainly degrade the lives of those who need help now.

Some in this body have introduced Kyoto-like legislation that would seriously hurt low-income and minority populations.

Last year, Tom Mullen, president of the Cleveland Catholic Charities, testified against S. 556, the Clean Power Act of last year, which would have had a lot of Kyoto-type implications; that it would impose onerous and unrealistic restrictions, including a Kyoto cap on carbon monoxide emissions by electricity.

That was Tom Mullen before the committee which I chaired. He is the president of Catholic Charities in Cleveland. He has devoted his whole life to helping poor people.

He noted that this regime would mean higher electricity prices for the poorest citizens of Cleveland.

For those on fixed incomes, as Mr. Mullen pointed out, higher electricity prices present a choice between eating and staying warm in the winter. As Mr. Mullen said:

> The overall impact on the economy in Northeast Ohio would be overwhelming, and the needs that we address at Catholic Charities in Ohio with the elderly and poor would be well beyond our capacity and that of our current partners in government and the private sector.

That is the sworn testimony of Mr. Mullen before my committee.

I see that Senator VOINOVICH from Ohio has approached the floor. He remembers very well when Tom Mullen of Catholic Charities of Ohio was in testifying. Senator VOINOVICH made several comments as to the seriousness that he believed this would impose upon the poor people of Ohio. There is no one more concerned about the poor people in Ohio than Senator VOINOVICH.

In addition to its negative economic impacts, Kyoto still does not satisfy Byrd-Hagel's concerns about developing countries. Though such countries as China, India, Brazil, South Korea, and Mexico are all signatories to Kyoto, they are not required to reduce their emissions even though they emit nearly 30 percent of the world's greenhouse gases.

It says we have to treat the developing nations the same as these countries that have signed onto the protocol. But they don't have to do it. Within a generation, they will be the largest emitters of carbon, methane, and other such greenhouse gases.

Despite the fact that neither of Byrd-Hagel's conditions has been met, environmentalists echoed by the liberal media have bitterly criticized President Bush for abandoning Kyoto. But one wonders why. Why don't they assail the 95 Senators—both Democrats and Republicans—who, according to Byrd-Hagel, presumably oppose ratification if the treaty came up on the Senate floor?

Why don't they assail former President Clinton or Vice President Gore who signed the treaty but never submitted it for ratification?

To repeat, it was a unanimous vote saying we cannot ratify Kyoto—the Kyoto Treaty that the President had

signed—unless they would take care of these needs; that is, treating developing countries the same as other countries and if it would provide for any kind of damaging economic effect.

So when you look at it, you see it was 95 to 0. You have Senators who are of the liberal persuasion—fine people but certainly a different philosophy than mine; Senators BOXER, COLLINS, FEINGOLD, DORGAN, GRAHAM, JEFFORDS, KENNEDY, KERRY, LIEBERMAN, Moseley-Braun, ROCKEFELLER, and many others—who are really sincerely talking in favor of this Kyoto Treaty, but they cast their vote against it. They said: We don't want to ratify this treaty, and we are not going to ratify this treaty unless it treats the developing countries the same as it does the developed nations and unless it doesn't perform any kind of damage to the economy.

If Byrd-Hagel would not ratify Kyoto if it caused substantial harm and if the developing countries were not required to participate in the same timetable, now it brings us to a very significant question: If the Byrd-Hagel conditions are ever satisfied, should the United States ratify Kyoto? Answering that question depends on several factors, including whether Kyoto would provide significant needed environmental benefits.

First, we should ask what Kyoto is designed to accomplish. According to the U.N.'s Intergovernmental Panel on Climate Change, Kyoto will achieve ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.''

What does this statement mean? The IPCC offers no elaboration and doesn't provide any scientific explanation about what that level would be. Why? The answer is simple: thus far no one has found a definitive scientific answer.

Recently scientists have answered that question.

Dr. Fred Singer, an atmospheric scientist at the University of Virginia, who served as the first Director of the U.S. Weather Satellite Service, which is now part of the Department of Commerce, and more recently has served as a member and vice chairman of the National Advisory Committee on Oceans and Atmosphere, said:

> No one knows what constitutes a ''dangerous'' concentration. There exists, as yet, no scientific basis for defining such a concentration, or even of knowing whether it is more or less than current levels of carbon dioxide.

One might pose the question: If we had the ability to set the global thermostat, what temperature would we pick? Would we set it colder or warmer than it is today? What would the optimal temperature be? The actual dawn of civilization occurred in a period climatologists call the ''climatic optimum,'' when the mean surface temperature was about 1 to 2 degrees Celsius warmer than it is today. If we could choose, what would we choose? Why not go 1 degree or 2 degrees higher, or 1 degree or 2 degrees cooler, for that matter?

The Kyoto emissions reduction targets are arbitrary, lacking any real scientific basis. Kyoto, therefore, will have no impact on global temperatures. This is not just my opinion but the conclusion that is reached by the country's top climate scientists.

Dr. Tom Wigley, a senior scientist at the National Center for Atmospheric Research, found that if the Kyoto protocol were fully implemented by all signatories—now, I will note this next point assumes that the alarmist science is correct, which, of course, it is not—if the Kyoto protocol were fully implemented, it would reduce temperatures by a mere .07 degrees Celsius by 2050 and .13 degrees Celsius by 2100.

What does this mean? Such an amount is so small that ground-based thermometers cannot even measure it. If you look at this chart, this shows the difference all the way from 2000 to 2050. You can see, while we have ups and downs, it is not measurable. We do not have equipment that could measure that precisely.

Dr. Richard Lindzen, an MIT scientist and member of the National Academy of Sciences, who has specialized in climate issues for over 30 years, told the Committee on Environment and Public Works—the committee I chair—on May 2, 2001, that there is a ''definitive disconnect between Kyoto and science. Should a catastrophic scenario prove correct, Kyoto would not prevent it.''

Similarly, Dr. James Hansen of NASA, considered the father of global warming—he is the guy who thought of all this stuff—said the Kyoto protocol—keep in mind, he is the father of this concept—''will have little effect'' on global temperature in the 21st century. In a rather stunning followup, Hansen said it would take 30 Kyotos—let me repeat that—30 Kyotos to reduce warming to an acceptable level. If 1 Kyoto devastates the American economy, what would 30 Kyotos do?

So this leads to another question: If the provisions in the protocol do little or nothing measurable to influence global temperatures, what does this tell us about the scientific basis for Kyoto?

Answering that question requires a thorough examination of the scientific work conducted by the United Nations Intergovernmental Panel on Climate Change. I am going to refer to this as the IPCC. It is the U.N.'s Intergovernmental Panel on Climate Change which provides the scientific basis for Kyoto. In other words, that is what everything is based on. So I want to talk about that for a few minutes. The international climate negotiations and substance of claims were made by alarmists.

In 1992, several nations from around the world gathered in Rio de Janeiro for the United Nations Framework Convention on Climate Change. This meeting was premised on the concern that global warming was becoming a problem. The United States, along with many other countries, signed the Framework Convention, committing them to making voluntary reductions in greenhouse gases. OK. That was 11 years ago.

Over time, it became clear that signatories were not going to reach their reduction targets as stipulated under Rio. This realization led to the Kyoto protocol of 1997, which was an amendment to the Framework Convention and which prescribed mandatory reductions only for developed nations; that is, the United States. Of course, you know that is another violation of Byrd-Hagel, that it would just affect the developed nations, not the developing nations.

The science of Kyoto is based on the assessment reports conducted by the Intergovernmental Panel on Climate Change, the IPCC. Over the last 13 years, the IPCC has published three assessments, with each one, over time, growing more and more alarmist.

The first IPCC assessment report, in 1990, found that the climate record of the past century was ''broadly consistent'' with the changes in the Earth's surface temperature, as calculated by climate models that incorporated the observed increase in greenhouse gases.

This conclusion is absurd, considering the climate cooled between 1940 and 1975, just as industrial activity grew rapidly after World War II. It has been difficult to reconcile this cooling with the observed increases in greenhouse gases.

Let's be sure we understand what is happening. In 1940, and then after the war, is when we had the huge increase in CO_2 and the greenhouse gases. Yet that precipitated a cooling period, not a warming period, totally contradicting the science.

After its initial publication, the IPCC's second assessment report, in 1995, attracted widespread international attention, particularly among scientists who believed that human activities were causing global warming. In their view, the report provided the proverbial smoking gun.

The most widely cited phrase from that report—which actually came from the report summary, as few in the media actually read the entire report—was that ''the balance of the evidence suggests a discernible human influence on global climate.'' This, of course, is so vague that it is essentially meaningless.

What do they mean by ''suggests''? For that matter, what do they mean by ''discernible''? How much human influence is discernible? Is it a positive or negative influence? Where is the precise scientific quantification?

Unfortunately, the media created the impression that man-induced global warming was fact. On August 10, 1995,

the New York Times published an article titled ''Experts Confirm Human Role in Global Warming''—not just inaccurate but just an outrageous lie. According to the Times account, the IPCC showed that global warming ''is unlikely to be entirely due to natural causes.'' That is what they said.

Of course, when parsed, this account means fairly little. Not entirely due to natural causes? Well, how much then? One percent? Twenty percent? Eighty-five percent?

The IPCC report was replete with caveats and qualifications, providing little evidence to support anthropogenic theories—and ''anthropogenic'' means manmade—of global warming. The preceding paragraph in which the ''balance of evidence'' appears makes exactly that point. It reads:

Our ability to quantify the human influence on global climate is currently limited because the expected signal is still emerging from the noise of natural variability, and because there are uncertainties in key factors.

That is the IPCC. Those are their words which totally refute the case they are trying to make. Moreover, the IPCC report was quite explicit about the uncertainties surrounding the link between human actions and global warming.

Although these global mean results suggest that there is some anthropogenic component in the observed temperature record, they cannot be considered compelling evidence of a clear cause-and-effect link between anthropogenic forcing and changes in the Earth's surface temperature.

Remember the IPCC provides the scientific basis for the alarmists' conclusion about global warming. But even the IPCC is saying their own science cannot be considered compelling evidence.

Dr. John Christy, professor of Atmospheric Science and director of the Earth Systems Science Center at the University of Alabama, a key contributor to the 1995 IPCC report, participated with the lead authors in drafting the sections in the detailed review of the scientific text. He wrote—this isn't the IPCC; this is Dr. John Christy—in the Montgomery Advertiser, February 22, 1998, that much of what passes for common knowledge in the press regarding climate change is ''inaccurate, incomplete, or viewed out of context.''

Many of the misconceptions about climate change originated from the IPCC's six-page executive summary. It was the most widely read and quoted of the three documents published by the IPCC working group but—and this point is crucial—it had the least input from scientists and the greatest input from nonscientists.

Let me go to the third assessment. Five years later, the IPCC was back again, this time with the Third Assessment Report on Climate Change. In October of 2000, the IPCC ''Summary for Policymakers''—that is not what the scientists said; that is what the politicians said—was leaked to the media which, once again, accepted the IPCC's conclusions as fact. Based on the summary, the Washington Post wrote on October 30:

The consensus on global warming keeps strengthening.

In a similar vein, the New York Times competently declared on October 28:

The international panel of climate scientists, considered the most authoritative voice on global warming, is now concluding that mankind's contribution to the problem is greater than originally believed.

Look at how these accounts are couched. They are worded to maximize the fear factor. But upon closer inspection, it is clear that such statements have no compelling intellectual content. ''Greater than originally believed,'' what is the baseline from which the Times makes that judgment? Is it .01 percent or 25 percent? And how much greater? Double? Triple? An order of magnitude greater?

Such reporting prompted testimony by Dr. Richard Lindzen before the Committee on Environment and Public Works, the committee I now chair. This was in May of 2001.

Dr. Lindzen said:

Nearly all reading and coverage of the IPCC is restricted to the highly publicized Summaries for Policymakers, which are written by representatives of government, NGO's, and business; the full reports, written by participating scientists, are largely ignored.

That is what Dr. Lindzen, who is one of the contributing scientists to the IPCC, has said. As it turned out, the policymakers' summary was politicized and radically different from the earlier draft. For example, the draft concluded the following concerning the driving case for climate change:

From the body of the evidence since IPCC (1996), we conclude there has been a discernible human influence on global climate. Studies are beginning to separate the contributions to observed climate change attributable to individual external influences, both anthropogenic and natural. This work suggests that anthropogenic greenhouse gases are a substantial contributor to the observed warming, especially over the past 30 years.

Keep in mind their conclusion:

However, the accuracy of these estimates continues to be limited by uncertainties in estimates of internal variability, natural and anthropogenic forcing, and the climate response to external forces.

In other words, they go all the way through the IPCC, the document on which all the extremists are basing their conclusions that anthropogenic actually contributes to global warming. Yet then they have a disclaimer at the very end.

The final version looks quite different and concluded instead:

In light of new evidence taking into account the remaining uncertainties, most of the observed warming over the last 50 years is likely to have been due to increases in greenhouse gas concentrations.

Keep in mind ''warming over the last 50 years.'' Remember we showed you those charts going back 25 years. These same people were yelling and screaming and complaining that there is a cooling period coming. They had all these fearful statements made about what is going to happen. Now they are saying over the past 50 years, when they themselves said 25 years ago that the concern was cooling.

This kind of distortion was not unintentional, as Dr. Lindzen explained for the Environment and Public Works Committee. Dr. Lindzen said:

I personally witnessed coauthors forced to assert their ''green'' credentials in defense of their statements.

This is testimony before our committee. This is from Dr. Lindzen, one of the contributors to the IPCC on which they base this premise.

In short, some parts of the IPCC process resemble a Soviet-style trial in which the facts are predetermined and ideological purity trumps technical and scientific examinations. The predictions in this summary went far beyond those in the IPCC's 1995 report.

The second assessment of the IPCC predicted that the Earth could warm by 1 to 3.5 degrees Celsius by the year 2100. The best estimate was a 2-degree Celsius warming by 2100. Both are highly questionable at best. That was the 1995 report.

In the third assessment, the IPCC dramatically increased that estimate to a range between 1.4 percent and 5.8 degrees Celsius, even though no new evidence had come to light to justify a dramatic change. In fact, the IPCC's median projected warming actually declined from 1990 to 1995. IPCC's 1990 initial estimate was 3.2 degrees Celsius. Then the IPCC revised 1992—2 years later—estimate was 2.6 degrees Celsius, followed by the IPCC revised 1995 estimate of 2.0 degrees Celsius. What changed?

As it turned out, the new prediction was based on faulty, politically charged assumptions about trends in population growth, economic growth, and fossil fuel use. The extreme case scenario of a 5.8-degree warming, for instance, rests upon an assumption that the whole world will raise its level of economic activity and per capita energy use to that in the United States. That is what it is based on. That energy use will be carbon intensive. This scenario is simply ludicrous. This essentially contradicts the experience of the industrialized world over the past 30 years. Yet the 5.8 degree figure featured prominently in news stories because it produced the biggest fear effect.

Moreover, when regional climate models of the kind relied upon by the IPCC attempt to incorporate such factors as population growth, ''the details of future climate recede toward unintelligibility,'' according to Jerry Mahlman, Director of NOAA's Geophysical Fluid Dynamics Laboratory.

Even Dr. Stephen Schneider, an outspoken believer in catastrophic global warming, criticized the IPCC's assumptions in the journal Nature on May 3,

2001. In his article—this is the promoter of the catastrophic global warming fear mongers—Schneider asks:

How likely is it that the world would get 6 degrees [centigrade] hotter by 2100? [That] depends on the likelihood of the assumptions underlying the projections.

Keep in mind that Schneider is on the side of the alarmists. Schneider's own calculations, which cast serious doubt on the IPCC's extreme prediction, broadly agree with an MIT study published in April of 2001.

It found that there is a ''far less'' than one percent chance that temperatures would rise to 5.8 degrees C or higher, while there is a 17 percent chance the temperature rise would be lower than 1.4 degrees.

That point bears repeating: even global warming alarmists think the lower number is 17 times more likely to be right than the higher number. Moreover, even if the earth's temperature increases by 1.4 degrees Celsius, does it really matter? The IPCC doesn't offer any credible science to explain what would happen.

Gerald North of Texas A&M University in College Station, agrees that the IPCC's predictions are baseless, in part because climate models are highly imperfect instruments. As he said after the IPCC report came out: ''It's extremely hard to tell whether the models have improved'' since the last IPCC report. ''The uncertainties are large.'' Similarly, Peter Stone, an MIT climate modeler, said in reference to the IPCC, ''The major [climate prediction] uncertainties have not been reduced at all.''

Dr. David Wojick, an expert in climate science, recently wrote in Canada's National Post:

The computer models cannot . . . decide among the variable drivers, like solar versus lunar change, or chaos versus ocean circulation versus greenhouse gas increases. Unless and until they can explain these things, the models cannot be taken seriously as a basis for public policy.

In short, these general circulation models, or GCMs as they're known, create simulations that must track over 5 million parameters. These simulations require accurate information on two natural greenhouse gas factors—water vapor and clouds—whose effects scientists still do not understand.

Because of these and other uncertainties, climate modelers from four separate climate modeling centers wrote in the October 2000 edition of Nature that, ''Forecasts of climate change are inevitably uncertain.'' They go on to explain that, ''A basic problem with all such predictions to date has been the difficulty of providing any systematic estimate of uncertainty,'' a problem that stems from the fact that ''these [climate] models do not necessarily span the full range of known climate system behavior.''

Again, to reiterate in plain English, this means the models do not account for key variables that influence the climate system.

Despite this, the alarmists continue to use these models and all the other flimsy evidence I've cited to support their theories of man-made global warming—theories they so desperately want to believe.

Before I get into another subject, I see the Senator from Ohio, Senator VOINOVICH. I have been talking a little about the committee hearing we had. I believe it was at your invitation that Tom Mullins came and testified. I ask you if I am accurately portraying the comments he made concerning the poor people of your State of Ohio.

Mr. VOINOVICH. Mr. President, the Senator portrayed Tom Mullins' comments accurately. In the statement I am going to be making, I will refer to those remarks—the indication that many of the people who are promoting capping carbon at the altar of responding to the climate change promotion are not seeking to affect the impact that capping carbon would have on natural gas questions and on those people in our country who are least able to pay their energy costs.

Mr. INHOFE. I thank the Senator. I recall that he almost had tears in his eyes when he talked about the poor people of Ohio and the fact they have to make decisions about eating and heating their homes. It is a very serious thing.

Mr. VOINOVICH. I think the main purpose of his testimony was that in decisions we make in the Senate regarding environmental legislation, we ought to take into consideration the impact it is having on those who have to pay the energy costs that are increased as a result of those initiatives. There seems to be some type of disconnect between our environmental policy and our energy policy. What we are hoping to do here is to harmonize our environmental and energy policies so we can put together a policy that will reduce emissions and at the same time not destroy our economy and impact on the least of our brethren who pay a large percentage of what they have toward the cost of energy.

Mr. INHOFE. What Tom Mullins said is totally consistent with what I talked about earlier. In the National Black Chamber of Commerce and the U.S. Hispanic Chamber of Commerce they talked about the unemployment rate and how it hurts poor people. I think that to be very true.

Now I want to turn to temperature trends in the 20th Century. GCMs predict that rising atmospheric CO_2 concentrations will cause temperatures in the troposphere, the layer from 5,000 to 30,000 feet, to rise faster than surface temperatures—a critical fact supporting the alarmist hypothesis.

But in fact, there is no meaningful warming trend in the troposphere, and weather satellites, widely considered the most accurate measure of global temperatures, have confirmed this.

To illustrate this point, just think about a greenhouse. The glass panes let sunlight in but prevent it from escaping. The greenhouse then warms from the top down. As is clear from the science, this simply is not happening in the atmosphere.

Satellite measurements are validated independently by measurements from NOAA balloon radiosonde instruments, with records extending back over 40 years. This is very critical. The extremists will tell you warming is occurring.

If you look at this chart of balloon data, extremists will tell you that warming is occurring, but if you look more closely you see that temperature in 1955 was higher than temperature in 2000.

A recent detailed comparison of atmospheric temperature data gathered by satellites with widely-used data gathered by weather balloons corroborates both the accuracy of the satellite data and the rate of global warming seen in that data.

To reiterate, the best data collected from satellites validated by balloons to test the hypothesis of a human-induced global warming from the release of CO_2 into the atmosphere shows no meaningful trend of increasing temperatures, even as the climate models exaggerated the warmth that ought to have occurred from a build-up in CO_2.

Some critics of satellite measurements contend that they don't square with the ground-based temperature record. But some of this difference is due to the so-called ''urban heat island effect.'' This occurs when concrete and asphalt in cities absorb—rather than reflect—the sun's heat, causing surface temperatures and overall ambient temperatures to rise. Scientists have shown that this strongly influences the surface-based temperature record.

In a paper published in the Bulletin of the American Meteorological Society in 1989, Dr. Thomas R. Karl, senior scientist at the National Climate Data Center, corrected the U.S. surface temperatures for the urban heat-island effect and found that there has been a downward temperature trend since 1940. This suggests a strong warming bias in the surface-based temperature record.

Even the IPCC finds that the urban heat island effect is significant. According to the IPCC's calculations, the effect could account for up to 0.12 degrees Celsius of the 20th century temperature rise, one-fifth of the total observed.

When we look at the 20th century as a whole, we see some distinct phases that question anthropogenic theories of global warming. First, a strong warming trend of about 0.5 C began in the late 19th century and peaked around 1940. Next, the temperature decreased from 1940 until the late 1970s.

Why is that decrease significant? Because about 80% of the carbon dioxide from human activities was added to the air after 1940, meaning the early 20th century warming trend had to be largely natural.

Scientists from the Scripps Institution for Oceanography confirmed this phenomenon in the March 12, 1999 issue

of the journal Science. They addressed the proverbial ''chicken-and-egg'' question of climate science, namely: when the Earth shifts from glacial to warm periods, which comes first: an increase in atmospheric carbon dioxide levels, or an increase in global temperature?

The team concluded that the temperature rise comes first followed by a carbon dioxide boost about 400 to 1,000 years later. This contradicts everything alarmists have been saying about manmade global warming in the 20th century. Repeat: The temperature precipitates the carbon dioxide increase.

We can go even further back, some 400,000 years, and see this phenomenon occurring, as the chart clearly shows. Yet the doomsayers, undeterred by these facts, will not quit. In February and March of 2002, the New York Times and the Washington Post, among others, reported on the collapse of the Larsen B ice shelf in the Antarctic Peninsula, causing quite a stir in the media, and providing alarmists with more propaganda to scare the public.

When we look at this chart, we can see this goes back 400,000 years. No one is going to refute this, but the Earth's natural 12,000-year cycle of increases and decreases in temperatures is followed by an increase and decrease in CO_2. We can see the trends going all the way back. It has not really made a major change.

Although there was no link to global warming, the Times could not help but make a suggestion in its March 20 edition:

> While it is too soon to say whether the changes there are related to a buildup of ''greenhouse'' gas emissions that scientists believe are warming the planet, many experts said it was getting harder to find any other explanation.

The Times, however, simply ignored a recent study in the Journal of Nature which found the Antarctic has been cooling since 1966.

Another study in Science recently found the West Antarctic ice sheet to be thickening rather than thinning. University of Illinois researchers also reported a net cooling on the Antarctic Continent between 1966 and 2000. In some regions, such as the McMurdo dry valleys, temperatures cooled between 1986 and 1999 by as much as 2 degrees during that timeframe.

In perhaps the most devastating critique of glacial alarmism, the American Geophysical Union found the Arctic was warmer in 1935 than it is today.

That bears repeating. Eighty percent of the carbon dioxide from human activities was added to the air after 1940. Yet the Arctic was warmer in 1935 than it is today.

So not only is glacial alarmism flawed, there is no evidence, as shown by measurements from satellites and weather balloons, of any meaningful warming trends in the 20th century.

I will now talk about health risks. The subject I am going to talk about is probably the most significant, so I hope people will not go away.

Even as we discuss whether temperatures will go up or down, we should ask whether global warming will actually produce the catastrophic effects the alarmists confidently predict.

What gets obscured in the global warming debate is the fact that carbon dioxide is not a pollutant. It is necessary for life. Numerous studies have shown that global warming can actually be beneficial to mankind.

Most plants, especially wheat and rice, grow considerably better when there is more CO_2 in the atmosphere. CO_2 works like a fertilizer; higher temperatures further enhance the CO_2 fertilizer effect.

In fact, the average crop, according to Dr. John Reilly of the MIT Joint Program on Science and Policy of Global Change, is 30 percent higher in a CO_2-enhanced world. I repeat that: 30 percent higher in a CO_2-enhanced world. This is not just a matter of opinion but a well-established phenomenon.

With regard to the impact of global warming on human health, it is assumed that higher temperatures will induce more deaths and massive outbreaks of deadly diseases. In particular, a frequent scare tactic by alarmists is that warmer temperatures will spark malaria outbreaks. Dr. Paul Reiter convincingly debunks this claim in a 2000 study for the Centers for Disease Control. As Reiter found:

> Until the second half of the 20th century, malaria was endemic and widespread in many temperature regions—

This next point is critical—

> with major epidemics as far north as the Arctic Circle.

Reiter also published a second study in the March 2001 issue of Environmental Health Perspectives showing that ''despite spectacular cooling, malaria persisted throughout Europe.''

Another myth is that warming increases morbidity rates. This is not the case, according to Dr. Mendelsohn, environmental economist from Yale University. Mendelsohn argues that heat stress deaths are caused by a temporary variability and not warming. In other words, you do not die of heat because of heat temperature; you die as a result of the variable change.

I wish to now go back to the IPCC's third assessment. In addition to trying to predict the future, the third assessment report looked into the past. The IPCC released a graph depicting global temperatures trending slightly downward over the last 10 centuries and then rather dramatically increasing beginning around 1900. The cause for such a shift, of course, is attributed to industrialization and manmade greenhouse gas emissions.

The now infamous ''hockey stick'' graph was enthusiastically embraced by IPCC which used it as a basis for the third assessment. Dr. Michael Mann at the University of Virginia was its principal authority. The study, which Mann and others conducted, examined climate trends over the past 1,000 years. As many scientists have pointed out since its publication, it contains many flaws.

Stay with me. First, Mann's study focuses on temperate trends only in the northern hemisphere. Mann extrapolated that data to reach the conclusion that global temperatures remained relatively stable and then dramatically increased at the beginning of the 20th century. That leads to Mann's conclusion that the 20th century has been the warmest in the last 1,000 years. As is obvious, however, such an extrapolation cannot provide a reliable global perspective of long-term climate changes.

Moreover, Mann's conclusions were drawn mainly from 12 sets of climate proxy data, of which 9 were tree rings, while the remaining 3 came from ice cores. Notably, some of the ice core data was drawn from the southern hemisphere—one from Greenland and two from Peru. What is left is a picture of the northern hemisphere based on eight sets of tree ring data—again, hardly a convincing global picture for the last 1,000 years.

Mann's hockey stick dismisses both the Medieval Warm Period—and that was roughly 800 A.D. to about 1300, 1350 A.D.—and the Little Ice Age which was from 1350 to 1850, two climatic events that are fairly widely recognized in the scientific literature to be accurate.

Mann believes that the 20th century is ''nominally the warmest'' of the past millennium and that the decade of the 1990s was the warmest decade on record.

The Medieval Warm Period and Little Ice Age are replaced by a largely benign and slightly cooling linear trend in climate until 1900. But as is clear from a close analysis of Mann's methods, the hockey stick is formed by crudely grafting the surface temperature record of the 20th century into a pre-1900 tree ring record.

This is a highly controversial and scientifically flawed approach. As is widely recognized in the scientific community, two data series representing radically different variables—temperature and tree rings—cannot be grafted together credibly to create a single series. In simple terms, as Dr. Patrick Michaels of the University of Virginia explained, this is like comparing apples to oranges.

Even Mann and his coauthors admit that if the tree ring data set were removed from their climate reconstruction, the calibration and verification procedures they used would undermine their conclusions.

A new study from the Harvard-Smithsonian Center for Astrophysics, which I will comment on shortly, strongly disputes Mann's methods and hypotheses. As coauthor Dr. David Legates wrote:

> Although [Mann's work] is now widely used as proof of anthropogenic global warming, we've become concerned that such an analysis is in direct contradiction to most of the research and written histories available.

Our paper shows this contradiction and argues that the results of Mann . . . are out of step with the preponderance of the evidence.

The scientific evidence. That is worth repeating: Mann's theory of global warming is out of step with most scientific thinking on the subject.

What we are talking about in plain English is the science news by the environmental alarmist is not just flawed; it is just not there. But there is more.

Based in part on the data supporting the IPCC's key reports, thousands of scientists have rejected the scientific basis of Kyoto. Recently, 46 climate experts wrote an open letter to Canada's National Post on June 3 of this year claiming that the Kyoto Protocol lacks credible science. This is 46 leading climate experts.

I ask that the entire text of the letter from these 46 leading climate experts be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. INHOFE. The scientists wrote that the Canadian Prime Minister essentially ignored an earlier letter they drafted in 2001. In it, they wrote:

Many climate science experts from Canada and around the world, while still strongly supporting environmental protection, equally strongly disagree with the scientific rationale for the Kyoto Accord.

In their June 3 letter, the group wrote to Paul Martin, a Canadian member of Parliament, urging him to consider the consequences of a Kyoto ratification. This is the country of Canada. Quoting now from that letter:

Although ratification has already taken place, we believe that the government of Canada needs a far more comprehensive understanding of what climate science really says if environmental policy is to be developed that will truly benefit the environment while maintaining the economic prosperity so essential to social progress.

Many scientists share the same view. I mentioned several other countries' leading climate scientists earlier in this speech. In addition, over 4,000 scientists, 70 of whom are Nobel Prize winners, signed the Heidelberg Appeal, which says that no compelling evidence exists to justify controls of anthropogenic greenhouse gas emissions; that is, manmade emissions.

Let me repeat that. Over 4,000 scientists, 70 of whom are Nobel Prize winners, signed the Heidelberg Appeal which says that no compelling evidence exists to justify controls of greenhouse gas emissions, manmade greenhouse gas emissions. They agree it is a hoax.

Now, I also want to point to a 1998 survey of State climatologists, which reveals that a majority of respondents have serious doubts about whether anthropogenic emissions of greenhouse gases present a serious threat to climate stability.

Then there is Dr. Frederick Seitz, a past president of the National Academy of Sciences and a professor emeritus at Rockefeller University, who compiled the Oregon Petition, and it reads as follows:

We urge the United States Government to reject the global warming agreement that was written in Kyoto, Japan, in December, 1997, and any other similar proposals. The proposed limits on greenhouse gases would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind.

There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gases is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the earth.

That is Dr. Frederick Seitz, former president of the National Academy of Sciences.

The petition has 17,800 independently verified signatures, and for those signers who hold a Ph.D., 95 percent have now been independently verified. Environmental groups have attacked the credibility of this petition based on one false name sent in by some green pranksters. Several names are still on the list even though biased press reports have ridiculed their identity with the names of famous personalities. They are actual signers.

A guy named Perry Mason, for example, is a Ph.D. chemist. He was one of the signers.

The most significant thing that just recently came out is the Harvard Smithsonian 1,000-year climate study. Let me turn to an important new study by the researchers. The study entitled ''Proxy Climatic and Environmental Changes of the Past 1,000 Years'' offers a devastating critique of Mann's hypothesis calling into question the IPCC's Third Assessment, and indeed the entire intellectual foundation of the alarmists' views. It draws on extensive evidence showing that major changes in global temperatures result not from manmade emissions but from natural causes.

Smithsonian scientists, Willie Soon and Sallie Baliunas, with coauthors Craig Idso, Sherwood Idso, and David Legates, compiled and examined results from more than 240 peer-reviewed papers published by thousands of researchers over the past four decades. In contrast to Mann's flawed, limited research, the Harvard-Smithsonian study covers a multitude of geophysical and biological climate indicators. While Mann's analysis relied mostly on tree-ring data from the Northern Hemisphere, the researchers offer a detailed look at climate changes that occurred in different regions around the world over the last 1,000 years.

The range of the climate proxies—now, keep in mind, we are talking about one of them that was just primarily looking at tree rings, but these 240 studies that were analyzed in the Smithsonian-Harvard report looked at borehole data, cultural data, glacier advances or retreats, geomorphology, isotopic analysis from lake sediments or ice cores, tree or peat celluloses, corals, stalagmite or biological fossils, net ice accumulation rate, including dust or chemical counts, lake fossils and sediments, river sediments, melt layers in ice cores, phenological and paleontological fossils, pollen, seafloor sediments, luminescent analysis, everything that fit every kind of proxy that could be known to science.

Based on this proxy data drawn from the 240 peer-reviewed studies, the authors offered highly convincing evidence to support the Little Ice Age and the Medieval Warm Period. As co-author Dr. Sallie Baliunas explained:

For a long time, researchers have possessed anecdotal evidence supporting the existence of these climate extremes.

What happened during these periods? We remember what happened during these periods. Baliunas notes that, during the Medieval Warm Period:

The Vikings established colonies in Greenland at the beginning of the second millennium that died out several hundred years later when the climate turned colder.

In England, she found that:

Vineyards had flourished during the medieval warmth.

In their study, the authors accumulated reams of objective data to back up these cultural indicators.

The Medieval Warm Period, or Medieval Optimum, occurred between 800 to 1300. Among the studies surveyed by the authors, 112 contained information about the warm period. Of these, 103 showed evidence for the Medieval Warm Period; two did not; seven had equivocal answers.

Looking just at the Southern Hemisphere, the authors found 22 studies, 21 of which confirmed the warm period and only one that did not.

The authors also looked at the 20th century and examined 102 studies to determine whether it was the warmest on record. Three studies said yes, 16 had equivocal answers, and of the remaining 83, 79 showed periods of at least 50 years that were warmer than any 50-year period in the 20th century.

I must say, to any reasonable person, these ratios appear very convincing and undoubtedly rest on a solid scientific foundation. Again, remember, the conclusions of this study are based on 240 peer-reviewed studies, and this chart shows what the Harvard-Smithsonian researchers concluded.

Peer review means they were rigorously reviewed and critiqued by other scientists before they were published. This climate study, published in March of 2003, is the most comprehensive of its kind in history. According to the authors, some of the global warming during the 20th century is attributable to the climate system recovering from the Little Ice Age. Global warming alarmists, however, vehemently disagree, and pull a scientific sleight of hand by pointing to the 140-year direct temperature record as evidence of warming caused by humans. But as the authors note:

The direct temperature measurement record is too short . . . to provide good measures of natural variability in its full dynamic range.

This research begs an obvious question: If the Earth was warmer during the Middle Ages than the age of coal-fired powerplants and SUVs, what role do manmade emissions play in influencing climate? I think any person with a modicum of common sense would say, not much and maybe none.

How did the media report on the Harvard-Smithsonian study? The big dailies, such as the New York Times and the Washington Post, basically ignored it. I was impressed by a fair and balanced piece in the Boston Globe. Unfortunately, some of the media could not resist playing politics of personal destruction.

Before I move on, I add another point about climate history. For the last several minutes, I have talked about natural climate variability over the past 1,000 years. We can go back even further in history to see dramatic changes in climate that had nothing to do with SUVs or powerplants. During the last few hundred thousand years, the Earth has seen multiple repeated periods of glaciation. Each ice age has ended because of dramatic increases in global temperatures which had nothing to do with fossil fuel emissions.

In fact, the last major glacier retreat, marking the end of the Wurm Glaciation, was only 12,000 years ago. At the end, the temperature was 14 degrees Celsius lower than today and climbed rapidly to present day temperature—and did so in as little as 50 years. Thus began our current Holocene Age of warm climates and glacier retreat.

These cycles of warming and cooling have been found so frequent and are so often so much more dramatic than the fractional degree changes measured over the last century that one wonders if the alarmists are simply ignorant of geological and meteorological history or simply ignoring it to advance their agenda.

What is the real story behind Kyoto? As I pointed out, the science underlying the Kyoto Protocol has been thoroughly discredited. But for some reason the drive to implement Kyoto continues apace in the United States and more fervently in Europe. What is going on here?

The Europeans continue to insist that the United States should honor its international responsibilities and ratify Kyoto. In June of 2001 Germany released a statement declaring the world needs Kyoto because its greenhouse gas reduction targets are indispensable.

Similarly, Swedish Prime Minister Goeran Persson, in June of 2001, said flatly and without explanation that ''Kyoto is necessary.'' The question is, indispensable and necessary for what?

Certainly not for further reduction of greenhouse gas emissions, as Europe has proven. According to news reports earlier this year, the European Union has failed to meet its Kyoto targets. As we know, according to the best scientific evidence, Kyoto will do nothing to reduce global temperatures.

As it turns out, Kyoto's objective has nothing to do with saving the globe. In fact, it is purely political. The case in point, French President Jacques Chirac said during a speech at The Hague in November of 2002 that Kyoto represents ''the first component of an authentic global governance.'' Keep in mind who we are talking about—Jacques Chirac of France. He wants the authentic global governance. You have to ask if we are going to let the French dictate our United States policy.

Margot Wallstrom, EU environment commissioner, takes a different view but one instructive about the real motives of Kyoto proponents. She asserts that Kyoto is about ''the economy, about leveling the playing field for big businesses worldwide.'' In other words, we in this country should level the playing field so we are equal with the European Union. That is very significant in terms of what the real motives are.

Chirac and Wallstrom's comments mean two things: Kyoto represents an attempt by certain elements within the international community to restrain United States interests; second, Kyoto is an economic weapon designed to undermine the global competitiveness and economic superiority of the United States.

I am mystified that some in this body and in the media blithely assert that the science of global warming is settled; that is, fossil fuel emissions are the principal, driving cause of global warming.

In a letter to me concerning the next EPA administrator, two Senators wrote, ''The pressing problem of global warming'' is now ''established scientific fact,'' and demanded that the new administrator commit to addressing it.

With all due respect, this statement is baseless for several reasons, as I outlined in detail above. The evidence is overwhelmingly in favor of those who do not see global warming proposing harm to the planet and who do not think human beings have an insignificant influence on the climate system.

This leads to another question: Why would this body subject the United States to Kyoto-like measures that have no environmental benefits and cause serious harm to the economy? There are several pieces of legislation, including several that have been referred to my committee, that effectively implement Kyoto without ratifying the treaty. From a cursory read of the Senate politics, it is my understanding some of these bills enjoy more than a modicum of support.

I urge my colleagues to reject them and follow the science to the facts. Reject approaches designed not to solve an environmental problem but to satisfy the ever-growing demand of environmental groups for money and for power and other extremists who simply do not like capitalism, free markets, and freedom.

Climate alarmists see an opportunity here to tax the American people. Consider the July 11 Op-ed by J.W. Anderson of the Washington Post. Anderson, a former editorial writer of the Post and now a journalist in residence with Resources for the Future, concedes that climate science still confronts uncertainties, but his solution is a field tax to prepare for a potentially catastrophic future. Based on the case I have outlined today, such a course of action fits a particularly ideological agenda but is entirely unwarranted.

It is my fervent hope Congress will reject prophets of doom who peddle propaganda masquerading as science in the name of saving the planet. I urge my colleagues to put stock in scientists who rely on the best, most objective scientific data and reject fear as a motivating basis for making public policy decisions.

Let me be very clear: Alarmists are attempting to enact an agenda of energy suppression that is inconsistent with American values, freedom, prosperity, and environmental problems.

Over the past hour and a half I have offered compelling evidence that catastrophic global warming is a hoax. That conclusion is supported by painstaking work of the Nation's top planet scientists. We have those scientists who concluded that the Kyoto protocol has no environmental benefits; natural variability, not fossil fuel emissions, is an overwhelming factor influencing climate change; satellite data, confirmed by NOAA, confirms that no meaningful warming has occurred over the last century; and climate models predicting dramatic temperature increases over the next 100 years are flawed and highly imperfect.

These scientists include Dr. Fred Singer, from the University of Virginia; Dr. Tom Wigley, senior scientist at the National Center for Atmospheric Research; Dr. Richard Lindzen from the National Academy of Science. Everyone listed is someone whose credentials cannot be questioned.

If you study that, you will come to the same conclusions. These are objective scientists, not fundraisers for some far-left environmental extremist groups.

Finally, I return to the words of Dr. Frederick Seitz, a past president of the National Academy of Sciences, a professor emeritus at Rockefeller University, who compiled the Oregon Petition. He said:

> There is no convincing scientific evidence that human release of carbon dioxide, methane, or other greenhouse gasses is causing or will, in the foreseeable future, cause catastrophic heating of the Earth's atmosphere and disruption of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produce many beneficial effects upon the natural plant and animal environments of the Earth.

These are sobering words which the extremists have chosen to ignore. So what could possibly be the motivation for global warming alarmism? Since I have become the chairman of the Environment and Public Works Committee,

it has become pretty clear. It is fundraising. Environmental extremists rake in millions of dollars, not to solve environmental problems but to fuel their ever-growing fundraising machines, part of which are financed by the Federal taxpayers.

So what have we learned from the scientists and economists I talked about today? Five things, briefly:

No. 1, the claim that global warming is caused by manmade emissions is simply untrue and not based on sound science.

No. 2, CO_2 does not cause catastrophic disasters. Actually, it would be beneficial to our environment and the economy.

No. 3, Kyoto would impose huge cost on Americans, especially the poor.

No. 4, the same environmentalists who are hysterical over global warming today were just as hysterical in the 1970s over global cooling.

And, No. 5, the motives for Kyoto are economic, not environmental; that is, proponents favor handicapping the American economy through carbon taxes and more regulations.

So I will just conclude by saying: Wake up, America. With all the hysteria, all the fear, all the phony science, could it be that manmade global warming is the greatest hoax ever perpetrated on the American people? I believe it is.

And if we allow these detractors of everything that has made America great, those ranging from the liberal Hollywood elitists to those who are in it for the money, if we allow them to destroy the foundation, the greatness of the most highly industrialized nation in the history of the world, then we don't deserve to live in this one nation under God. So I say to the real people: Wake up, make your voice heard. My 11 grandchildren and yours are depending on you.

EXHIBIT 1

[From the Washington Post, July 7, 2003]

CLIMATE CHANGE: THE SCIENCE ISN'T SETTLED

(By James Schlesinger)

Despite the certainty many seem to feel about the causes, effects and extent of climate change, we are in fact making only slow progress in our understanding of the underlying science. My old professor at Harvard, the great economist Joseph Schumpeter, used to insist that a principal tool of economic science was history—which served to temper the enthusiasms of the here and now. This must be even more so in climatological science. In recent years the inclination has been to attribute the warming we have lately experienced to a single dominant cause—the increase in greenhouse gases. Yet climate has always been changing—and sometimes the swings have been rapid.

At the time the U.S. Department of Energy was created in 1977, there was widespread concern about the cooling trend that had been observed for the previous quarter-century. After 1940 the temperature, at least in the Northern Hemisphere, had dropped about one-half degree Fahrenheit—and more in the higher latitudes. In 1974 the National Science Board, the governing body of the National Science Foundation, stated: ''During the last 20 to 30 years, world temperature has fallen, irregularly at first but more sharply over the last decade.'' Two years earlier, the board had observed: ''Judging from the record of the past interglacial ages, the present time of high temperatures should be drawing to an end . . . leading into the next glacial age.'' And in 1975 the National Academy of Sciences stated: ''The climates of the earth have always been changing, and they will doubtless continue to do so in the future. How large these future changes will be, and where and how rapidly they will occur, we do not know.''

These statements—just a quarter-century old—should provide us with a dose of humility as we look into the more distant future. A touch of that humility might help temper the current raging controversies over global warming. What has concerned me in recent years is that belief in the greenhouse effect, persuasive as it is, has been transmuted into the dominant forcing mechanism affecting climate change—more or less to the exclusion of other forcing mechanisms. The CO_2/climate-change relationship has hardened into orthodoxy—always a worrisome sign—an orthodoxy that searches out heretics and seeks to punish them.

We are in command of certain essential facts. First, since the start of the 20th century, the mean temperature at the earth's surface has risen about 1 degree Fahrenheit. Second, the level of CO_2 in the atmosphere has been increasing for more than 150 years. Third, CO_2 is a greenhouse gas—and increases in it, other things being equal, are likely to lead to further warming. Beyond these few facts, science remains unable either to attribute past climate changes to changes in CO_2 or to forecast with any degree of precision how climate will change in the future.

Of the rise in temperature during the 20th century, the bulk occurred from 1900 to 1940. It was followed by the aforementioned cooling trend from 1940 to around 1975. Yet the concentration of greenhouse gases was measurably higher in that later period than in the former. That drop in temperature came after what was described in the National Geographic as ''six decades of abnormal warmth.''

In recent years much attention has been paid in the press to longer growing seasons and shrinking glaciers. Yet in the earlier period up to 1975, the annual growing season in England had shrunk by some nine or 10 days, summer frosts in the upper Midwest occasionally damaged crops, the glaciers in Switzerland had begun to advance again, and sea ice had returned to Iceland's coasts after more than 40 years of its near absence.

When we look back over the past millennium, the questions that arise are even more perplexing. The so-called Climatic Optimum of the early Middle Ages, when the earth temperatures were 1 to 2 degrees warmer than today and the Vikings established their flourishing colonies in Greenland, was succeeded by the Little Ice Age, lasting down to the early 19th century. Neither can be explained by concentrations of greenhouse gases. Moreover, through much of the earth's history, increases in CO_2 have followed global warming, rather than the other way around.

We cannot tell how much of the recent warming trend can be attributed to the greenhouse effect and how much to other factors. In climate change, we have only a limited grasp of the overall forces at work. Uncertainties have continued to abound—and must be reduced. Any approach to policy formation under conditions of such uncertainty should be taken only on an exploratory and sequential basis. A premature commitment to a fixed policy can only proceed with fear and trembling.

In the Third Assessment by the International Panel on Climate Change, recent climate change is attributed primarily to human causes, with the usual caveats regarding uncertainties. The record of the past 150 years is scanned, and three forcing mechanisms are highlighted: anthropogenic (human-caused) greenhouse gases, volcanoes and the 11–year sunspot cycle. Other phenomena are represented poorly, if at all, and generally are ignored in these models. Because only the past 150 years are captured, the vast swings of the previous thousand years are not analyzed. The upshot is that any natural variations, other than volcanic eruptions, are overshadowed by anthropogenic greenhouse gases.

Most significant: The possibility of long-term cycles in solar activity is neglected because there is a scarcity of direct measurement. Nonetheless, solar irradiance and its variation seem highly likely to be a principal cause of long-term climatic change. Their role in longer-term weather cycles needs to be better understood.

There is an idea among the public that ''the science is settled.'' Aside from the limited facts I cited earlier, that remains far from the truth. Today we have far better instruments, better measurements and better time series than we have ever had. Still, we are in danger of prematurely embracing certitudes and losing open-mindedness. We need to be more modest.

EXHIBIT 2

The Hon. PAUL MARTIN, P.C.,
Member of Parliament, House of Commons, Ottawa, Ontario.

DEAR MR. MARTIN: We understand from media reports that you believe that more consultation with the provinces should have taken place before moving forward with ratification of the Kyoto Accord. We would like to alert you to the fact that the current government neglected to conduct comprehensive science consultations as well. The statements by current Minister of the Environment David Anderson that Prime Minister Jean Chrétien's decision to ratify the Kyoto accord was based merely on a ''gut feeling,'' not an understanding of the issue, clearly illustrates that a more thorough examination of the science should have taken place before a ratification decision was made.

If you are to lead the next government, we believe that a high priority should be placed on correcting this situation and conducting wide ranging consultations with non-governmental climate scientists as soon as possible in order to properly consider the range of informed opinion pertaining to the science of Kyoto.

Many of us made the same suggestion to the Prime Minister in an open letter on Nov. 25, 2002, in which we alerted Mr. Chrétien to the fact that Kyoto was not justified from a scientific perspective. That letter called on the government of Canada ''to delay a decision on the ratification of the Kyoto Accord until after a thorough and comprehensive consultation is conducted with non-governmental climate specialists.'' It was explained to the Prime Minister that, ''Many climate science experts from Canada and around the world, while still strongly supporting environmental protection, equally strongly disagree with the scientific rationale for the Kyoto Accord.''

Unfortunately, the Prime Minister took no action on the issue and proceeded to ratify the accord without the government and the public having had the benefit of hearing a proper science debate on an issue that is sure to affect Canadians for generations to come.

We strongly believe that important environmental policy should be based on a strong

foundation of environmental science. Censoring credible science out of the debate because it does not conform to a pre-determined political agenda is clearly not a responsible course of action for any government. Your openness to re-examining the recent approach to the Kyoto file encourages us to believe that you may also be open to reconsidering the way in which the scientific debate was suppressed as well. We certainly hope so. Although ratification has already taken place, we believe that the government of Canada needs a far more comprehensive understanding of what climate science really says if environmental policy is to be developed that will truly benefit the environment while maintaining the economic prosperity so essential to social progress.

In the meantime, we would be happy to provide you with more information on this important topic and, for those of us who are able, we would like to offer to meet with you personally to discuss the issue further in the near future.

Above letter signed by:

Dr. Tim Ball, Environmental Consultant, 28 years Professor of Climatology, University of Winnipeg.

Dr. Madhav Khandekar, Environmental Consultant, former Research Scientist with Environment Canada. 45-year career in the fields of climatology, meteorology and oceanography.

Dr. Tad Murty, private sector climate researcher. Previously Senior Research Scientist for Fisheries and Oceans; conducted official DFO climate change/sea level review; Former Director of the National Tidal Facility of Australia; Current editor—''Natural Hazards''.

Dr. Chris de Freitas (Canadian), Climate Scientist and Professor—School of Geography and Environmental Science, The University of Auckland, NZ.

Dr. Vaclav Smil, FRSC, Distinguished Professor of Geography; specialization in climate and CO_2, University of Manitoba.

Dr. I.D. Clarke, Professor, Isotope Hydrogeology and Paleoclimatology, Department of Earth Sciences (arctic specialist), University of Ottawa.

Dr./Cdr. M. R. Morgan, FRMS, Dartmouth, Nova Scotia. Climate Consultant, Past Meteorology Advisor to the World Meteorological Organization and other scientific bodies in Marine Meteorology. Recent Research Scientist in Climatology at University of Exeter, UK.

Dr. Chris Essex, Professor of Applied Mathematics, University of Western Ontario—focuses on underlying physics/math to complex climate systems.

Dr. Keith D. Hage, climate consultant and Professor Emeritus of Meteorology, University of Alberta, specialized in micrometeorology, specifically western prairie weather patterns.

Dr. Kenneth Green, Chief Scientist, Fraser Institute, Vancouver, BC—expert reviewer for the IPCC 2001 Working Group I science report.

Dr. Petr Chylek, Professor of Physics and Atmospheric Science, Dalhousie University, Nova Scotia.

Dr. Tim Patterson, Professor, Department of Earth Sciences (Paleoclimatology), Carleton University, Ottawa, Ontario.

David Nowell, M.Sc. (Meteorology), Fellow of the Royal Meteorological Society, Canadian member and Past Chairman of the NATO Meteorological Group, Ottawa.

Dr. Fred Michel, Professor, Department of Earth Sciences (Paleoclimatology), Carleton University, arctic regions specialist, Ottawa.

Dr. Roger Pocklington, Ocean/Climate Consultant, F.C.I.C., Researcher—Bedford Institute of Oceanography, Nova Scotia.

Rob Scagel, M.Sc., Forest microclimate specialist, Principal Consultant, Pacific Phytometric Consultants, Surrey, B.C.

Dr. David Wojick, P.E., Climate specialist and President, Climatechangedebate.org, Sioux Lookout, Ontario/Star Tannery, VA.

Dr. S. Fred Singer, Distinguished Research Professor at George Mason University and Professor Emeritus of Environmental Science at the University of Virginia.

Dr. Richard S. Lindzen, Alfred P. Sloan Professor of Meteorology, Department of Earth, Atmospheric and Planetary Sciences at the Massachusetts Institute of Technology.

George Taylor, State Climatologist, Oregon Climate Service, Oregon State University, Past President—American Association of State Climatologists.

Doctorandus Hans Erren, Geophysicist/climate specialist, Sittard, The Netherlands.

Dr. Hans Jelbring—Wind/Climate specialist, Paleogeophysics & Geodynamics Unit, Stockholm University, Sweden. Currently, Manager Inventex Aqua Research Institute, Stockholm.

Dr. Theodor Landscheidt, solar/climate specialist, Schroeter Institute for Research in Cycles of Solar Activity, Waldmuenchen, Germany.

Dr. Zbigniew Jaworowski, Climate expert, Chairman of the scientific council of CLOR, Central Laboratory for Radiological Protection, Warsaw, Poland.

Dr. Art Robinson, Founder—Oregon Institute of Science and Medicine—focus on climate change and CO_2, Cave Junction, Oregon.

Dr. Craig D. Idso, Chairman, Center for the Study of Carbon Dioxide and Global Change, Tempe, Arizona.

Dr. Sherwood B. Idso, President, Center for the Study of Carbon Dioxide and Global Change, Tempe, Arizona.

Dr. Pat Michaels, Professor of Environmental Sciences, University of Virginia; past president of the American Association of State Climatologists and a contributing author and reviewer of the IPCC science reports.

Dr. Sonja Boehmer-Christiansen, Reader, Department of Geography, University of Hull, UK, Editor, Energy & Environment.

Dr. Robert C. Balling, Jr., Director—Office of Climatology, Arizona State University.

Dr. Fred Seitz, Past President, U.S. National Academy of Sciences, President Emeritus, Rockefeller University, New York, NY.

Dr. Vincent Gray, Climate specialist, expert reviewer for the IPCC and author of ''The Greenhouse Delusion; a Critique of 'Climate Change 2001' '', Wellington, NZ.

Dipl.-Ing. Peter Dietze, energy and climate consultant, official scientific IPCC TAR Reviewer, Langensendelbach, Germany.

Dr. Roy W. Spencer, Principal Research Scientist, Earth System Science Center, The University of Alabama in Huntsville.

Dr. Hugh W. Ellsaesser, Atmospheric Consultant—four decades experience as a USAF weather officer and climate consultant at the Lawrence Livermore National Laboratory, CA.

Dr. Asmunn Moene, Former head of the National Forecasting Center, Meteorological Institute, Oslo, Norway.

Dr. Freeman J. Dyson, Emeritus Professor of Physics, Institute for Advanced Studies, Princeton, New Jersey.

Dr. James J. O'Brien, Professor of Meteorology and Oceanography, Center for Ocean-Atmospheric Prediction Studies, Florida State University. Co-chaired the Regional Climate Change Study for the Southeast USA.

Dr. Douglas V. Hoyt, climate consultant, previously Senior Scientist with Raytheon/ITSS; Broadly published author of ''The Role of the Sun in Climate Change''.

Dr. Gary D. Sharp, Scientific Director, Center for Climate/Ocean Resources Study, Salinas, California.

Prof. Dr. Kirill Ya. Kondratyev, Academician, Counsellor RAS, Research Centre for Ecological Safety, Russian Academy of Sciences and Nansen International Environmental and Remote Sensing Centre, St. Petersburg, Russia.

Dr. Paal Brekke—Solar Physicist, specialist in sun/UV radiation/Sun-Earth Connection, affiliated with the University of Oslo, Norway.

Dr. Richard S. Courtney, climate consultant, expert IPCC peer reviewer, Founding Member of the European Science and Environment Forum, UK.

William Kininmonth, Managing Director, Australasian Climate Research. Formerly head of Australia's National Climate Centre and a member of Australia's delegations to the Second World Climate Conference and the UN Intergovernmental Negotiating Committee for a Framework Convention on Climate Change.

Dr. Jarl R. Ahlbeck, Docent in environmental technology/science, Process Design Laboratory, the Swedish University of Finland, Biskopsgatan, Finland.

Dr. Lee C. Gerhard, Principal Geologist, Kansas Geological Survey; Adjunct Professor, Colorado School of Mines; Noted author and geological expert on climate history.

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

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

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

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed out of order for not to exceed 12 minutes before the order to go into executive session.

The PRESIDING OFFICER (Mr. FITZGERALD). Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that this not delay the rollcall vote.

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

Mr. BYRD. Mr. President, I ask unanimous consent that I may vitiate the second request that was granted.

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

A FAST WAY AROUND THE CONSTITUTION

Mr. BYRD. Mr. President, I speak today on the subject: A fast track, a fast way around the Constitution.

Last Friday, I listened with great interest to the concerns that were raised in opposition to the free-trade agreements negotiated by the administration with Chile and Singapore.

Senators cited an abuse of Executive authority and the undermining of Congress' plenary powers. I was perplexed,

to put it mildly—not at the arguments against such abuses by the Executive but at the fact that some Senators were only now waking up to the potential for such a power grab.

To those who now express concerns that the plenary powers of the Congress are under attack by this administration, I say that we have no one to blame but ourselves. The Congress inflicted this wound upon itself. We have plunged the knife into our own throats. It is our hands on the hilt of that knife.

I refer to the Congress' massively destabilizing decision to disrupt the balance of powers between the executive and legislative branches by granting fast-track trade negotiating authority to the President.

So many of the objections expressed last week in opposition to these free trade agreements have been raised before, time and time again on this Senate floor. Just last summer, they were raised by me, by our colleague Senator HOLLINGS, by our colleague Senator DORGAN; by our colleague Senator DAYTON, and others, warning of the abuse of Executive power we were inviting by handing over to the President the authority to regulate trade and international commerce.

We stood on this very floor and spoke to our colleagues, to the people in the galleries here and to the public across the land about what could be expected from the use of fast-track authority should such legislation be passed. We also spoke of the Constitutional ramifications of fast track. At the time, our expressions of concern apparently fell upon deaf ears.

Sixty-seven Senators, some of whom are now so urgently speaking in opposition to these free trade agreements pending before the Senate, voted to grant fast-track authority to the President.

I can pound my fist on my desk. I can shout with brass lungs. But, ultimately, it's not until it's too late, not until the Senate has been relegated to the sidelines, not until this Trojan horse has entered this sacred chamber that Senators begin to realize just what we have given away.

Shame on us!

This month, the administration submitted the free trade agreements it negotiated with the nations of Chile and Singapore. Included in those agreements are proposed changes to U.S. immigration and naturalization laws that would create what is effectively a permanent visa worker program for Chile and Singapore.

The trade agreements negotiated by the administration would unfairly lower the threshold for up to 1,400 Chileans and 5,400 Singaporeans to obtain American jobs. These foreign nationals could renew their worker visas indefinitely, year after year, with no limitation, while additional foreign workers enter the country to fill the annual numerical limitations for new visas.

Chilean and Singaporean nationals who enter the United States under these agreements would effectively be exempted from prevailing wage laws. Even though employers must attest that foreign workers will be paid the prevailing industry wage and not displace U.S. workers, the Labor Department would be prohibited from investigating and certifying these attestations prior to the worker entering the country.

Further, the Congress would have no recourse to remedy any injustice, either by setting numerical caps or requiring a Labor Department certification, without violating the trade accord.

With 9.4 million Americans out of work, and an economy that has stalled for America's workers, the administration's immigration proposals are perhaps the most egregious that I have seen in some time. They are a direct threat to American workers who have already been hit hard by the Bush administration's economic policies. And now, what jobs the administration has not yet destroyed are being given away to foreign labor.

It is not even clear under what authority the administration is proposing to make these immigration changes. The Trade Promotion Act provides no specific authority to the United States Trade Representative to negotiate new visa categories or other changes to our immigration laws. The Congress has not granted the administration any such authority.

To the contrary, since the September 11 attacks, the Congress has passed legislation requiring the administration to tighten our border security and visa entry system—to plug the holes that were exploited by the September 11 hijackers. And now the administration is trying to open the system all over again.

I doubt that these immigration provisions could survive outside of the expedited procedures of fast track, subjected to thorough debate and amendment by the House and Senate. But that may explain why they are in these trade agreements in the first place. After all, a free trade agreement is not subject to amendment. It is not subject to a thorough debate. Any committee action is token, at best. The Congress must approve or reject the trade agreement in 90 legislative days.

These trade agreements and their immigration provisions may only be a first step in setting a precedent where the administration can use free-trade agreements not only to propose changes to immigration laws but to isolate all kinds of controversial legislation from the Congress. Perhaps next time the trade agreement submitted will include changes involving our military defenses or our international tax laws or our foreign aid budget.

The possibilities are frightening to imagine.

The late-Senator Daniel Patrick Moynihan was fond of saying that the U.S. Constitution does not assume virtue in its rulers. It assumes self-interest. And it carefully balances the power by which one interest will offset another interest in order to protect against what James Madison called ''the defect of better motives.''

I am sure that many Senators who supported granting fast track authority to the President did so because of their support for this administration's free trade policies. But in pursuit of free trade, the Senate has given away its power to regulate trade and international commerce, and has flung itself into the abyss in which it now finds itself. If the Senate approves these treaties, the President, who is not the repository of all human wisdom, and is as vulnerable to ''the defect of better motives'' as any other mortal being, will have a free hand, without debate and without review, to dictate not only trade policy, but immigration policy as well.

The Framers of our Constitution would, I am certain, be appalled at how, time and time again, the modern-day Congress, under pressure from the White House political machine, yields its plenary powers to the executive.

We did it with fast track. We did it with the creation of the Homeland Security Department. We did it with respect to the war in Iraq.

The Senate has a duty to reject these trade agreements. Even those Senators who support the administration's trade policies must take a stand in support of something more important. The executive is, again, overreaching and the Senate must not, this time, acquiesce.

The Senate desperately needs to come to a better understanding and appreciation of our Constitution and the powers granted the Congress. It needs a better understanding of what exactly is at stake when we carelessly meddle with our system of checks and balances and the separation of powers. If we disregard the lessons learned from the colossal blunder of granting fast track authority to the President, we might just as well strike a match and hold that invaluable document to the flame.

We are entrusted with the safeguarding of the people's liberties. It is their Constitution. It is their Republic. It is their liberties that we have sworn to secure. If we continue to be careless or callous or complacent, it is their cherished freedoms that will go up in smoke.

EXECUTIVE SESSION

NOMINATION OF EARL LEROY YEAKEL III OF TEXAS TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the hour of 5:20 p.m. having arrived, the Senate will proceed to executive session for the consideration of Calendar No. 296, which the clerk will report.

The legislative clerk read the nomination of Earl Leroy Yeakel III of

Texas to be United States District Judge for the Western District of Texas.

The PRESIDING OFFICER. Under the previous order, there will be 5 minutes for debate equally divided between the Senator from Texas, Mrs. Hutchinson, and the Senator from Texas, Mr. CORNYN, and 5 minutes for debate for the Senator from Vermont, Mr. LEAHY.

Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, are we going to have back-to-back votes for Judge Cardone as well as Judge Yeakel, or do we talk about each judge before their individual votes?

The PRESIDING OFFICER. There will be back-to-back votes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to speak on behalf of two Federal judge nominees for Texas. They are both for the Western District. Leroy Yeakel will sit in Austin; Kathleen Cardone will sit in El Paso, TX.

The Western District has the highest caseload of any district on the list of districts where judicial emergencies exist. It has been the No. 1 district in that regard. I am very pleased that we have two nominees to fill two benches in Austin and El Paso because we do need to be able to move these cases expeditiously. People are entitled to have their cases disposed of one way or another.

I am proud to speak for Lee Yeakel who has been nominated for the Austin vacancy. He has served as a justice of the Texas Third Court of Appeals in Austin since 1998. Prior to that, he spent 29 years in private practice in Austin, most recently as a partner with the firm of Clark, Thomas & Winters.

Lee earned his bachelor's degree from the University of Texas at Austin in 1966 and his law degree from the University of Texas in 1969. He earned a master of law degree from the University of Virginia in 2001.

He is also very active in the community. He serves on the boards of the Austin Rotary Club, the West Austin Youth Association, the Austin Choral Union, and the Committee for Wild Basin Wilderness.

I am very proud to know Lee Yeakel. I have known him for years. I have also known his wonderful wife Anne and their family. I am very pleased that the President nominated Lee Yeakel after Senator CORNYN and I recommended him. I know he will be a hard worker, and I know he will be an independent judge, one who looks at the law and decides cases based on the law and not based on his personal opinions. So I am pleased to recommend him to the Senate.

Mr. President, I also recommend Kathleen Cardone for the judgeship in the Western District of Texas. She will be sitting in El Paso. Kathy is a New York native who graduated from the State University of New York at Binghamton and St. Mary's School of Law in San Antonio.

After graduating from law school, Kathy clerked for a U.S. Magistrate for the Southern District of Texas, and then went into private practice.

She has the distinction of serving as the first judge for the 388th Judicial District Court, a new State court created in El Paso in 1999. She developed and founded the El Paso County Domestic Relations Office. This office serves as an intermediary between courts and litigants in family law matters. She also presided over the 383rd Judicial District Court in El Paso.

She has an excellent record of civic involvement. She is a member of the board of directors of the Upper Rio Grande Workforce Development Board and the El Paso Center for Family Violence. She is a past board member of the YWCA and the El Paso Holocaust Museum and Study Center. She has also been on the board of the El Paso Bar Foundation, the El Paso Mexican American Bar Association, and the Child Crisis Center of El Paso.

I think you can see that both of these nominees meet the high standards that we hold for Federal judges, both having been active in their communities and being well regarded by the bar.

I can say that both of these nominees were highly recommended by Democrats and Republicans and by their bar association membership. People who have worked with them recommend them highly, and I am very pleased with our nominations.

Thank you, Mr. President.

Mr. HATCH. Mr. President, I rise today in support of the nomination of Justice Earl Leroy Yeakel to be a U.S. District Court Judge for the Western District of Texas.

Justice Yeakel has been a justice on the Texas Court of Appeals since 1998. For 29 years prior to his judicial service he was engaged in private practice, litigating both civil and criminal matters at the trial and appellate levels in state and federal courts.

While attending the University of Texas School of Law, he worked for the Austin law firm of Mitchell, Gilbert & McLean. Upon graduation in 1969, he remained at the firm as an associate counsel, participating in a broad range of litigation-related work. Five years later, Justice Yeakel started his own firm, where he remained until his departure in 1982. In the sixteen years that followed, he served as either an associate or partner in three prominent Austin law firms, litigating both civil and criminal matters at the trial and appellate level in state and federal courts.

Justice Yeakel has proven himself to be a distinguished legal scholar, author, practitioner and judge. He enjoys bi-partisan support and I am confident he will make an excellent federal judge. I commend President Bush for nominating Justice Yeakel and urge my colleagues to join me in supporting this nomination.

Mr. President, I am also in support of the nomination of Kathleen Cardone to be a U.S. District Court Judge for the Western District of Texas.

Since 1983, Judge Cardone has served as a state judge in El Paso County, TX, on numerous courts, including a municipal court, a family law court, and multiple state district courts. In addition to her judicial duties, she has worked as a trained mediator, as well as a teacher of an introductory law course at the El Paso Community College.

After graduating from St. Mary's School of Law in 1979, Judge Cardone worked for one year as a briefing attorney for Philip Schraub, a United States Magistrate Judge for the Southern District of Texas. Following this judicial clerkship, she entered private practice, handling an array of cases involving civil, criminal and family law matters.

Judge Cardone has proven herself to be a distinguished legal scholar, author, practitioner and judge. She enjoys bipartisan support and I am confident he will make an excellent federal judge. I commend President Bush for nominating Judge Cardone and urge my colleagues to join me in supporting this nomination.

The PRESIDING OFFICER. The Senator for Vermont.

Mr. LEAHY. Mr. President, today the Senate will confirm another two judicial nominees, bringing the total number of judicial nominees sent by President Bush to be confirmed to 140. With today's vote, the number of judicial nominees confirmed this year alone climbs to 40. That exceeds the number of judges during all of 2000, 1999, and 1997, and is more than twice as many judges as were confirmed during the entire 1996 session. It is more than the average annual confirmations for the 6½ years the Republican majority controlled the pace of confirmations from 1995 through the first half of 2001. Thus, in the first 7 months of this year, we have already exceeded the year totals for 4 of the 6 years the Republican majority controlled the pace of President Clinton's judicial nominees and the Republican majority's yearly average.

Indeed with the confirmation of this 140th judge, the Senate has now confirmed in 2 years, from July 20, 2001 to July 28, 2003, more judges for President Bush than it was willing to consider during any 3-year period in which President Clinton's nominees were being considered by a Senate Republican majority.

A good way to see how much faster we are proceeding on judicial nominations for a Republican President than Republican Senators were willing to proceed for a Democratic President is to compare where we are on this date over the last several years. Over the last 6½ years of Republican control under President Clinton, the Republicans allowed only 20 judicial confirmations, on average, by July 28, and included only 4 circuit court nominees, on average, by this time. Today we will

have doubled those benchmarks with the confirmation of the 39th and 40th judicial nominees, which have included 10 circuit court judges. The double standard that Republicans have used in their treatment of judicial nominees is evident from this chart.

On this day, in 1995, only 32 judicial nominations had been confirmed; in 1996, only 14; in 1997, only 9; in 1998 the confirmations totaled 33; in 1999, only 9; and in 2000 the confirmation total by this point of the year was 35. Today, we confirm the 40th judge so far this year. Vacancies in the courts stand at less than half of what they were during the Clinton years and we have more Federal judges serving than ever before.

We have already this year confirmed 10 judges to the Courts of Appeals. This is more than were confirmed in all of 4 of the past 6 years when the Republicans were in the majority—in 1996, 1997, 1999, and 2000. And in the 2 other years, the Tenth Circuit nominee was not confirmed until much later in the year.

Today, the Senate confirms Earl Lee Yeakel and Kathleen Cardone to the U.S. District Court for the Western District of Texas. Judge Yeakel has been serving on the Texas Court of Appeals since 1998, appointed by then-Governor Bush. Judge Cardone has served as a State court judge on different courts throughout the El Paso area since 1990. Both were just nominated on May 1, their paperwork was not complete until June, and they are being confirmed just a month later. This is another sign of how fair the Democrats have been to this President's nominees.

The Judiciary Committee has already held hearings for 6 of President Bush's nominees for the Western District of Texas alone and for 13 of President Bush's district court nominees from the State of Texas. Eight of those judges were given hearings and confirmed during the 17 months I served as chairman of the Judiciary Committee. That was nearly one judge for Texas every other month, in addition to the four United States Attorneys and three United States Marshals who were reviewed and confirmed in that period of time.

As I have noted throughout the last 3 years, the Senate is able to move expeditiously when we have consensus nominees. Unfortunately, far too many of this President's nominees have records that raise serious concerns about whether they will be fair judges to all parties on all issues.

Mr. President, I reserve the remainder of my time.

How much time do I have remaining on this side?

The PRESIDING OFFICER. Seventeen seconds.

Mr. LEAHY. How much time is available to the other side?

The PRESIDING OFFICER. Fifty-five seconds.

Mr. LEAHY. I yield back my time.

Mr. HATCH. Mr. President, I would like to briefly respond to the remarks of my democratic colleague on the state of the judicial nominations process.

We have heard a lot of statistics batted around about judicial confirmations. Some of them are accurate, some of them are dubious, but one of the more misleading ones I have heard is the claim that the score on President Bush's judicial nominees is 140 to 2. This is hardly the score.

First, there are more Federal appellate vacancies today, 18, during President Bush's third year in office, than there were at the end of former President Clinton's second year in office, 15. Almost one-third of President Bush's Federal court nominees have not been confirmed. There are 68 total vacancies on the Federal district and appellate benches, 32 of which are classified as judicial emergencies. We have worked to do, and we will continue to fill those vacancies. No raw number of confirmations means anything, in and of itself, while there are not one, but two filibusters of exemplary nominees going on now, potentially more to come, and emergency vacancies continued to exist. Are we supposed to be grateful that only a few of President Bush's nominees are being filibustered? Is there an acceptable filibuster percentage that the Democratic leadership has in mind? The mere fact that we have to ask these questions makes it crystal clear that we have a broken process. Even one filibuster of a judicial nominee is one too many.

As for the allegation that two nominees have been defeated, well, I for one would not be as quick as some of my Democratic colleagues to declare that the nominations of Miguel Estrada and Priscilla Owen have been defeated. We will continue to fight for the confirmation of these nominees and continue to file for cloture on their nominations. They are exemplary nominees who deserve to be confirmed.

And as for the implication that it is somehow acceptable to filibuster two judicial nominees in light of the others that have been confirmed, I must ask my Democratic colleagues who are leading these filibusters: Would you ever argue that it is permissible to break two criminal laws just as long as all the rest are being followed? Of course not. Nobody would make that argument any more then they would argue that it is permissible to disregard two of the constitutional amendments that comprise our Bill of Rights simply because there are eight others. The confirmation of other Bush judicial nominees in no way excuses or justifies the shabby treatment inflicted on Miguel Estrada and Priscilla Owen.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I join the senior Senator from Texas, Mrs. HUTCHISON, in commending to the Members of the body the nominations of Judge Lee Yeakel and Judge Kathleen Cardone. Both of these nominees are outstanding examples of the highly qualified nominees that President Bush has sent to this body for consideration and confirmation. They deserve these appointments. I have every confidence they will serve with distinction. I am proud of what they represent and the potential they have as well.

In the couple seconds I have remaining, I would like to respond to the ranking member's statements about how many judicial nominees this body has confirmed of those who have been sent by President Bush. I commend him and this entire body for confirming the number of judicial nominees that we have. But, frankly, two unconstitutional filibusters is two too many.

I yield the floor.

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

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Earl Leroy Yeakel III, of Texas, to be United States District Judge for the Western District of Texas?

The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Kentucky (Mr. BUNNING) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

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

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mrs. CLINTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

I further announce that if present and voting the Senator from Massachusetts (Mr. KERRY) and the Senator from Michigan (Ms. STABENOW) would each vote ''yea''.

The PRESIDING OFFICER. (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 307 Ex.]

YEAS—91

Akaka	Carper	Dorgan
Alexander	Chafee	Durbin
Allard	Chambliss	Ensign
Allen	Cochran	Enzi
Baucus	Coleman	Feingold
Bayh	Collins	Feinstein
Bennett	Conrad	Fitzgerald
Biden	Cornyn	Frist
Bond	Corzine	Graham (FL)
Boxer	Craig	Graham (SC)
Breaux	Crapo	Grassley
Brownback	Daschle	Gregg
Burns	Dayton	Hagel
Byrd	DeWine	Harkin
Campbell	Dodd	Hatch
Cantwell	Dole	Hollings

Hutchison	McConnell	Schumer
Inhofe	Mikulski	Sessions
Inouye	Miller	Shelby
Jeffords	Murkowski	Smith
Johnson	Murray	Snowe
Kennedy	Nelson (FL)	Specter
Kohl	Nelson (NE)	Stevens
Kyl	Nickles	Sununu
Lautenberg	Pryor	Talent
Leahy	Reed	Thomas
Levin	Reid	Voinovich
Lincoln	Roberts	Warner
Lott	Rockefeller	Wyden
Lugar	Santorum	
McCain	Sarbanes	

NOT VOTING—9

Bingaman	Domenici	Landrieu
Bunning	Edwards	Lieberman
Clinton	Kerry	Stabenow

The nomination was confirmed.

NOMINATION OF KATHLEEN CARDONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 304.

The legislative clerk read the nomination of Kathleen Cardone, of Texas, to be United States District Judge for the Western District of Texas.

The PRESIDING OFFICER. The question is, Shall the Senate advise and consent to the nomination?

The nomination was confirmed.

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

LEGISLATIVE SESSION

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

The Senator from Tennessee.

Mr. ALEXANDER. I thank the Chair.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 1474 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ENERGY POLICY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. We are on the Energy bill.

Mr. DURBIN. Mr. President, I have an amendment pending on the Energy bill which addresses an issue I think should have been the first title of this Energy bill. This is an amazing bill and there is a lot of work that has gone into it.

S. 14 is entitled, ''A Bill to Enhance the Energy Security of the United States,'' an ambitious undertaking. I think it is appropriate we are now spending this time debating this amendment and many aspects of it because we all know that energy is essential to America's future, to our economy, and to our environment.

If we do not do our best in the U.S. Congress to work with this Government and establish the right incentives for the production of energy, as well as the appropriate regulation of the use of energy, then the American economy and future generations will suffer.

The reason I offered an amendment to this bill, I was presumptuous enough to believe there is an element that has not been addressed. As I read this bill, I found there was a terrible omission. This bill does not address one of the major uses of energy in America today. Most people, most families, most businesses equate the use of energy with the electricity they use in their home but certainly with transportation. How did you get to work this morning? How are you going to pick up the kids? What are you going to use over the weekend to go shopping? How are you planning vacation? Almost without exception, each of those decisions involves the application of energy.

One would think an Energy bill that looks to America's future would not overlook this important element: Transportation and the use of energy for transportation.

Let me show a chart that indicates the amount of energy used for transportation as opposed to other sectors in America. This chart addresses U.S. oil demand by sector. The blue portion of the chart, which is the largest portion, shows over 40 percent of oil usage by the year 2000. Forty percent was for transportation, another small portion of about 15 percent was for industrial, another portion for residential-commercial, and a much smaller amount for electric generation.

If concern is about the use of energy and the use of barrels of oil, naturally one would focus on this chart and say this bill clearly must address this. S. 14 must address how we are going to reduce our demand for oil for transportation.

The honest answer is, the bill does not. How can you have a thorough analysis and a good legislative program addressing energy and ignore the fact that out of the 20 million barrels of oil we use each day, many of them from overseas, over 40 percent of them are related to the transportation sector? This bill virtually ignores it.

It is not that the words aren't in here but that the words have no teeth. The words are simply statements, little notes that we send out into space, saying: Wouldn't the world be better if we had more fuel efficiency? Wouldn't it be better if we had more conservation?

If you believe in the tooth fairy and Santa Claus, you will believe that these little notes tossed out into space are all we need to do here—just to give a speech on the floor, put an idea in a bill and hope that America finds it and, if they do, that they become inspired and show leadership and show the initiative.

I don't think that is the way it works. It has not worked that way in the time I have served on Capitol Hill, nor in our history.

Let's take a look from the beginning here at what we are dealing with. The vast majority of oil reserves, of course, are in the Middle East. This is an indication that 677 billion barrels of oil can be found in the Middle East as compared to 77 billion in North America. As a consequence, it is very clear that if we are going to have an oil-driven economy, we are going to find ourselves spending more and more time focusing on the Middle East.

People say, turn to Russia, turn to the former Soviet Union. Of course, that is not a bad idea. But the estimated reserves of oil in the Soviet Union are 65 billion barrels. It is the Middle East which has all the action, 677 billion barrels of oil.

Yet, in 1999, the United States and Canada consumed 3 gallons of oil per capita per day whereas other industrialized nations consumed 1.3 gallons per day and the world average was a half gallon a day. So when it comes to the consumption of oil, the United States, of course, leads the world, with Canada, dramatically.

If you take a look at how that oil is then used, as I mentioned earlier, from this chart you will find that cars, SUVs, pickup trucks, and minivans account for 40 percent or more of U.S. oil consumption; the transportation sector overall, about 60 percent.

When you talk about energy and America's security, how can you ignore this? How can you put together a bill as lengthy as this bill—let's see how many pages we have here. It is hard work by a lot of staff people and Senators. There are 467 pages. How can you have a 467-page bill addressing America's energy security and fundamentally ignore needs for fuel efficiency and fuel economy and conservation to reduce the consumption of oil in the United States?

I asked that question last night at a press conference in Chicago, which I am honored to represent. I said: If we are talking about dealing with energy, how can we miss this? How can we ignore the efficiency of vehicles?

This morning, I attended a funeral for former State Representative John Houlihan, of Palos Heights, IL. Before that, I dropped in for a cup of coffee at a local Dominick's supermarket, and a woman I didn't know came up to me and said: I listened to you yesterday. You are absolutely right. We have to do something about the gas guzzlers and fuel economy in the United States of America. Otherwise, we are going to need foreign oil forever.

She understands. She is a case in point. I don't know exactly what is her background. She appeared to be a suburban mom. Suburban moms have really been used a lot in this debate. Those who say we should do nothing, let the fuel economy continue to deteriorate in the United States, use women like

her who are mothers with children going back and forth to school events and soccer events and basketball and baseball and all the things that consume your time, and they say: You can't take away that mother's SUV; it makes her feel safe.

The fact is there is some safety attached to SUVs. But, sadly, there are just as many studies that suggest they are dangerous because of rollover and because of the impact they have on other vehicles. They turn out to be a danger on the highway. So safety is one of the elements that is contested about these SUVs. But what is not contested is they are terrible gas hogs. They guzzle gas and give you very limited miles per gallon.

In talking to families around my State and other places, they said to us: We would like to have cars and trucks and light vehicles we can use that are going to be of service to our family, and safe, but we also want to see better fuel efficiency.

My amendment that I introduced would save a cumulative 123 billion gallons of gasoline over the next 12 years. If we allowed drilling in the Arctic National Wildlife Refuge, we would extract less than one-tenth of that in that same period of time.

The new rule handed down by NHTSA would save about 20 billion gallons of gasoline, or one-sixth of what my bill would save by 2015.

A lot of people were talking about fuel cell vehicles, hydrogen-powered cars, and the like. It is a wonderful concept. We should certainly explore it. But the President's goal for these fuel cell vehicles would achieve a savings of less than 10 billion gallons of gasoline by 2015. That is less than a tenth of what my amendment would achieve.

The annual survey by J.D. Power and Associates found fuel consumption was the second most common driver complaint industry-wide. Studies show that consumers could save as much as $2,000 over the lifetime of the car from higher fuel efficiency, even accounting for the cost of the new vehicle technology. My amendment would save $4 billion in fuel costs for consumers by 2015.

This is an indication of the fuel savings. Here are some of the options that have been brought to us in the Senate in the course of this legislation. There are those who argue if we went to 10 percent fuel cell vehicles, this could really help us have more efficient cars on the road. Look at the limited savings in billions of gallons from that.

Of course, there are those who argue if we could just drill for oil in the Arctic National Wildlife Refuge, go into an area that was set aside and supposed to be protected, take away the rules, open it for exploration, oil exploration, that would solve America's energy needs. Look at the limited amount of value that has in terms of the production that would come out of that area.

Then, of course, NHTSA, the National Highway Traffic Safety Administration, has some new rules that would also amount to some savings. But all of these are down here below 50 billion gallons of gasoline that would be saved.

Now take a look if we would go for the standard that I am asking for in this amendment. That standard would move us, by the year 2015, to cars and light trucks at 40 miles a gallon and to other vehicles at 27.5 miles a gallon. The difference in savings is just dramatic. That is why my amendment has been supported, not only by groups who are looking for energy conservation but also groups who are very concerned about the environment.

The United States produces a third of the greenhouse gases emitted from automobiles worldwide. A third of the world's production of greenhouse gases comes right out of the U.S.A.

These gases affect every aspect of our lives: Agriculture, public health, the economy, our sea levels, and our shorelines.

Do you know the No. 1 diagnosis of kids going into emergency rooms and hospitals across America today? It is asthma—asthma. Go to any classroom, you pick it, and ask the kids, as I do every time I step in the door—you pick the grade—how many of you have someone in your family with asthma? I guarantee you at least a fourth, maybe half of that class will raise their hands.

Why is this? There are a lot of reasons; it is not just one. But one of them has to do with air pollution, and air pollution has to do with the ignition and burning of fuel sources such as oil.

So if you have inefficient vehicles that burn more gasoline per 100 miles, and that is going to create more emissions, it is going to create more public health problems. That is very linear and very direct.

The greatest environmental impact is felt at the poles. And I am not talking about the election day polls; I am talking about the North Pole and the South Pole.

Scientists predict that polar bears could be extinct within 100 years if we don't address global warming. In fact, scientists say it could be 50 years. If they are right that this species of animal faces extinction within 50 years, this is what you can tell your children and grandchildren. Take a good look at a polar bear at the zoo because it may be the last one you will see on Earth.

Is this scare tactics? Is this the sort of thing we say? Why does the Senator raise that during the course of the debate?

What I am trying to suggest to you is that this isn't just about a piece of legislation. It isn't about an energy security bill. It is about rational thinking.

Rational thinking would suggest to us in the course of this debate that if America is going to be more energy secure, we should depend less on foreign oil. The biggest consumer of oil in America is transportation. If we are going to reduce the consumption and use conservation, we have to do something about the fuel efficiency of the cars and trucks that we drive. If we fail to do something about that fuel efficiency, we will need more foreign oil. We will consume more oil, and in burning it, we will create more emissions in the air polluting the environment.

I don't think there is a single thing that I just described that is a big leap of faith. I think this is linear reasoning from point A to another point B. But this bill we are considering doesn't even take this into consideration but for a very symbolic gesture exhorting future generations to really get serious about this.

Forgive me. Future generations will have their responsibilities but we have a responsibility today. We have a responsibility to make this a more secure nation from the energy viewpoint. We have a responsibility to require reasonable standards for the creation of better technology and for more fuel-efficient vehicles. Unfortunately, this bill doesn't do that.

The amendment I am offering would cut a cumulative 250 metric tons of greenhouse gas emissions by the year 2015. Otherwise, right out of the tailpipe of our cars and trucks will come these emissions leading to more greenhouse gases and leading to public health problems which we know exist.

Earlier today, one of my colleagues from Oklahoma came to the floor—and it is his right to make this argument—and argued that this isn't a problem. He argued that climate change never exists, and, if it does, it is really not that harmful. I don't know how you can reach that conclusion.

Basically, we have been talking to scientists who are studying this issue with objective attitudes. They tell us things that are true—the extinction of species, the loss of polar bears, and receding ice caps. As a result of the receding ice caps, polar bears are having fewer young. As a result, we can just plot it out. Over a period of time they will become extinct. We also know that glaciers are disappearing. In a matter of 25 or 50 years, all glaciers on Earth are threatened and could be gone. Why? Because the Earth is heating up ever so slowly but in a way that is tipping the balance of Mother Nature against us. Why? Because we can't accept our responsibility on the floor of the Senate to say to the automobile and truck manufacturers around the world that if you want to sell in the biggest market in America, you have to do better.

I listened to my colleagues on the other side of the aisle and they basically say you can't come up with these technologies.

DURBIN, you are dreaming. There is just no way you could reach 40 miles a gallon in our cars. Today we are barely getting a fleet average of 23 or 24 miles a gallon. There is no way that in 12 years you could reach 40 miles a gallon.

Let me tell you what we do know. In 2002, the National Academy of Sciences found that existing technology could improve the fuel efficiency of light

trucks by 50 or 65 percent and the fuel efficiency of cars by 40 to 60 percent.

I am not an engineer. I used to think I could fix them. I gave up.

This chart shows some of the technologies that could be used that could literally lead to dramatic fuel savings. We are not talking about mopeds and people going around the United States on tiny little scooters. We believe that with some changes available today in technology we could have much more fuel-efficient vehicles with four-valve cylinders and variable valve timing.

Isn't it sad that when it came to these hybrid cars using gasoline and electricity, the first ones on the market were from Japan? I beg your pardon. As good as this Nation is, as smart as our people are, as many engineers as we have, why are we always running a distant second in developing technology?

There is promise that in a few years we will start seeing vehicles in America that have these type of engines. Thank goodness the Japanese did show the initiative. But we can do better.

What I hear from the other side is that it is impossible. The Durbin amendment is impossible. America is not smart enough to develop a fuel-efficient car, and don't put us to the test because if you do, we will lose; we will always lose to the foreign manufacturers.

When I hear this, it makes me angry. I do not see it that way. I look at how many foreign students want to come to the United States and learn. I know we have institutions of higher learning—some of the best in the world. Why is it that graduates of those institutions aren't going to work for the Big Three and other auto manufacturers to come up with the technologies to solve this problem?

I will tell you this. If my amendment is defeated, they won't have to. There will be no push to make these changes.

Let me show you one of the things that has happened. I think it is a positive thing. Let me give credit where it is due, having said the Big Three is a little slow to respond. Thanks to technology, many vehicles already exceed current standards.

Here is the Ford Focus station wagon—city, 27 miles per gallon; highway, 36 miles per gallon.

When I drive in Washington, DC, I drive a 1993 Saturn, a little car we bought used. It sure does run well. Two weeks ago, I took my wife down to North Carolina. It is about 350 miles in each direction. I put on the air-conditioner. It still works. I got 35 miles a gallon. It is possible. We don't feel like we are compromising for comfort. We drove that 10-year-old car and got 35 miles a gallon.

The Ford Focus has a station wagon. It is a little larger than what I drive: highway, 36 miles a gallon.

It can be done.

Hybrid technologies are already utilized in vehicles available today and point to the future. I talked about those earlier. Unfortunately, too many of those are made in Japan. The ones on the road today are the Toyota Prius, the Honda Insight, and the Honda Civic, cars that have 50 percent or greater improvement in fuel economy.

I want to give credit where it is due. A Republican colleague, Senator BOB BENNETT, drives a Toyota Prius. I have seen him in that car. If you have seen BOB BENNETT of Utah who is about 6 foot 4 or 6 foot 5, you ought to see him fold himself into that car and out again. But he does it. He said it is a great car. It is really fuel efficient. It even squeezes a little bit of his stature. Giving credit where it is due, he has one of those cars.

I believe Senator BOXER of California also has one as well.

Again, Ford, GM, Saturn, Chrysler, and others are talking about more cars like this.

It isn't as if what we are discussing is the impossible. It is attainable. Certainly over a 12-year period of time it could easily be attainable.

My amendment recognizes these technologies are real and can be put to use and can be expanded in American innovation.

I am not going to stand here and quietly let my colleagues wave the white flag of surrender saying that we could never develop the technology in America to be more fuel efficient. I don't buy it. I don't think this Senate should buy it either.

In 1975, those same voices of doom and despair came to the floor of the Senate and the House and said 14 miles a gallon is as good as it gets, and if Congress imposes a requirement to raise those to somewhere near 28 miles a gallon, it will never happen; that America can't come up with the technology; that the Japanese will beat us to the punch; that the cars won't be safe; that we will lose American jobs. The litany went on and on. Thank goodness, Congress ignored it. Congress had the courage to vote against it. Congress imposed standards to increase fuel efficiency, and they worked.

We increased over a 10-year period of time almost double the fuel efficiency of the fleet across America. And we can do it again.

My amendment would require cars, SUVs, minivans, and crossover utility vehicles to achieve a corporate average fuel economy of 40 miles per gallon by 2015 and would require pickup trucks and vans to achieve a CAFE standard of 27.5 miles per gallon by the same year.

In addition, this amendment starts to close some loopholes. It would fix the definition of passenger vehicles, so those large SUVs, such as Hummers, are no longer exempt from the CAFE law. Did you know that? Hummers are exempt from the CAFE law. They can get 2 miles a gallon and there is absolutely no requirement of the law they do better. And I think they are getting around 2 miles a gallon. It would also fix the definition of passenger vehicles so that SUVs, minivans, and CUVs are considered cars, not trucks.

I also offered a companion amendment we will debate when we get to the tax section of the bill which relates to tax incentives. My companion amendment would stimulate the market for more fuel-efficient vehicles by establishing a tax credit for the purchasers of vehicles that exceed the applicable CAFE standard by at least 5 miles per gallon.

This companion amendment also would modify the gas-guzzler tax levied on manufacturers by applying it to vehicles that are more than 5 miles per gallon below the applicable CAFE standard, including SUVs. So if you put a car on the road that is better than the standard, you get the tax benefit. If you don't, you pay a tax cost.

Now, I understand there is a controversy associated with this amendment. I have listened to some of the arguments made by critics of this amendment during the course of the day. They are certainly entitled to their point of view. I would like to address a few of the arguments.

Several of my colleagues came to the floor and said the Durbin amendment will cost consumers. The technology he wants to put in these cars will cost $1,200 or more per car on average. While this is true—I will concede the point—the Union of Concerned Scientists finds that consumers will realize a net savings of $2,000 over the lifetime of the car due to lower gasoline consumption.

So what do we get out of the deal? The consumers are ahead. It will cost $1,200 more for the vehicle, but there is $2,000 in savings. So there is a net gain of $800 per vehicle, on average, according to the Union of Concerned Scientists. There will be lesser dependence on foreign oil and fewer emissions coming out of the tailpipes as fewer gallons of gas will be consumed. So there are pluses they ignore.

They also argue the Durbin amendment will cause Americans to lose their jobs. The Union of Concerned Scientists finds that increasing fuel economy to 40 miles per gallon will actually create 180,000 new jobs. You may say, How can this amendment do that? Won't we just give up automobiles to the Japanese and others to produce them?

I certainly do not think so, nor do I believe that should be our standard of action around here.

We are going to consider a trade bill the first thing tomorrow, and one of the premises of this trade bill is that America can compete. If you don't believe America can compete, you certainly don't want to allow other countries to export to the United States.

Well, I believe we can compete, and we have proven it. So why do critics of this amendment want to throw in the towel right off the bat and say we are just going to lose all the way around? What they are ignoring is that the creation of new technologies will result in

new jobs. These new technologies and new parts are going to have men and women working in good-paying jobs to create them. And the fuel efficiency that is involved is a savings to business. One of the costs of business, obviously, is fuel, as we have found when gasoline prices have spiked. If you bring down the cost of fuel by reducing consumption with more fuel-efficient vehicles, businesses can be more productive, and with that productivity have more competitive advantage and really employ more people.

The naysayers and people who want to hang the crepe in this debate just think it is all a loss—a very negative attitude.

Others argue this amendment is not necessary. There was an amendment earlier by Senator LANDRIEU of Louisiana. I voted for it. But that amendment, as I mentioned earlier—as good as it is, as well intentioned as it is—includes no new authorities to help reach the oil savings goal and no enforcement mechanisms to ensure the requirement will be fulfilled.

There is also an argument that the alternative amendment by my good friend CARL LEVIN of Michigan and CHRISTOPHER BOND of Missouri is based on sound science. Well, let me tell you, the National Academy of Sciences found that existing and emerging technologies are there to improve fuel efficiency. As I mentioned earlier, this report was written even before the hybrid technologies came to the market. So we know we can reach these goals if we just apply ourselves and set the standards.

The alternative amendment, which they are arguing for, does not require any increase in fuel efficiency. It delays it. It passes the buck to NHTSA and adds new roadblocks to the NHTSA's decisionmaking process. NHTSA has failed to make any meaningful increase in fuel economy for over 10 years. Its latest increase of 1.5 miles per gallon for light trucks is just a drop in the bucket, considering the standards were last changed for light trucks in 1985. And cars remain unchanged since then as well.

Another argument is that we are addressing fuel efficiency through the President's hydrogen fuel cell car. As I mentioned, this is several years to come and will not be as dramatic as those who argue against my amendment would have us believe.

So I say to my colleagues, when this amendment comes up for a vote tomorrow, there is a very real choice: either we are serious about energy or we are not; either we are prepared to say the three big automobile manufacturers in Detroit are going to continue to lose in competition or we are going to reach a different conclusion.

I think the men and women working for these companies are ready to rise to the challenge. I have seen them do it. I think the leaders of these companies need to be nudged because, frankly, they have a market today, a market where very few cars and vehicles are that profitable, but SUVs and light trucks are profitable. They don't want to rock the boat. They want to continue to build and put on the highways these monster cars of dubious safety that are continuing, frankly, to consume oil at rates that are not good for this country and certainly not good for our environment.

There are two ways to get more fuel-efficient vehicles—guess three. One of the ways is to rely on the hope, as some of the authors do in this bill, that someday Detroit will wake up to this need. And when they wake up to it, they will lead the American consumers into wanting more fuel-efficient vehicles. I don't think so. We have 18 years of experience to argue against that. We have seen CAFE standards and fuel economy declining over the last 18 years. Detroit showed little leadership. Cars that are innovative in this area, unfortunately, are not built in the United States.

There is a second way to do it. If you raised the price of gasoline tomorrow—doubled it tomorrow—I can guarantee you most families and businesses, by the end of the week, would be asking a question they have not asked in a long time: How many miles a gallon do we get in this car, anyway? If you started asking that question, and realized you have a gas guzzler, you might make a consumer choice next time. But raising gasoline taxes or gasoline prices comes at an additional cost to the economy.

For individuals, workers, and families, it means an added cost of getting up and going to work. I don't want to impose that cost, particularly in the midst of this recession, with so many jobs we have lost. And for small businesses, it is an additional cost of doing business to have new fuel costs. It will force them, perhaps, to lay off people. I don't want to see that happen.

But there is a third option, and that is this amendment. It has been proven. We did it in 1975. We established CAFE. That was not even a word in the law until 1975. We said we can do better. And we did better. That is what this amendment does.

I am honored this amendment has been supported by many groups, including the League of Conservation Voters, which has made it one of their key votes for this session of Congress. They understand, as well as the Sierra Club, Citizen Action, and a number of other groups across the United States that any meaningful and serious discussion of energy security for America must include the issue of fuel economy and fuel efficiency.

If we pass this bill without real language and real law that has teeth in it to improve fuel efficiency and fuel economy, we will have done a great disservice not just to the people we currently represent but to future generations and to the environment, which will be damaged because of our neglectful attitude.

I hope my colleagues will, at this point, look beyond the big, special interest groups that have come in and said: Please, stop the Durbin amendment; don't let him improve the fuel efficiency of vehicles. I hope they will listen, instead, to their own consciences and their own minds and hearts about what is at stake. We can make the right move for future generations. The adoption of this amendment will achieve it.

I hope my colleagues will join me in supporting this amendment.

Mr. HARKIN. Mr. President, I am pleased that my amendment to the Energy bill to create a demonstration program on production of hydrogen from renewable resources was adopted at the end of last week. The hydrogen title in the Energy bill contains a number of important provisions, many of which closely overlap with the Hydrogen and Fuel Cell Energy Act of 2003, which I introduced in April. Perhaps most important, it authorizes several significant demonstration programs for various applications of fuel cells. These programs are the critical next step in bringing hydrogen and fuel cells from the laboratory bench into widespread commercialization. They provide a realistic test of how the laboratory technologies work in the real world, and they provide funding for pre-commercial prototypes of the technologies, including starting to build a hydrogen fueling infrastructure.

However, there were no demonstration projects in the title on how we will obtain the hydrogen to run the fuel cells. The bill reauthorizes the Matsunaga Act to continue and improve research on a variety of hydrogen technologies, which we have been trying to enact for more than 2 years now. Elsewhere, the bill contains a massive and dubious subsidy for a nuclear plant in part to produce hydrogen, as well as support for production of hydrogen from coal, but there is nothing to demonstrate production of hydrogen from renewable resources.

Currently, most hydrogen is made by reforming natural gas. This is a relatively clean and efficient way to use natural gas. But there are still emissions of greenhouse gases and some pollutants. Equally important, use of natural gas for hydrogen continues our dependence on natural gas supplies. As the recent price runup on natural gas has shown us again, supplies of natural gas may not always meet demand, and prices can be volatile. I support use of natural gas to make hydrogen in the near future, but in the long run, hydrogen and fuel cells must help us reach an economy based on clean, domestic, renewable sources of energy.

This amendment will help us get there. It authorizes $110 million over 5 years to conduct demonstration programs on production of hydrogen from renewable resources. The resources might include biomass, such as switchgrass and ethanol, wind energy, solar power, and other sources. The program would help prepare a variety of emerging technologies for renewable

hydrogen production for widespread use. These demonstration programs would be conducted using competitive merit review of funding proposals from a wide variety of companies and organizations, and they would require cost sharing from awardees.

Technologies that combine production of hydrogen with other activities show particular promise for clean, efficient production of hydrogen at this time. Two approaches are specifically included in the scope of the program. Biorefineries can make hydrogen, along with other products, from biomass. And in ''electrofarming'' the hydrogen is produced and used on the same farm or in nearby facilities. The hydrogen might be made by growing and reforming biomass, from wind energy, or from farm waste; it could be used in farm vehicles and equipment and for heat and electricity in farm buildings. By placing production and use together, this approach saves on transportation of the fuel or the hydrogen. It also avoids any large-scale energy facilities that might present security risks.

I am pleased this program will be in the portfolio of measures in the hydrogen title of the Energy bill that will help develop and commercialize hydrogen and fuel cell technologies, and turn into reality a vision of cars that don't pollute, of power that won't go out, and of feeling less dependent on an area of the world where we recently fought the second war in recent years.

Mr. BURNS. Mr. President, on behalf of myself and my colleague, Senator BAUCUS, I will offer an amendment to the pending Energy bill that will make it economically feasible to make improvements to and operate the Flint Creek Hydroelectric Project at Georgetown Lake in Granite County, MT. Specifically, this amendment limits the Federal Energy Regulatory Commission's, FERC, annual land use fee at the project to $25,000 for so long as Granite County, or the neighboring county, Deer Lodge County, holds the license to the project. This amendment is very similar to legislation which Senator BAUCUS and I introduced in the 104th Congress and which was reported unanimously from the Senate Energy Committee.

The Flint Creek Project does not currently generate electricity, nor will it without a limitation placed on the FERC annual land use fee. Under the status quo, FERC's annual fee for the project would be more than $83,000, an amount that simply makes the project uneconomic. The GAO recently released a report that concluded that the FERC generally sets land use fees too low for non-Federal hydroelectric projects located on Federal lands. In the case of the Flint Creek Project, the opposite is true.

The Flint Creek Project is more than 100 years old. It was operated by the Montana Power Company for many years. Since 1992, when it was transferred to Granite County, it has remained idle. In order to become operational again, it will require more than $2.3 million in investment. This includes building a new powerhouse that replicates the architectural style of the historic structure, installing new intake facilities, replacing the old woodstave line with a new low-pressure pipeline, new generation turbines, swiftgear equipment, stream flow control, data logging systems and a new substation and metering equipment to connect the project to the Northwest energy transmission grid.

All of this investment is necessary to get the Flint Creek Project up and running in an operationally efficient and environmentally responsible and safe manner. When these investments are made, the project will have an installed generation capacity of 2 megawatts. That translates into anticipated annual power sale revenues of between $300,000 and $350,000. Under the current FERC fee regime, however, the annual fee of $83,000 would amount to nearly 25 percent of the gross revenues of the project. With this kind of bureaucratic overhead, no one with an ounce of business sense would make the $2.3 million investment required to restart the project. My amendment reduces this annual fee to a level that fairly compensates the Federal Government for the use of its property, while at the same time encouraging investment in this project by assuming a modest rate of return.

As we sit here debating new mandates to diversify this Nation's energy portfolio and increase the amount of renewable electricity available for the marketplace, it strikes me that this is one small, site-specific yet beneficial way in which we can appropriately encourage new investment in clean, renewable electricity.

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

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

LEGISLATIVE SCHEDULE

Mr. DASCHLE. Mr. President, I wanted to touch on a couple of matters prior to the time we adjourn for the day. I have come to the floor now on several occasions to talk about the concern I have with regard to the schedule for the consideration of energy. We have a mere 3 or 4 days left before the August recess is supposed to begin.

As we debated the Energy bill last year, I can recall so vividly how frustrated many of us were with the length of time it took to work through the many very controversial issues.

Energy is controversial. At the end of the day, we, in spite of our frustration, passed a bill that ultimately acquired 88 votes. The vote was 88 to 11. Because we were persistent and because we stayed on the legislation, we were able to complete our work and ultimately get a strong bipartisan vote—88 votes.

That vote came after 24 days of debate, over the course of 8 weeks. We considered 144 amendments. At the end of that period of time, people felt as if they had their say. They had been able to offer their amendments. They expressed themselves and ultimately voted for the bill by an overwhelming margin.

Unfortunately, so far, we have not been able to allow the Senate to work its will in that way with the pending energy legislation. We have been on it 12 days. We have only had 12 rollcall votes. So we have averaged one rollcall vote per day. We have considered 35 amendments, but, as I say, only 12 of those actually required rollcall votes.

So we find ourselves now, at the end of the first day of the final week before the August recess, where we only saw the new electricity title on Friday—Friday night. I must say, that amendment alone—the electricity title—with all of its extraordinary geographical repercussions, poses very serious challenges to the Senate as we try to resolve the differences. So we have an electricity title that, I assume, could be laid down tomorrow. There will be amendments offered to the new electricity title because we know that, on a bipartisan basis, there is still a great deal of concern about it.

We have not dealt with global warming. That, too, is going to generate controversy and amendments. There are also the issues of the Renewable Portfolio Standard, CAFE standards, hydroelectric dam relicensing, Indian energy, nuclear subsidies, and natural gas. In my part of the country, in South Dakota, natural gas alone warrants all the attention of the Senate to absolutely assure that we somehow can acquire available supply and stabilize price. There are also energy efficiency incentives, wind energy, carbon sequestration, exploration in the Outer Continental Shelf and, of course, the energy tax package.

All of those issues have yet to be resolved. That was why on the last day prior to the July 4 recess I came to the floor to say if we are going to finish this bill, we better return to the legislation almost as soon as we come back because it will take that amount of time to accommodate the legitimate debates that must be a part of consideration of this comprehensive bill. Well, that has not happened.

Now we find ourselves in the last week before the August recess with, I am told, over 380 amendments pending. Somehow there is an expectation that we can finish. I can hear, perhaps, the charge at the end of the week that, well, the Democrats just didn't want to finish the bill. Opponents just didn't want to deal with it. So they were dragging it out.

I must again insist that there is no desire to drag this out. There are many very deeply held feelings about many of these issues because they affect the pocketbook and ultimately the very security of a vast number of people in this country whose reliance upon energy is perhaps as consequential as their reliance on food or anything else. It is a commodity that we must have. So, clearly, we want to resolve these issues. But we are not going to be jammed. We are certainly not going to treat lightly or minimize the consequences and the extraordinary importance of these issues as we continue this debate.

I told the distinguished majority leader a few hours ago that I was in favor of grinding this out, trying to find as many ways to take up these issues and deal with them as we can. But nobody should be surprised if, at the end of the week, given the complexity and importance of these issues, that we have not completed our work. One of the reasons we have not completed our work, so far, is because we have had some other issues that have been the focus of attention in the Senate. One of those was the supplemental that passed. I want to comment on that briefly as well.

On July 8, President Bush proposed a supplemental for $1.9 billion that consisted of three very critical parts: $1.55 billion for FEMA disaster assistance; $289 million for Forest Service and Bureau of Land Management to cover the costs of fighting wildfires all over this country; and $50 million for NASA's investigation of the Challenger disaster. The Appropriations Committee supported the President's request, but they added one more thing. On a bipartisan basis, and with the approval and support of the White House, they added an additional $100 million to head off a looming funding crisis that would force AmeriCorps to cut from its rolls 15,000 volunteers. The committee's decision to add AmeriCorps' funding to the package was affirmed on the floor by a vote of 77 to 21 to defeat an amendment to strip out AmeriCorps' funding, and then by a vote of 85 to 7 to support final passage of the underlying legislation.

So we went into conference with our colleagues in the House with every expectation—given the President's support, given the overwhelming bipartisan vote on AmeriCorps and these other key issues, but most importantly, given the urgency that is evident to anybody who knows the circumstances—that before the House adjourned, we would have voted on all four of those components. Instead, for reasons I can only begin to imagine, the House Republican leadership cut nearly $600 million from the President's request for FEMA disaster assistance. The result is that with that cut, we are told today that disaster assistance funds could run out before we come back in September. You are going to have States all over this country needing disaster aid, and it will not be available because those funds were eliminated.

They also eliminated all the money that we need to fight wildfires. We have a fire that has now consumed over 2,500 acres just on the Wyoming side of the South Dakota border. To my knowledge, it still burns out of control. As a result of the funding cut, we may not have adequate funding to fight the fires that we know will occur in August, and perhaps in September, as a result of the elimination of this $289 million. The money will not be there.

And then, of course, the money for AmeriCorps was eliminated as well. Hundreds of worthy programs, serving tens of thousands of Americans, are going to be terminated because the AmeriCorps volunteers will be without funding.

Mr. President, the state of affairs, and the reasons for the actions taken in the House, are simply unacceptable. We have to find a way this week to resolve these outstanding questions.

I do not know what could be more important than ensuring that as these fires burn out of control, we are going to get the necessary resources to the Federal agencies so they can get needed resources to the sites of the disaster. That is true of FEMA. It is true of AmeriCorps. And, I must say, I am troubled with the message it sends about *Challenger*. It ought to be true of our commitment to find ultimately a successful conclusion to the NASA investigation of *Challenger* as well.

Mr. President, I did not hear his remarks on the Senate floor, but the distinguished Chair of the Appropriations Committee expressed himself very clearly this afternoon, and it is my desire to work with him and others to see that we find a way to resolve this issue successfully. We cannot leave this week with the extraordinary message we would be sending to the entire country about FEMA, about forest fires, about the *Challenger* disaster, and about AmeriCorps.

We have to find a bipartisan solution, just as we did earlier this month, to address those matters prior to the time we leave. The majority leader has noted that he feels so strongly about the Energy bill that we should not leave before we finish the Energy bill. I will say, we should not leave before we have resolved this crisis in funding for these four agencies. I hope on a bipartisan basis we can say that, we could reassert ourselves, or we could assure that somehow this matter can be resolved.

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

The PRESIDENT pro tempore. 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 PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Alabama is recognized.

PRISON RAPE ELIMINATION ACT OF 2003

Mr. SESSIONS. Mr. President, I wish to say a few words about legislation that just cleared the House. It is something I think is healthy and good. It is the Prison Rape Elimination Act of 2003. I worked with Senator KENNEDY to hammer out legislation that I think is important. We have different political philosophies, but we have come together on this issue. Also, in the House, Congressmen FRANK WOLF and BOBBY SCOTT worked together to move the legislation through their body. As a Federal prosecutor for 15 years and as an attorney general for Alabama, I sent many guilty criminals to prison where they belong. I believe they should be treated fairly in court, and I treated them fairly. I also believe they should be treated fairly in prison.

Most prison wardens and sheriffs are outstanding public servants. They do a fine job of supervising inmates, and I respect them and commend them for the work they do. However, knowingly subjecting a prisoner to a circumstance where they could be sexually assaulted, and raped, is cruel and unusual punishment, clearly, under the eighth amendment to the Constitution.

Some States have estimated as many as 10 percent or more convicted offenders have been subject to sexual assault in prison. One study said 13 percent and another study said 14 percent. I hope these statistics are an exaggeration and frankly, I think they may be an exaggeration. Nonetheless, it is the duty of government officials to ensure that criminals who are convicted and sentenced to prison, serve the sentence imposed by the judge, but not additional sentence of sexual assault. Rape is not a part of any lawful sentence.

I am also concerned when I see television programs, movies, and read books that constantly suggest that any young person sent to prison is going to be sexually assaulted. I have never believed that to be true, but I have not doubted some of it occurs. None of it should occur.

As a prosecutor, I had a policy that I would talk to any mother or close family member of any person who was convicted in my court. Many of them told me of their concerns about sexual assault in prison based on what they had seen on television and what they had read in books.

This bill will deal with the issue in three ways. It establishes a national commission to study prison rape at the Federal, State, and local levels and, after 2 years, to publish the results of the study and make recommendations on how to reduce prison rape.

Second, the bill directs the Attorney General to issue a rule for the reduction of prison rape in Federal prisons. That is what we have direct responsibility for in this body, Federal prisons. To avoid a reduction in certain Federal funds, each State should certify it has adopted or is in compliance with the standards set forth in the Attorney

General's rules for improvement in this area. If a State is not in compliance, it can use the 5-percent money that they would otherwise lose to work on this problem. If they do that, they will not end up losing any money, but it will be a way of us saying: If you are going to continue to draw Federal money, take this issue seriously.

Third, the bill will require the Department of Justice to conduct statistical surveys on prison rape for Federal, State, and local prisons and jails. Further, the Federal Government will select officials in prisons with the highest incidence of prison rape and with the lowest incidence of sexual assaults and have them come to Washington to discuss the problem and testify.

The bill provides grants of up to $40 million to States for the prevention, investigation, and prosecution of prison rape. We find very little prosecution of these cases for prison rape. It will help the States reduce repeat offenses.

A broad and bipartisan array of organizations and institutions have added their support to this bill; for example: The American Psychological Association; Camp Fire USA; Center for Religious Freedom, Freedom House; Christian Rescue Committee; Citizens United for Rehabilitation; Focus on the Family; Good News, United Methodist Church; Human Rights Watch; Justice Policy Institute; Lutheran Office for Governmental Affairs; National Association of School Psychologists; National Association of Evangelicals; National Association for the Advancement of Colored People; National Council for La Raza; National Network for Youth; National Mental Health Association; Marvin Olasky, the author and editor; Partnership for Responsible Drug Information, Presbyterian Church USA; Religious Action Center; Prison Fellowship—that is Chuck Colson's group that has been active in working on this issue—the Salvation Army; the Southern Baptist Convention; Unitarian Universalists for Juvenile Justice; Volunteers of America; and Youth Law Center.

I also thank Linda Chavez and Mike Horowitz for the ideas that started this legislative initiative. Well-conceived and carefully crafted ideas drive many legislative and political initiatives that become law after people work together to form a bipartisan, moral position.

I commend the hard work of Bill Pryor, the attorney general of Alabama, who worked with us on this issue and testified in favor of it. He cares about the individuals who are in prison, having put a lot of them there himself, and he demands fairness in how the prisoners are treated.

I also compliment my Senate staff person, Andrea Sander, for her excellent work in this matter.

This bill will address prison rape, not through unfunded mandates but by studying the problem and figuring out how to address these needs. It is time for us to confront this issue, to deal with it, and put it behind us. Mothers should not have to worry that their children are going to be sexually assaulted in prison. That should not occur. I believe we can do better. This bill will be a major step in that direction, and I salute Senator KENNEDY for his leadership in helping us make this happen.

I thank the Chair and yield the floor.

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

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

MORNING BUSINESS

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to a period for morning business.

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

DARPA AND THE FUTURES MARKET

Mr. DORGAN. Mr. President, we are on the Energy bill, but I wish to take a moment, inasmuch as my colleague from Wyoming has finished his statement, to speak on another subject. This morning my colleague, Senator WYDEN from Oregon, and I had a press conference disclosing something that is going on in a small corner of the Department of Defense. It is pretty disconcerting.

I should say at the outset that over recent months, Senator WYDEN and I have tried to put together a little project dealing with Government waste. Both of us believe very strongly Government does a lot of things to improve people's lives. It funds education and highways and provides for this country's protection and defense. There are a lot of things the Government does that are important to our daily lives, but when there is waste of money in Government, it is appalling.

We have discovered in a small corner of the Pentagon something that is going on that ought to be stopped immediately: In three days, a program sponsored by an agency in the Pentagon called DARPA will begin to allow sign-ups for the creation of a futures program for people to buy and sell futures contracts. It is an approach to try to use the market system to predict future events in the Middle East, they say.

I encourage people to go to their Web page and take a look at it. They say, for example, they will create a futures market in which buyers and sellers will make judgments and price futures contracts on predictive events such as: Will Mr. Arafat be assassinated? Will the King of Jordan be overthrown? Will there be a bioterrorist attack against the country of Israel?

I told someone about discovering that this was going on at the Pentagon. They said I am clearly wrong about that; there is not any way the Pentagon can be setting up a futures contract system in which people will make bets on the Internet about whether some leader will be assassinated or whether there will be a bioterrorist attack.

The answer is, they are wrong. That is exactly what is happening. I say to anybody who wonders about it, go to the Internet. It is unbelievably stupid as a public policy, in my judgment, to think that real intelligence can be replaced by a betting system involving people connected to the Internet around the world; that you can replace real intelligence with a so-called market-based system in which presumably informed buyers and sellers would make bets, wagers—they call it futures contracts, but in fact it would be wagers—on whether a foreign leader would be assassinated, on whether there would be a bioterrorist attack, on whether North Korea would launch missiles.

I am using all of these examples because they are on the Internet site sponsored by the Department of Defense. This is real. I thought immediately, this clearly must be someone who went to The Onion and it is a spoof.

No, it is not. One does not find this on The Onion. They find it on an Internet site sponsored by DARPA at the Department of Defense, saying they are going to create this system and the sign-up starts August 1. The trading on futures contracts on these kinds of questions trying to be predictive about future events in the Middle East will begin on October 1, and they hope to ultimately have 10,000 traders. It is the most Byzantine, harebrained scheme I think I have ever heard coming from Government.

I say to DARPA, and to Admiral Poindexter, who I understand is running this program: Stop it. End it.

If not, we will try to end it in the appropriations process.

The Department of Defense does a lot of wonderful things. I have great admiration for them, and I serve on the Defense Appropriations Subcommittee. But putting together a program for trading of futures contracts on the kinds of propositions I have just mentioned—assassinating leaders, bioterrorist attacks—is not a project that warrants any credibility at all. It is a tragic waste of the taxpayers' money. It is offensive and, in my judgment, it will have no value to anyone.

My hope is that Senator WYDEN and I will have convinced the Pentagon today that enough is enough. Stop this kind of nonsense.

REPATRIATION OF CUBANS INTERDICTED ON THE HIGH SEAS

Mr. NELSON of Florida. Mr. President, I call to the attention of the Senate, and specifically to the Foreign Relations Committee, the question of whether or not longstanding policy has been changed by the administration with regard to the repatriation of Cubans interdicted on the high seas.

As we know, since 1995 we have had an understanding with the Castro Cuban Government that when Cubans are interdicted on the high seas, they will be returned to Cuba and they will not be imprisoned.

Clearly, we saw a change with the hijacking of a ferry boat a couple months ago. They were returned to Cuba, and without a trial they were summarily executed.

Naturally, this has made us much more sensitive to the question about these very brave citizens of Cuba who are trying to flee the Castro regime. So it brings up the instance of 2 weeks ago.

Three dock security guards were overpowered. A boat was stolen by some dozen Cuban citizens. On their way across the Straits of Florida, they were interdicted by the U.S. Coast Guard. In returning them, it appears there was a negotiation by our Government with the Castro government that they would receive prison sentences of up to 10 years at the discretion of the Cuban Government.

This appears to be a subtle change in policy. Was it a hijacking? It was the stealing of a boat. But the long and the short of it is, the U.S. Government was negotiating directly to send these Cubans going back to Cuba into a prison sentence that could be as much as 10 years. I do not think this is right.

Under these circumstances, it seems to me that at least the U.S. Government, this administration, should have considered the alternative of a third country for these people. Having been sent back, to go back into Castro's prisons, you know their fate.

I am asking Senator LUGAR and Senator BIDEN of the Foreign Relations Committee to investigate this matter. Let us determine if this is really in the best interest of what we are trying to achieve when people are leaving a repressive dictatorship, seeking freedom, and then it appears that the U.S. Government is negotiating their own prison sentence. I do not think that should be the policy of the U.S. Government.

THE BILL SCHERLE POST OFFICE

Mr. HARKIN. Mr. President, I am very pleased that the Senate and the House of Representatives have passed S. 1399, legislation that names the Glenwood, IA Post Office for former Iowa Congressman William J. Scherle. I understand that the President will soon sign that measure—I hope this week.

Congressman Bill Scherle—or Bill, as his friends call him—and his wife Jane live on their family farm just outside of Henderson, IA, in Mills County. Glenwood is the county seat of Mills County. Bill served 4 terms in the U.S. House of Representatives, beginning with 3 terms in 1967 in what was then Iowa's 7th Congressional District, and a term in the redistricted 5th Congressional District. I think it is appropriate that Glenwood's Post Office will soon permanently bear Congressman Scherle's name.

Bill long served this Nation. He started with military service in the navy and Coast Guard during World War II, then afterward served in the Naval Reserve. He chaired the Mills County Republican Party for almost a decade starting in 1956. He served in the Iowa legislature from 1960 through 1966. He then was elected to the U.S. Congress and served through 1974, including service on the Education and Labor Committee as well as on the Appropriations Committee. His public service continued in 1975 and 1976, when he was appointed to a senior position at the Department of Agriculture.

In January 1968, North Korea seized the USS *Pueblo*, imprisoning and torturing the crew. Congressman Scherle led the effort in Congress to free the crew of the *Pueblo*. I have always admired Bill's tenacity in never letting the *Pueblo* crew be forgotten. Bill was the only member of Congress invited to attend *Pueblo* reunions, and, as their health has allowed, Bill and Jane always have attended.

Bill and I are at different places on the political spectrum, and I ran against him for Congress twice. He won the first time, and I won the rematch. We disagreed on many issues, but I always understood that he acted on the basis of strongly held views about what he considered were the best interests of those he represented and of the Nation.

Long after we ran as opponents, I got to know Bill and visited on his farm. He is a good person who cares deeply about his community and rural America. Politics has always had a certain amount of rough and tumble.

But while Bill was certainly a good Republican who wanted to see consistent victories for the GOP, he also could see the good in all people.

One area of our mutual interest was the Iowa School for the Deaf in Council Bluffs. Bill always did what he could for the school my brother attended years ago, and for deaf people in general.

Congressman Scherle always cared about children and their welfare. He wrote a children's book, ''The Happy Barn.'' He gave away thousands of copies to schools, hospitals and individual families in Southwest Iowa and the Omaha area, reading to young children time after time. He had lots of fun reading to children, and I believe that there are few more valuable things we can do as adults than to read to children and get them started on that most important activity.

Bill was a businessman and farmer, proud of both professions. He received the Alegent Health Mercy Hospital Heritage Award for his contributions to business in Southwest Iowa.

Bill Scherle remains a good father to his two sons, and a good husband to his wife of 55 years, Jane. He is blessed with six grandchildren—five girls and a boy. Bill has lived a dedicated life, full of patriotism, family and public service. I am please that my colleague, Senator GRASSLEY, joins me in sponsoring this legislation. Congressman KING introduced the companion legislation in the House of Representatives, which was cosponsored by the entire Iowa delegation.

I thank my colleagues for helping us all to honor Congressman Bill Scherle, and I look forward to hearing that the President has signed this bill—hopefully this week.

Mr. DORGAN. Mr. President, the Senate will be asked to approve two free-trade agreements with respect to Singapore and Chile. I expect the Senate will approve both trade agreements by very wide margins. I intend to oppose both and wanted to explain why. It is not the case that I believe a free-trade agreement with Singapore is inappropriate. It is not the case that I believe a free-trade agreement with Chile is inappropriate. It is the case, however, that this country has a trade regime that is in total chaos and it is a significant mess.

For 20 years, under Republican and Democratic administrations, we have seen our trade deficit ratchet way up. We now have the largest trade deficit in human history that has occurred anywhere on the globe. It has been rising very rapidly. Instead of fixing the problems that exist in international trade and demanding fair trade and demanding from our allies fair trade treatment and doing something to prevent the erosion of American jobs which, incidentally, are now moving overseas at a rapid pace, we have trade negotiators rushing across the world trying to do new agreements.

I say fix the old agreements before we start running around doing new agreements. The reason we are going to consider new agreements today under something called fast track is that Congress decided to handcuff itself and agree to a procedure by which no amendments will be able to be offered to either free-trade agreement.

Singapore is a tiny nation of 3 million people a half a world away. We already have a very favorable trade relationship with Singapore. It has little manufacturing and little agriculture. It is wide open to imported goods. Singapore is not an example of a trade problem for us. So it does not matter much to me whether we have a free-trade agreement with Singapore.

The trade ambassador has brought us an 800-page free-trade agreement with Singapore. But demonstrative of the problem we have created for ourselves is a small provision in the free-trade agreement with Singapore that provides an authorization for the opportunity for Singapore to send to our

country 5,400 people under a visa program to take jobs in this country.

Normally that would be a circumstance that would be dealt with by other committees in Congress, in which we evaluate how many people do we want to come in under a visa to work in this country, but instead this has been negotiated in a foreign-trade agreement negotiation somewhere, perhaps most of it overseas, certainly behind closed doors, inevitably in secret, and they put an immigration provision in this proposal. The immigration provision would allow 5,400 immigrants to come from Singapore to the United States to take jobs in the United States.

Think of this for a second. We have 8 to 10 million people out of work, desperate for jobs, needing to go to work, who cannot find a job in this country. We read a story every day in the major newspapers about someone who has hundreds of resumes out, they spend all day desperately trying to find a job because we have lost 2½ million jobs in the last couple of years.

It is not as if our economy is growing by creating new jobs. To the extent there is any growth at all, it is jobless growth in this country. Some have made the point that, no, there are jobs attached to this growth, it is just that jobs do not exist in the United States. The growth occurs here in terms of profits and economic expansion of sales and profits, but the jobs attached to that growth are in Bangladesh, Indonesia, China, and elsewhere.

So if we have a jobless expansion, which we have, having lost 2½ million jobs in the last couple of years, and we have people desperately searching for jobs, and then we get a free-trade agreement brought to the Senate floor our trade ambassador negotiated with Singapore, and deep in the bowels of that agreement is a provision that says 5,400 people from Singapore will come to this country to take jobs in this country and we ask the question: Why? Why would we do that?

So then the immediate instinct is, if there is a provision in this free-trade agreement with Singapore that is that odious, then let's get rid of it by offering an amendment. Dump it. The problem is, fast track means trade agreements brought to the Senate floor prevent any Member of the Senate from offering any amendment under any circumstance.

This Congress foolishly decided that it would straitjacket itself and whatever is negotiated anywhere by our trade ambassador and brought back in the form of a trade agreement, we will agree that we will be prevented from offering an amendment.

So we will vote on this. The majority of the Senate will vote yes to free trade with Singapore, and yes to 5,400 immigrants from Singapore to come to this country to take American jobs. I am not going to vote for that. Once again, the lesson is, those who believe fast-track trade procedures make sense ought to think again.

Also, this trade agreement with Singapore provides for transshipment. It provides for transshipment of high-tech products from anywhere, China, Burma, Indonesia, if they are transshipped through Singapore to the United States to get the full benefit of the Singapore free-trade agreement.

Singapore is already one of the largest transshipping points in the world. Should we be negotiating trade agreements that encourage transshipment so we do not know the origin of shipments to this country of high-tech products or others? I do not think so.

I understand, interestingly enough, that a bipartisan group of my colleagues will offer a resolution on the immigration piece that is in the free-trade agreement. The resolution is going to be a sense-of-the-Senate amendment. I think I was asked if I put my name on it. I am happy to put my name on it, but it does not mean anything. It is beating someone over the head with a feather.

It is a sense-of-the-Senate resolution that says: You better watch it; you should not have done this. But it cannot be more than a sense of the Senate because we cannot take out this provision. This provision is stuck in the trade bill and we cannot get it out. This Senate has already agreed we will not allow amendments.

I didn't vote for that; I voted against it. But the majority of this Senate says: Let us line up so we can be subservient to the trade ambassador—whoever it is, Republican or Democrat—and agree whatever they negotiate in secret overseas that affects American jobs, count us out. We will not be able to offer amendments. That is just fine with us.

Apparently, these are colleagues who have forgotten what is written in the Constitution of the United States. The Constitution clearly says that trade is the Senate's responsibility, not anyone else's; not the President but the Senate.

Fast track trade agreements have been disastrous for this country. This chart shows the runaway deficits we have experienced.

It does not matter which administration is in office. A person could be blindfolded and listen and cannot tell if it is a Republican or Democratic administration. They all say the same thing: all we care about is getting another trade agreement. Meanwhile, we had $470 billion in the year 2002 in merchandise trade deficits. Is that alarming to some? One cannot detect it in the Senate. No one seems to care much about it. There are only two or three Members who talk about this, and we are considered the xenophobic isolationist stooges that do not get it.

What I get is this country fought for a century for a series of things that make life better in our country. There are people who died in the streets of America for the right to organize in labor unions. We fought about child labor laws, saying you should not work 12-year-old kids 12 hours a day in a coal mine or manufacturing plant. We fought about prohibiting companies from dumping chemicals into the air and the water. We fought about safe workplaces, believing the American workers have a right to work in safe workplaces. We fought about all those issues for a century.

Now some have decided you can pole-vault over all of that by producing what you want to produce elsewhere, where you do not have to worry about hiring children, where you do not have to worry about clean air and clean water. You do not have to worry about safe workplaces. You could prohibit all workers from organizing any bargaining unit. We have decided that is OK, let companies do that. They pole-vault to China or Indonesia or Bangladesh, produce there but sell here.

The problem is, in the long term, it does not work because the very people who earned the income in the manufacturing plants in this country are the people who were able to purchase the products off the store shelves. Without the incomes from those jobs—and our manufacturing sector is shrinking badly—from that manufacturing sector, who will buy these products?

This morning in the Wall Street Journal an article reads, ''U.S.-Chinese Trade Becomes a Delicate Issue of Turf.'' It is talking about the debate within the National Association of Manufacturers between the big manufacturers that are international in scope that want to move their manufacturing to other countries where they can pay pennies on the dollar for labor, and the other businesses, medium and small businesses, that rely on the business from the larger companies to spill over to them. It is a fascinating article. I commend the reading to people who are interested in the subject.

Jim Schollaert, a lobbyist with the American Manufacturing Trade Action Coalition, says simply: The big companies are following a new business model—pay Chinese wages but charge U.S. prices.

That is the question these days for us. Is there a price of admission to the American marketplace? We understand we have a globalization of the international economy, and it will not stop. But have the rules for this new global economy kept pace with globalization itself? The answer, clearly, is no. If a large international company has a choice to decide where it wants to produce, and it flies its jet around the world and looks down at the landscape and sees different kinds of governance, different philosophies, different local politics, and different labor forces and decides to choose where to produce, does it not all too often these days decide to produce where it can hire a 12-year-old, work them 12 hours a day and pay them 12 cents an hour?

You think it does not happen? Of course it does. We can describe it and use names in the Senate, names of workers and names of companies. Not

only can they settle on a site in the world where they can put a manufacturing plant, hire kids and adults and pay them pennies on the dollar and pollute the air and water and decide they shall not be allowed to organize as a bargaining unit and they do not have to have safe workplaces in which the workers conduct their daily activities, and then produce there, but they also ship it back to Toledo, Anchorage, Fargo, or Los Angeles and sell it on the store shelves in this country. That is the global marketplace.

Let me talk about a series of specific countries. First, I will talk about China. China has the largest trade deficit with us. It is $103 billion a year. They ship us their trinkets, trousers, shirts, shoes. We are a huge sponge for Chinese production.

One reason we have a very large trade deficit with China, which hurts us and strengthens them, is because the Chinese do not want certain things from us. They are not buying our grain in any significant way. They do not want our wheat. They do not want to buy airplanes. They need airplanes, but do not want to buy our airplanes off the shelf where we manufacture them and send our airplanes to China. They say they want some of our technology, but they want us to build our airplane plant in China and hire Chinese workers. That is the way they would like to buy American airplanes.

The problem is, it does not work that way. That is not what international trade is about. We buy that which we can best use from China, they ought to buy what they can best use from us. That is the doctrine of comparative advantage. It is as old as the study of economics itself.

Our negotiators, our U.S. official negotiators negotiate with other countries and typically underserve American interests.

About 2½ years ago we had a bilateral trade agreement done with China. It was a prelude to China joining the WTO. At the end of the agreement, there was once again celebration by negotiators because negotiators judge their success by whether or not they got a negotiated agreement. It is a terrible agreement, I might say. They decided, for example, that if there is automobile trade between the United States and China in the future, after a long phase-in, the following will exist: China will be allowed a 25-percent tariff on United States automobiles sold in China, and we would have a 2.5-percent tariff on any Chinese automobiles sold in the United States.

Our negotiators went to China and said: All right, we agree if there is automobile trade, vehicle trade between the United States and China. We will agree that you shall have a tariff that is 10 times higher than what we will impose on your products. Who negotiated this on our behalf? Did they forget who they were working for?

Do you know how many movies we get into China? Before the trade agreement, only 10 imported movies could be shipped to China in a year. Just 10. So after the agreement, we get to ship 20 movies. People say, Look at that; what a great thing that is, to double it to 20. Our expectations on fair trade are pathetic.

The Chinese, by and large, keep their market reasonably closed to us, prevent us from accessing opportunities in their marketplace but expect our marketplace to be wide open to Chinese goods.

We have become a cash cow for the hard currency needs for China, and it is hurting our country. The imbalance in the trade relationship that exists between the United States and China is almost unforgivable. Is anybody doing anything about it? Not a thing. Nothing. Just nothing. All you get, when you talk to the trade ambassador's office, again under Democratic and Republican administrations—all you get from them are a few grunts and groans about we would like to do better and then they rush off and do a new agreement with some other country.

This is what we have with Korea. I mentioned the absurd situation with automobile trade with China. Well, in 2001, 618,000 cars were shipped from Korea to the United States. I believe last year it was 680,000 but use this as a working number; 618,000 cars were shipped from Korea to the United States to U.S. consumers—Hyundais, Daewoos. Probably they are wonderful automobiles. I have not driven one but I am sure they are fine automobiles.

They sent us 618,000 into our marketplace. Can anyone guess how many U.S. automobiles were sold in Korea? It was 2,800; 618,000 coming into our marketplace; we got 2,800 into the Korean market. Korea ships us as many cars as they can get into our marketplace and the Korean Government will keep out as many U.S. cars as they can.

A recent example of that is the Dodge Dakota pickup, which showed great promise in the Korean marketplace. The Dodge Dakota pickup, after 2 months, started penetrating the Korean marketplace. The Korean Government cracked down on it, big headlines in the newspapers, and immediately most of the orders were canceled.

My State produces potatoes in the Red River Valley, great potato country. We produce potatoes and we ship potato flakes to Korea for use in confection food—potato flakes. Do you know what the tariff on potato flakes is to Korea? It is 300 percent. Why do we allow that? I don't know. Our country doesn't seem to be interested in standing up for its economic interests.

Perhaps we should say to the Koreans, these great cars you are shipping into the marketplace, if you don't allow our cars into your marketplace and fair access to your consumers, then you ought to take your cars and sell them in Zaire. Try to sell them in Zaire. If you don't like it, then open your marketplace. Until your marketplace is open, we are not going to absorb more than a half a million of your vehicles. That is simple enough.

But we will not do that because our country is unwilling to stand up for its economic interests. In fact, that which I am presenting today on the floor of the Senate, I can't even present in an op-ed piece in the Washington Post. The Washington Post wouldn't run an op-ed piece in a million years talking about this because they are for one thing: free trade, free trade, free trade. It is as if they were wearing a robe, standing on a street corner chanting, and they only want one view expressed in their op-ed pages. Those of us who raise questions about the requirement for fair trade to stand up for the interests of American jobs are called protectionists.

My goal is not to put a wall around this country. I want to expand trade. I think expanded trade will be good for everyone, provided the rules are fair. When the rules are not fair, it is time for this country to stand up for itself and stand up for its jobs and stand up for its businesses.

I will give some other examples. I have mentioned Korea and I mentioned China. Now let me discuss Europe. I am using some agricultural examples simply because I come from a farm State. There are so many other examples.

If you take a look at what is happening in beef with Europe, the Europeans do not want U.S. beef in their marketplace because they say it is produced with growth hormones and is therefore harmful to their health. There is no scientific evidence of that. In fact, all the evidence is on the other side. But Europe says, We are not going to allow American beef into the European marketplace. In fact, they portray our beef as two-headed cows, some sort of obscene animal that would be terribly harmful to the marketplace, so they say, Keep it out.

So we go to the World Trade Organization and file a complaint against Europe and we win. It doesn't matter to Europe that we win. They are still not going to allow American beef into Europe. So what do we do? We are going to get tough. This is symbolic of the lack of backbone we have in this country when it comes to trade. How do we get tough? We decide to slap some retaliation on Europe. We hit them with some tariffs on truffles, goose liver, and Roquefort cheese.

God bless us, we are really getting tough with Europe. We are going to sock them around with truffles, goose liver, and Roquefort cheese. So what is Europe's idea to retaliate against us? Tariffs on U.S. steel and textiles.

Can you just see the difference? We simply do not have the backbone, the nerve, or the will to stand up for this country's economic interests.

I am mentioning Europe. There are plenty of problems with Europe in terms of our trade agreements. We continue to see country after country—with respect to Europe, we see the entire continent—with large, abiding,

yearly trade deficits that relate to jobs lost in this country.

If we were losing those jobs just because we couldn't compete, that is one thing. That is fine. I wouldn't like it but I would understand it and I would say we better figure out how to compete in the international marketplace. But if we are losing those jobs because the basis of competition is fundamentally unfair to America, then I say there is something wrong with the trade agreements.

We connect to other countries in a way that says to other countries: All right. We will trade and this is the circumstance. We will just tie one or two hands behind our back and then we will start. You can hire kids, you can put them in plants that are unsafe, dump your chemicals into the streams and the air, and you can prohibit them from organizing by law. You can do all those things and it is fine. Make your product as cheap as you can make it and ship it to the marketplace in Bismarck, ND, or Boise, ID, or Fairbanks, AK, or Los Angeles, and we would love to purchase that.

How absurd is that? Is there not any basic standard at all? Are the standards we fought for in this country for so long so old-fashioned? Is it not a timeless truth that workers ought to be able to organize, they ought to be able to expect a fair wage, and that you ought not be able to work 12-year-olds 12 hours a day 7 days a week?

If you wonder about that, let me give an example of a story. This story is entitled ''Worked Till They Drop.'' This happens to be about a 19-year-old girl but it is happening way too often in parts of the world where they do not care about the conditions of production that we have cared about for a long while and that we fought over for many decades. This is a story about Li Chunmei, May 13 of last year. She had been on her feet for 16 hours, her coworkers said:

. . . running back and forth inside the Bainan Toy Factory, [in China] carrying toy parts from machine to machine.

Let me read a bit from the piece.

This was the busy season, before Christmas, when orders peaked from Japan and the United States for the factory's stuffed animals. Long hours were mandatory, and at least 2 months had passed since Li and the other workers had enjoyed even a Sunday off.

Sixteen hours a day, 7 days a week.

Lying on her bed in the night, staring at the bunk above her, the slight 19-year-old complained she felt worn out.

She was massaging her aching legs, coughing, and she told them she was hungry.

The factory food was so bad, she said, she felt as if she had not eaten at all. . . .

''I want to quit,'' one of her roommates . . . remembered her saying. ''I want to go home.'' Her roommates had already fallen asleep when Li started coughing up blood. They found her in the bathroom a few hours later, curled up on the floor. . . .

She was dead.

The exact cause of Li's death remains unknown. But what happened to her last November in this industrial town in southeastern Guangdong province is described by family friends and coworkers as an example of what China's more daring newspapers call guolaosi.

The phrase means ''over-work death,'' and usually applies to young workers who suddenly collapse and die after working exceedingly long hours, day after day.

This is the sort of thing that is happening in some factories around the world, producing, in this case, stuffed toys. They could have been producing baseball caps. A prominent Ivy League college buys baseball caps from similar factories. They pay ⅕ cent labor for each cap produced and each cap is sold at $17 on the campus of the Ivy League university. Fair trade?

The question is, What did we fight about all these years? It seems to me we fought about having an economy that gave American businesses a chance to compete fairly and provide good-paying jobs to American workers. On issue after issue in international trade, we have trade agreements being brought to the floor of the Senate that have been negotiated with other countries in a way that is fundamentally incompetent.

One other example I have spent 10 years working on is the aftermatch of a free-trade agreement with Canada. The free-trade agreement with Canada is one I voted against. Incidentally, it was a vote when I was serving in the United States House Ways and Means Committee. It was 34–1. I was the one who voted against it. I was told by my colleagues we really need to make this a unanimous consent vote, that Canada was our good neighbor to the north and we share a common border. I said no. What you are proposing here is wrong. It is going to dramatically injure family farmers in this country.

But the deal was passed under fast track and no one could offer amendments. Oh, we had an assurance in writing from Trade Ambassador Yeutter that it would not represent a change or a significant change in the quantity of grain going back and forth across the border. The minute it was passed, we began to see a flood—a virtual avalanche—of Canadian wheat coming into this country sold by the Canadian Wheat Board, a state-sanctioned monopoly that would be illegal in this country. Our farmers were badly undercut by this unfair competition. We haven't been able to do a thing about it—nothing.

I had the GAO go to the Canadian Wheat Board because we think they are dumping in our marketplace. The Canadian Wheat Board simply thumbed its nose at the General Accounting Office, saying we don't intend to open our records to you at all. We intend to show you no information.

Year after year, we face this unfair grain trade from Canada. In fact, one day I went to the Canadian border—I have mentioned this many times—with a man named Earl Jensen in a 12-year-old orange truck with a couple hundred bushels of durum wheat. We drove to the Canadian border. All the way to the Canadian border we saw 18-wheelers coming south full of Canadian grain being dumped on our marketplace injuring our farmers. We saw semi load after semi load. I bet we met 20 semi loads of Canadian grain. When we got to the border in the 12-year-old little orange truck, guess what. We were stopped dead in place and we could not get that truck across the border because you couldn't take 200 bushels of durum wheat into Canada. The Canadian market was closed to us, but our market was wide open to unfair Canadian trade in this country. This has gone on for 10 years and we have not been able to do a thing about it.

Today we have a trade ambassador who has been scurrying around the world doing new trade agreements. So we have two new agreements to vote on, one of which has a 5,400 immigrant quota of people coming into our country from Singapore to take American jobs. Everyone knows that is wrong. Everybody in this Chamber knows that is foolish. That is not the way you do immigration policy—behind closed doors in secret on a trade bill. And yet no one in this Chamber will be able to get rid of that provision. That provision will be ratified by this Congress either this afternoon or tomorrow. Not with my vote.

At some point, somehow, somebody will have to wake up on trade. It is not the case that I believe we ought to shut down trade or that we ought to build walls and prevent trade. It is the case that this country needs to have a backbone and some nerve and some will—yes, dealing with China, Japan, Europe, Korea, Canada, and Mexico. And until we get that will and are willing to protect American jobs with the requirement for fair trade, this country is going to continue to lose economic strength.

After the Second World War, for a quarter of a century our trade policy was almost exclusively foreign policy. It wasn't trade. It wasn't economics. It was all foreign policy coming out of the State Department. It didn't matter because we were the biggest, the best, and the strongest country in the world by far and we could tie one hand behind our backs and out-compete anybody under any circumstance. So it was just fine. We could have mushy-headed foreign policy masquerading as trade policy. It didn't matter. We just would win.

But in the second 25 years after the Second World War, we saw the development of some pretty tough and canny competitors—Japan, Europe, now China, and others. Still much of our trade policy is fuzzy-headed foreign policy. Now you tie one hand behind your back with moves that are fairer and this country loses. Again, what do we lose? We lose jobs, economic expansion, opportunity for businesses, opportunity for workers, and some say it doesn't matter; it is just irrelevant.

I do not for the life of me understand that. It makes no sense that this country does not any longer understand that international trade is a significant foundation for this country's economic future. That foundation is either a foundation of cement with strength or quicksand that washes away quickly.

I have a chart which I believe shows a graph of where we have been with all these trade agreements. One after another of these trade agreements has traded away this country's economic interests. You can see the line. It describes when the Tokyo round of GATT was approved. It describes the Uruguay round of GATT. It describes where we are with WTO, and with NAFTA.

It seems to me when something isn't working, you ought to change it. Yet we see no proposal here for change at all. It is just let's have a couple more helpings from the same menu, and the menu isn't working for our country.

There are so many issues related to this. I talked about jobs because, in my judgment, that is central to this. First, you have currency issues and the fact that China, for example, dramatically undervalues its currency against the U.S. dollar. They have a terrific advantage in our marketplace in trade.

There are so many different facets of trade that it is almost hard to describe. You have the political issues. Some countries as a matter of governance decide here is the way we will compete. For example, I have mentioned on a couple of occasions today that some countries will prohibit workers from organizing. We are proud that our country protects those rights. We understand it has strengthened this country and it is good for our country. In fact, the way we have developed a strong middle class in our country is with the development of a manufacturing sector in which workers are organized and have been able through their strength to collect a reasonable share of the national income from manufacturing. But some countries say we will prohibit as a matter of political choice workers from organizing.

Then there are some others who say it doesn't matter that our manufacturing base is eroding; if that is what happens as a result of some natural function of trade, that is all right for our country. Well, it is not all right. There is no country that will long remain a world power—none—without a strong manufacturing base. You cannot be a world economic power without a strong manufacturing base. Those who think this country will remain a strong, vibrant, growing, economic superpower are dead wrong if they allow this manufacturing base to be dissipated. Too many of my colleagues seem to think it is just fine; whatever happens, happens.

It is not fine with me. All you have to do is look at where this country is headed in international trade. Look at what has happened to our manufacturing base. Look at how good jobs have shrunk in this country. I am talking about those people who worked in the coal mines, those who worked in the steel mills, those who worked in our manufacturing plants who used to earn a good wage with good benefits and good job security, and who now discover we are racing toward the bottom to figure out how we can compete with other countries that pay a dime an hour or 20 cents an hour.

How can we compete with other countries that have no laws that prevent them from abusing the environment with chemicals going into the airshed and into the water? If you wonder about that, just travel a bit. Go to those countries—I have—and take a look at what happens. Then ask yourself, Is that the level of competition? Is there an admission price to the American marketplace that says it is almost free? That you don't have to reach any threshold? And any trade—using circumstances I have previously described—is fair trade to which we ought to subject our workers and our employers?

I have explained at great length why I intend to vote no on these two trades agreements. It is not about Chile. It is not about Singapore. It is about a process that is fundamentally bankrupt. It is about trade negotiators who ought to be ashamed of themselves. It is about past trade agreements that are incompetent, whose repercussions we are dealing with today.

I have, from time to time, threatened to offer legislation that would require all U.S. trade negotiators to wear a jersey. When you are representing the United States of America in the Olympics, you wear a jersey that says ''USA.'' It seems to me that perhaps our trade negotiators—more than almost anyone—need to have a jersey to be able to look down at and understand who they represent.

Will Rogers used to say: The United States of America has never lost a war and never won a conference. He surely must have been thinking about trade negotiators. This country had better develop a backbone and some will and some nerve to stand up for its economy and stand up for its workers and stand up for its employers—no, not in a way that is unfair to any other country but in a way that says to any other country: We are open for business, we are ready for competition, and we will compete anywhere and with anyone in the world, but we, by God, demand that the rules be fair. And if the rules are not fair, then we intend to change them to create rules that are fair to our country.

I yield the floor.

IN APPRECIATION OF OUR KOREAN WAR VETERANS

Mr. DASCHLE. Mr. President, on July 27, 1953, our country signed an armistice agreement that ended the Korean War after 3 years of devastating combat. Yesterday marked the 50th anniversary of the war's end. Today I rise to honor the courage and sacrifice of the military veterans who fought this war and to proclaim that our country has not forgotten their service.

More than 1.8 million Americans fought on the front lines of our battle to defend freedom and democracy on the Korean Peninsula. They joined with allies from 21 different nations to ensure that the people of South Korea would not be ruled by the tyranny and oppression of communism. More than 36,500 soldiers committed the ultimate sacrifice in this effort, and another 103,000 Americans were wounded in some of the bloodiest and most traumatic fighting the world has ever seen.

Currently, around 12,000 veterans of the conflict live in South Dakota. They are now among the elder statesmen of our country's long lineage of heroism, true role models to our youth and an inspiration to those service members now fighting around the world against terrorism and brutal dictatorship.

On June 25, 1950, North Korean dictator Kim Il-Song sent 135,000 troops to invade South Korea. The international response was immediate, and President Truman sent troops to defend the South Koreans 2 days later. For more than 3 years, these troops fought to preserve the integrity of South Korea. But this conflict was not simply about protecting the sovereignty of one nation against the designs of its invader. Rather, the Korean War represented an epic struggle of two political ideologies: the democratic values of peace, freedom, and self-determination against a communist system based on tyranny and violence.

No less than the fate of the world was at stake on the hills and plains of the Korean peninsula. With some of the century's most infamous tyrants Mao and Stalin backing the North Koreans and the world's beacon of democracy fighting alongside the South Koreans, this conflict could not have had higher stakes. Consequently, we future generations of Americans are deeply indebted to the veterans of the Korean War; it is to them we owe the preservation of our very way of life.

And yet, despite the significance of their achievement, these soldiers were never greeted with the type of homecoming befitting their heroism. A nation that, after World War II, was weary of war never fully grasped the enormity of the military's mission in Korea. Few returning troops were greeted with the ticker-tape parades and community celebrations that were common after World War II. The Korean War became the Forgotten War.

As our country honors the 50th anniversary of the Korean War, I say to America's veterans of this war, you are forgotten no more. Your legacy is our nation's prosperity, our continuing commitment to liberty and democracy. Your legacy is a thriving, democratic nation of 40 million souls on the southern half of the Korean Peninsula. With

great personal sacrifice and tremendous dedication, you secured our future. And while we sometimes take our way of life for granted, the veterans of the Korean War remind us that, as their Korean War Commemoration Flag proclaims, ''Freedom is not free.'' Without the dedicated service and sacrifice of the soldiers we celebrate in this, the Year of the Korean Veteran, our nation would not be able to enjoy the freedom and prosperity that we too often take for granted. So, on behalf of later generations of veterans, like myself, and on behalf of all the citizens of South Dakota and all Americans, thank you for your lasting contribution to our nation's greatness. You, the veterans of the Korean War, are true American heroes, and we salute you.

Mr. SANTORUM. Mr. President I have a poem written by my constituent Dee M. Tramontina of Buck Hill Falls, PA.

I rise today so that I might call special attention to the thoughts and observations of my constituents who would like to accord proper recognition to those brave Americans who sacrificed, fought and died in the Korean conflict.

I would like to recognize both Dee M. Tramontina and Albert Tramontina, Jr., who, on behalf of the Monroe Chapter of the Korean War Veterans Association, have shared a poem with me concerning the conflict which ended 50 years ago.

I would like to call attention to this historic anniversary by asking that Dee's poem be printed in the RECORD.

THE ''FORGOTTEN WAR'' NO MORE

(By Dee Tramontina)

Some have made the grave mistake
Of calling Korea the forgotten war
But you can bet that none of them
Had to storm the Inchon shore

I am also very positive it's memory
Sadly stays with all of those
That at the Chosin Reservoir
They shivered, fought and froze

Perhaps you know of someone
Who fought among the ranks
And saw the awful, bloody terror
Of ''Old Baldy'' or the Yalu River banks

Be assured that a foggy memory
Would be a relief to maintain
For those that charged up the hill:
''Heartbreak Ridge'' it seems, in vain

We can be sure that there are some
To this very day can still
Hear the horrors of the battle
We know as ''Pork Chop Hill''

Definitely an everlasting imprint
Of the 38th parallel has been burned
Into the hearts and minds of families
Of the many heroes that never returned

We are coming up on fifty years
Since Panmunjom brought peace
In honor of those that fought there
May the memory never cease

VA POLICY

Mr. GRAHAM of Florida. Mr. President, I ask unanimous consent that the attached article from the Gainesville Sun be printed in the RECORD.

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

[From the Gainesville Sun, July 19, 2003]

PERVERSE VA POLICY

There is something perverse about the Bush administration's push to cut medical services for veterans at a time when America is fighting a war in Iraq with the help of tens of thousands of reservists and guard members.

Most of those citizen soldiers will come home to once again take up their non-military lives and careers. And those who do develop service-related illnesses and injuries (anybody remember Gulf War Syndrome?) will invariably turn to a Veterans Administration medical facility for care.

In the North Florida-South Georgia region alone, about 5,600 reservists have been called to service for the current conflict. When they come home, some may require the care available at the Lake City VA Medical Center. But even if none do, that medical center already treats about 36,000 area veterans.

And yet, a VA reassessment group—perversely called the Capital Asset Realignment for Enhanced Services, or CARES—has called for services to be eliminated or scaled back at the Lake City VA and 19 other veterans facilities around the nation.

In response to a directive from Washington, local VA officials have, albeit reluctantly, submitted recommendations that would involve turning the Lake City medical center into an outpatient clinic, transferring 230 nursing home patients to private facilities—assuming adequate facilities can even be found in the largely rural region—and/or transferring patients to Gainesville's VA.

The objective would be to save perhaps $6 million a year by eliminating jobs and operational costs at the Lake City VA center. That seems like a false economy in light of the thousands of veterans who depend on the center for care.

Fred Malphurs, director of the North Florida-South Georgia Veterans Health System, was clearly not enthusiastic about complying with the directive to identify cuts. ''The benefits would be, in my opinion, marginal at best,'' he told The Sun last week.

Whatever the perceived ''benefits'' of closing down or drastically cutting back on Lake City's services, the impact on area veterans would be negative to the extreme. It also seems a bitter pill for veterans to have to swallow at a time when thousands of area reservists and regular military personnel (read future veterans) are still risking their lives and their health fighting a war half a world away.

Nationally, the VA does have a problem with underutilized facilities. We just have a difficult time believing that Lake City's VA center is one of them.

Florida is a magnet for retirees, many of them veterans of past conflicts. We would think that if anything, the demand for veterans medical services is rising, not falling, in the Sunshine State.

As North Florida becomes a more desirable destination for retiree vets, demand for care at the Lake City VA center is only going to grow.

SALUTE TO THE 109TH ENGINEERING BATTALION

Mr. DASCHLE. Mr. President, today South Dakotans will welcome home the 109th Engineering Battalion of the South Dakota National Guard. This unit, headquartered in Sturgis, was among more than 20 Guard and Reserve units from my State called to active duty in support of Operation Iraqi Freedom. On March 23, it became the first South Dakota unit to enter Iraq, and was the only South Dakota unit to operate in Iraq during the early days of combat.

Today, these soldiers and their achievements become a part of South Dakota's military heritage. Like those who served in the two world wars, in Korea, in Vietnam, and in numerous other places, this new generation has answered the call. They have offered to make every sacrifice, including life itself, to protect our freedom and security. We must never forget them or the honor with which they served.

The 109th Engineering Battalion is a headquarters battalion of 39 members, responsible for the management of several other units in carrying out engineering missions. The 109th was a critical part of our Nation's efforts in Iraq, completing a wide variety of missions, from force protection, to mine clearing, to construction of the Cedar II Logistical Support Area. The unit managed the activities of the 68th Engineering Company, the 95th Firefighters, the 520th Firefighters, and the 562nd Firefighters.

After being stationed in Kuwait during the month leading up to the conflict, the 109th moved to Tallil Air Base in southeastern Iraq, just outside of al Nasiriyah, where some of the war's most fierce fighting occurred. When the members of the 109th arrived at their destination, Logistical Support Area Adder on Tallil Air Base, they found an encampment that was quickly filling up with soldiers from the Army, Air Force, Marines, and from the British military. Force protection would be essential to guaranteeing these troops a swift victory over the stiffening opposition in the region.

At LSA Adder, the 109th oversaw the preparation of the battlefield for combat, preparing fighting positions, constructing guard towers, building a 3-mile protection berm around the perimeter, establishing supply routes, and building two Patriot Missile launch sites. In addition, the 109th managed the establishment of critical life support structures for the camp, including a water well, nuclear-biological-chemical (NBC) decontamination sites, a major Convoy Support Center, latrines, showers, and roadways.

I am proud to welcome home the members of the 109th Battalion and to commend them on a job well done. All of us know about the tremendous courage and commitment of the infantry soldiers and others who engage the enemy directly. But often we don't recognize the vital efforts of those units behind the scenes—units like the 109th that prepare the battlefield, provide medical care, establish life support services, and transport supplies. Their work ensures the success of our frontline troops and helps to hold casualties to a minimum. In 3 short weeks of fighting, the United States military

was able to overthrow a tyrannical regime that had reigned in Iraq for 45 years and utterly vanquish its military, with very few casualties. Support units like the 109th were the backbone of this effort.

The 109th Engineering Battalion participated in a mobilization with few precedents in South Dakota history. Nearly 2,000 Guard and Reserve troops were called to active duty in our State, by far the largest mobilization since World War II. At the time the fighting began, units from more than 20 communities had been called up, from Elk Point in the south to Lemmon in the north, from Watertown in the east to Spearfish in the west. Indeed, our State's mobilization rate ranked among the highest of all the States on a per capita basis.

In addition to the service of the 109th, I want to acknowledge the sacrifices and dedication of the families who stayed home. They are the unsung heroes of any mobilization. They motivate and inspire those who are far from home, and they, too, deserve our gratitude.

Today, I join these families and the State of South Dakota in celebrating the courage, dedication, and success of the members of the 109th Engineering Battalion, and I honor their participation in this historic event in our Nation's history. Welcome home. Thanks to all of you for your hard work, your sacrifice, and your noble commitment to this country and its ideals.

LOCAL LAW ENFORCEMENT ACT OF 2003

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

I would like to describe a terrible crime that occurred in Los Angeles, CA. On September 12, 2001, two Spanish-speaking women were harassed and beaten by another patient in a doctor's office. Believing the women to be of Middle Eastern descent, the attacker verbally and physically assaulted the women in retaliation for the September 11, 2001, terrorist attack on the United States. As the attacker struck the women, she yelled ''You foreigners caused all this trouble.''

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

IN SUPPORT OF U.S.-CHILE AND U.S.-SINGAPORE FREE TRADE AGREEMENTS

Mr. HAGEL. Mr. President, I rise today to support the U.S.-Chile and U.S.-Singapore Free Trade Agreements, which are now before the Senate. These agreements are the first to be considered under the expedited Trade Promotion Authority, TPA, procedure that Congress passed last year. Ratification of these agreements will provide significant benefits to agricultural producers and the U.S. economy. Strong bipartisan votes will send an important message that the U.S. Congress is strongly committed to growing the U.S. economy and helping American farmers and workers succeed in an ever-growing competitive global marketplace.

Both the U.S.-Singapore and U.S.-Chile free trade agreements will level the playing field for U.S. products and farm goods. Specifically, both agreements will eliminate the use of subsidies on agricultural exports, a major step forward for U.S. agriculture in WTO negotiations. There is a clear link between a healthy agricultural sector and trade. More than 43,000 Nebraskans hold jobs related to agriculture exports. Nebraska ranks fourth nationally in exports of agricultural products—an estimated $3.14 billion in 2002. In 2002, Nebraska farmers and ranchers saw increased international sales of corn, soybeans, and wheat, and depend on the ability to export their products to the rest of the world for continued growth.

The U.S.-Singapore free trade agreement will strengthen an important relationship and serve as our first free trade agreement with an Asian nation. Singapore is a critical ally in Southeast Asia in the global war on terrorism. Singapore is also an important economic ally. It is our 12th largest trading partner. This free trade agreement will provide expanded opportunities for trade and investment and will increase job opportunities here at home. It will benefit American firms in many sectors, including those in the banking/financial industry and in professional services. Under the agreement, 100 percent of U.S. goods and 92 percent of Singaporean goods will have duty-free status immediately. The free trade agreement further ensures that Singapore cannot increase its duties on any U.S. product.

The U.S.-Chile Free Trade agreement will be the first between the U.S. and a South American nation. Under this agreement, American farmers, workers, and businesses will benefit from improved and expanded access to the Chilean market. More than 75 percent of U.S. farm goods will enter Chile tariff-free within 4 years, with all tariffs being phased out within 12 years. This agreement will eliminate tariffs on corn and most distilled spirits in 2 years. It will immediately eliminate tariffs on pork and pork products, soybeans, and many other agricultural products. Access for beef on both sides will be completely liberalized over 4 years. Overall, this agreement will immediately remove tariffs on more than 85 percent of U.S. exports. The U.S.-Chile agreement will provide momentum to the ongoing negotiations in the Free Trade of the Americas and global trade talks. Bilateral agreements, such as this agreement with Chile, are essential because they provide benefits immediately and help the U.S. keep pace with the 16 global competitors, including the EU and Canada, who already have preferential trade agreements with Chile.

Free trade provides the basis for economic growth and democratic governance in developing countries. Free trade promotes American values around the world. It underpins a global economic order that is essential to our own economic security. Agreements like those before us today will help the U.S. to reap the benefits of free trade and gain access to emerging markets, creating new jobs and higher incomes for Americans. Ninety-six percents of the world's consumers are outside of U.S. borders. Foreign market access is essential for the continued growth and viability of the U.S. economy. International trade is an essential component of growth and opportunity in our global economy. The U.S. must be a leader, not a follower, in the global marketplace.

I urge my colleagues to vote in favor of the Chile and Singapore Free Trade Agreements.

THE BEGINNING FARMERS AND RANCHERS TAX INCENTIVE ACT OF 2003

Mr. DORGAN. Mr. President, I recently joined Senator HAGEL of Nebraska in introducing legislation that is important to the survival of farm families and rural America. Our bipartisan legislation, called the Beginning Farmers and Ranchers Tax Incentive Act, provides significant capital gains tax breaks to encourage retiring farmers and ranchers to sell their farm property to others who will continue to use the property in the farming business. Identical legislation has been introduced in the House of Representatives.

As many of our colleagues know, the economic well-being of many rural communities across the country is at a crossroad. Over the past several decades, jobs on family farms and in Main Street businesses in small towns have been disappearing from the Nation's Heartland. Rural communities are facing an out-migration crisis of epic proportions. Senator HAGEL and I have been working at the Federal level to adopt fiscal policies that will give rural America the tools and funding it needs to reverse the out-migration problem. One of the challenges for stabilizing and revitalizing our rural communities is to ensure that the Federal Government backs strong farm policies

that support this generation and the next generation of family farmers.

A strong farm economy is critical to the survival of many rural communities over the long term. But the number of family farmers, who are the backbone of the agricultural sector, has been steadily declining over the course of the past century. In the 1930s, North Dakota had over 85,000 farms. That number has dwindled to just 30,000 in 2002, the lowest number of farms in North Dakota's history.

More and more of our young people are leaving rural communities in pursuit of jobs elsewhere and the remaining farmers are growing older. A recent report prepared by the Center for Rural Affairs found that almost half of the Nation's farmers are age 55 or older. The already small number of farmers and ranchers under age 25 (about 1 percent of farmers and ranchers) has dropped significantly in recent years. If we don't act quickly to address the aging of the farm sector, the prospects for many farm communities appear bleak.

The Center's report found that one of the major impediments to individuals who want to start a farm or ranch is the cost of land and other farm property. The legislation that Senator HAGEL and I have introduced speaks to this issue by providing substantial capital gains tax incentives for farmers and ranchers who are retiring or forced to get out of farming to sell their farm operations to beginning farmers and ranchers or others who will continue to use the property in farming. Because of the extra benefit the retiring farmer would receive for selling to a first-time farmer, for example, he or she could accept a lower price from such a buyer and still come out ahead economically as compared to a sale that would otherwise take the land out of agricultural use.

Specifically, our legislation allows farmers and ranchers to exclude up to $500,000 in capital gains that are derived from the sale of qualifying farm or ranch property over their lifetime. The benefit of the capital gains tax exclusion provided by this legislation is greater for the sale of such property to first-time farmers and ranchers or to others who continue to use such property for farming purposes. To encourage farm sales to beginning farmers, this legislation provides a 100-percent exclusion from gross income of the long-term capital gain from the sale of qualifying farm property to a first-time farmer who certifies that he or she will use the property for farm purposes for at least 10 years. Our bill also provides a 50-percent exclusion from gross income of the long-term capital gain from the sale of farm property to any other person who certifies that the property will be used for farm purposes for at least 10 years. Finally, this legislation provides a 25-percent exclusion from gross income of long-term capital gain from the sale of such property to any other person for any other use.

If anytime within 10 years after the sale, the property benefiting from the 100-percent or 50-percent capital gains exclusion is disposed of or ceases to be used as a farm for farming purposes, then a penalty shall be imposed as a proxy for recapturing the capital gains tax benefit. However, the penalty for disposition or cessation of the use of qualifying property as a farm for farming purposes may be waived by the Secretary of the Treasury in the case of hardship.

Senator HAGEL and I believe that if we are going to deal with the economic problems facing much of rural America that we must ensure that tax and other Federal policies are in place to encourage a new generation of young people to enter into farming and ranching. This legislation should help in this endeavor and we urge our colleagues to support our effort.

VOTE EXPLANATION

Mr. BUNNING. Mr. President, I regret that I missed this evening's vote in the Senate on the confirmation of Earl Leroy Yeakel III, to be U.S. District Judge for the Western District of Texas. Had I been present, I would have voted ''yea'' on his confirmation. Unfortunately, the airplane I was to travel on back to Washington, DC was grounded for some time due to mechanical problems, and this caused a delay in my return.

DEATH OF BOB HOPE

Mr. HAGEL. Mr. President, the death of Bob Hope is a great loss for all Americans. At 100 years old, Hope was truly a legend in his own time. His famous wit and generous spirit endeared him to generations of Americans.

For more than 50 years, Bob Hope headlined USO tours, performing for America's Armed Forces around the world in times of war and peace. While serving on board of directors of the World USO and as president of the USO, I was privileged to have worked with Bob Hope. His selfless commitment to entertaining the men and women of our Armed Forces was unmatched. In 1997, Congress voted to recognize Bob Hope as an honorary veteran. Hope is the only person to ever receive this honor.

For decades, Bob Hope brought American troops laughter and warmth around the globe. We are all grateful for his tireless service and spirited humor. Bob Hope will remembered not only as a gifted comedian and patriot, but as a humanitarian who used his tremendous talents to lift the spirits of millions of men and women. There will be another like him.

GREENSPAN'S RECORD

● Mr. BUNNING. Mr. President, I want to share with my fellow colleagues an article written by the best selling author and investor Jim Rogers. Mr. Rogers has been dubbed the ''Indiana Jones of investing'' and has earned himself a reputation for being one of the world's leading economic minds.

In this article, Mr. Rogers does something that I have found rare when it comes to examining Chairman Greenspan's record. He actually looks at the Chairman's monetary stances throughout his tenure at the Federal Reserve and examines what kind of effect they had on the economy. In most cases, Mr. Rogers finds that Mr. Greenspan's policies were ill-timed or simply economically absurd. I urge my colleagues to read this article so that we may better understand the role the Federal Reserve and Chairman Greenspan specifically have played in our economic well-being.

I ask unanimous consent to have the article printed in the RECORD.

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

FOR WHOM THE CLOSING BELL TOLLS

At a recent symposium sponsored by the Federal Reserve Bank of Kansas City in Jackson Hole, Wyoming, Alan Greenspan reflected on causes of the stock market bubble that grew at the end of the 20th century. He discussed how difficult it was to recognize when a bubble began and how anything he could have done as Federal Reserve chairman would have only made matters worse for the economy at the time.

''Bubbles,'' Greenspan said toward the end of his speech, ''thus appear to primarily reflect exuberance on the part of investors in pricing financial assets . . . Bubbles appear to emerge when investors either overestimate the sustainable rise in profits or unrealistically lower the rate of discount they apply to expected profits and dividends.'' He said he did not know there was a bubble and could have done nothing even if he had figured out there was a mania. I wonder if he really believes that. Even my mother knows there was a bubble. Is he a charlatan or a foot? Perhaps both as we will see from his own earlier words and deeds.

I've got news for you, Alan: This stock market bubble was yours and could have been prevented. It didn't have to happen. Don't go blaming investors for so-called exuberance. Irrational or rational. The only one who has acted irrationally, it seems to me, is you. You could have prevented it in the first place and certainly could have stopped the bleeding a long time ago.

I know, I know. This is not the way people want to think about Alan Greenspan. The way people often talk about him, you'd think he was up for sainthood. Back in 1999, Time magazine nominated him to the ''committee to save the world.'' Legendary journalist Bob Woodward wrote a flattering book about Greenspan called ''Maestro.'' Senator Phil Gramm of Texas called him the greatest central banker of all time. Even the Queen of England recently added her voice, knighting Greenspan and saying that Sir Alan has brought ''economic stability to the world.'' I guess she didn't notice that there have been at least five major financial crises in the past eight years with perhaps more on the horizon.

Could someone please give me the phone number of Alan Greenspan's public relations firm? Actually it was down in the board rooms of investment firms who used him to coin money, but even they have caught on by now.

Our current master of monetary policy has been at the helm since 1987, one of the longest-running tenures of any Fed chairman. Four different presidents—a Democrat and three Republicans—have held court at the White House, but Alan himself remained safely ensconced about a mile away at the Fed. I'm the first to agree that Alan Greenspan has had a tremendous impact on our economy. It's just the facts and reality of his tenure that will look horrible to historians. Looking back over his career in the past decade and a half, it's pretty clear he made major mistakes that have gotten this country into a huge economic bind today.

Hindsight, as the saying goes, gives us 20–20 vision, but it does something else: it usually tells us the truth, even if it's a little late to correct the mistakes.

In the long run, history's going to remember Greenspan as the man who caused the stock market bubble and worse. If he doesn't change his monetary policy, he'll also be remembered as the man who created other bubbles to follow in its wake.

Let's take a step back in time and take a little history lesson. Think back to the gravy days of the 1990s. From 1992 to 1997, the S&P 500 soared 130 percent, or roughly 27 percent annually. It was the biggest bull market that many of us who'd been in the business for years had ever seen. All the economic indicators were pointing the right direction: Unemployment was down, manufacturing hours were up. Corporate profits rose about 120 percent over that period. The trade deficit wasn't ballooning at its typical breakneck pace. The Japanese Central Bank was flooding the world with money so we had an unusually good period so far, but nothing too dangerous here. These were good days for the country and the Maestro began taking the credit.

But here's the funny thing about the stock market, something even the most educated investors seem to forget when the going gets good: the stock market and economies move in cycles. It's just the way it goes. Don't take it personally. Markets have always done it; they always will. (Alan, are you listening?) A lot of people hoped the stock market had gone to a new, special place, that cosmic zone where stocks never go down. They continue to rise and we all get rich. The New Economy, I believe it was called—somewhat reminiscent of the New Era of the 1920s.

Well, we all know what happened to that myth. Corporate profits, we now know, peaked in 1997 and started to decline. Manufacturing hours were down. In the fall of 1997, the stock market, in turn, started to dip. Remember the other key thing about the stock market: It anticipates the future. It looks ahead. In other words, the stock market was recognizing that 1998 might not be a banner year for profits. When companies don't earn as much, their stock loses value. It's reality. Forget the Amazons: you need earnings to keep your stock price up.

But in the fall of 1997, something happened. We caught the flu, the Asian flu. Several key Asian economies, including Thailand and Malaysia, were the first to suffer when economies started heading down. Again, this was nothing unusual in economic cycles; marginal countries and companies always get caught first when declines begin. There is often an ''event'' which signals the normal end to bull markets, but the simple reality always is that it is time for that bull run to end for whatever reason. Schumpeter showed that instability is one of the strengths of capitalism. There is always destruction upon which the dynamic thrive and create for future growth. But it was bad news for major investment firms like Goldman Sachs and Fidelity who'd invested tons of money, through loans, bonds, and other financial instruments, in these countries. The phones started ringing in Washington. Who came to the rescue? Sir Alan. Greenspan started printing money and extending credit, pumping liquidity into the U.S. economy to make sure that the problems in the East wouldn't rock his friends in the West.

To me, this was a pivotal moment in Greenspan's career and a problematic decision. He should have let the markets correct themselves as they were already trying to do. Stocks would have fallen. Companies would have been hurt or possibly destroyed by the normal, economic decline. There would have been a bear market, panic and a selling climax. Many investors would have lost money. But that's what bear markets often do: they chasten those who get a little too greedy. As the late Fed Chairman William McChesney Martin once put it, the central bankers' job has always been to take away the punch bowl just when the party gets going. They have to step on the brakes before things get out of control. It's no wonder Martin held the position of Fed chairman from 1951–1970, longer than any one else in history.

The problem is that Greenspan didn't take away the punch bowl or even let it empty naturally. He just kept pouring more into it. He overrode what would have been normal stock-market behavior. The same process repeated itself over the next three years. In the fall of 1998, it was the Russian collapse and the fall of the legendary hedge fund Long-Term Capital Investment. The stock market was already in trouble: roughly 60 percent of all stocks were down in 1998 and decliners also outnumbered advancers in 1999, even with Greenspan's pumping. Remember profits had already peaked in 1997 and were in decline. The LTCM crisis probably would have been the normal selling climax for the bear market which had begun the year before, but the Maestro kept the presses running. After all, he was getting panic calls from his Wall-Street friends who feared some would fail. Again, it was just the normal workings—more creative destruction—of financial markets, but Greenspan has never really understood markets. In 1999, it was Y2K.

All along, Alan Greenspan's Federal Reserve was pumping out cash and extending credit, helping to float the U.S. economy. From 1997 to 2001, M3, a broad measure of the money supply that includes all currency in circulation, and liquid assets like bank deposits, money-market mutual funds and time deposits, grew 48 percent, the fastest it's ever grown. Greenspan pumped roughly $2.6 trillion into the economy, adding fuel to the fire Off-balance-sheet debt and derivatives rose 185 percent to $59 trillion while non-government debt rose 52 percent. In 1997, syndicated loans totaled $423 billion. By June 2002, they were up 64 percent to $692 billion. Our foreign debts skyrocketed. Remember this was in a period when profits were declining steadily after a long climb from 1992 to 1997. Greenspan was trying to override normal economic history and laws for some reason.

Why did he do it? Why didn't he let the markets simply correct themselves? I'm not sure. From what he said in Wyoming, it appears he thought he was doing the right thing. My guess is he was also doing it to appease his friends on Wall Street who went into a panic when the markets began normal declines. After all, these are the people who are always singing his praise. Heck, I'd praise him too if he kept bailing me out of the poorhouse.

It may well be that he too was eventually swept up in the fantasies he was creating. After all, on Feb. 17, 2000, he said, ''Security analysts' projections of long-term earnings, an indicator of expectations of company productivity, continued to be revised upward in January, extending a string of upward revisions that began in early 1995. One result of this remarkable economic performance has been a pronounced increased in living standards for the majority of Americans. Another has been a labor market that has provided job opportunities for large numbers of people previously struggling to get on the first rung of a ladder leading to training, skills, and permanent employment.''

He seems to have actually believed all the New Economy stuff we now know was garbage. Our Maestro was relying on Jack Grubman, Mary Meeker, Abby Cohen, and Henry Blodget to justify his credit pumps.

Remember how he began marveling at the ''remarkable wave of new technologies'' and a ''once-in-a-century acceleration of innovation'' and ''a pivotal period of economic history'' where ''I see nothing to suggest these opportunities [of high rate of return productivity enhancing investments] will peter out any time soon'' in 2000? He went on to tell Congress on Feb. 13, 2001: ''From all indications, however, technological advance still is going forward at a rapid pace, and investment will likely pick up again if, as expected, the expansion of the economy gets back on more solid footing. Private analysts are still suggesting the current sluggishness of the economy has not undermined perceptions of favorable long-term fundamental.'' Now we know this ''Maestro'' was relying on Wall Street ''analysts'' and bubblevision for his ''genius.'' It is bad enough he listened, but he actually believed all this hype.

On Jan. 25, 2001, he explained to Congress on that budget surpluses would continue for years because of the ''the extraordinary pickup in the growth of labor productivity experienced in this country since the mid-1990s.'' He went on to marvel at the ''structural productivity growth.'' You would think someone with the brains and ability to ''save the world'' would remember what happened ''once in a century'' in 1917–1927 when electricity, automobiles, airplanes, telephones, radio, wireless, refrigeration and several other things came together to generate productivity growth over twice as high as under Dr. Greenspan. Even in the 1950s and 1960s, U.S. productivity grew more than 60 percent faster than during the mania he was creating and justifying as ''once in a century.''

Now we all make mistakes, but most do not have PR machines calling us maestros when we are actually just selling snake oil. He began by trying to bail out his old cronies and then by trying to override a normal bear market. The more money he printed and the more credit he created, the deeper we all got. Then he started believing Time [who also named the CEO of Amazon as Man of the Year a few months later] and the Washington Post. Everyone loves a bubble, so few wanted to know the Emperor actually had no clothes, especially when the party seemed to be getting better and better. The few Cassandras were ignored again.

As we know, even Alan Greenspan couldn't stop the stock market from correcting itself in the end. Bubbles all work the same way. They eventually pop. In his speech in Wyoming, Greespan said the Fed was ''confronted with forces that none of us had personnally experienced.'' That's just not true. There have been plenty of bubbles in his experience, from the stock-market bubble of the 1960s to the Kuwait Stock Exchange bubble in the 1970s to gold and silver two decades ago to the Texas real-estate bubble of 1980s to the Japanese bubble to the S&L/junk-bond bubble. Evidently history does not mean much to our wise Maestro since there are also numerous descriptions of past bubbles

and how they have always worked. You'd think someone with the ability ''to save the world'' would have read a few books about markets.

The problem is the glut of money and credit that has been poured into the U.S. economy has created a host of new problems. The U.S. Government's fiscal budget is now in huge deficit because so many projections were based on revenues from capital-gains taxes that won't be realized. Employee 401(k) plans are in the dumps, insurance companies, pension plans, whether they are corporate or government, are in trouble, some in danger of disappearing. Social Security and Medicare are certain to suffer in the long run.

It's caused problems on a corporate level as well. All the easy credit that's available is propping up companies that are basically zombies, companies that should have long gone out of business (read: Lucent?) to cleanse the system for the survivors. My guess is many of the corporate accounting problems now surfacing might not have happened if Greenspan had allowed the stock market to correct itself as profits declined. After all, he kept creating credit to prolong the bubble so companies played the stock-market game to keep their stocks and options participating.

Greenspan could have raised margin requirements—the ability to buy equities on credit—during all this to control the animal spirits loosened by his credit machine. He is even on record in 1996 stating: ''I recognize there is a stock-market bubble problem at this point.'' He went on to say: ''We do have the possibility of raising major concerns by increasing margin requirements. I guarantee that if you want to get rid of the bubble, whatever it is, that will do it.'' He was dead right. If he had followed through, many of these companies wouldn't have been jiggering the books when times got tough.

More important, Greenspan's reaction with regard to the stock-market bubble has caused two more bubbles to grow: a real-estate bubble and a consumer-debt bubble. Faithful readers know I believe the real-estate market will pop within a year or so. Many investors have simply transferred their assets from the stock market to the real estate market, thinking they can get rich quickly. Greenspan himself is certainly helping the effort, lowering interest rates 11 times in the last two years along, allowing homeowners to refinance their mortgages, often borrowing even more money, without raising their monthly payments. This might be fine if people were using the money to pay off their credit cards and car loans and other debts, but that doesn't appear to be true. Consumer-debt levels continue to soar as people take money from their homes and spend rather than lower debt or save. The U.S. savings rate, after all, is roughly 1 percent, one of the lowest in the world. A consumer-debt bubble is building and it will devastate many people when it bursts. Our Maestro is on record as saying this use of more unsustainable, non-productive credit is a sound basis for keeping the economy humming. I fail to see how pouring more debt into our houses which only produce more negative cash flow will save us down the road.

What would I do? I'm not the Federal Reserve chairman and it's not a job I'd want. That said, I wouldn't keep forcing lower interest rates. Way back when, before the central bank got involved, interest rates used to set themselves. If people borrowed a lot of money, rates were higher. If people didn't borrow money, rates fell. Why shouldn't it be any different now? The rest of the world is following these eternal verities these days. Plus, I'd aggressively encourage people to pay down their debt and start saving. Our system discourages saving and investing, but encourages consumption. The only way to make it through the hard times is if you've prepared for them. The U.S. desperately needs more saving and investment, not more SUVs and vacations in the casinos. We need to let inefficient companies fail to clean out the system. Japan over the past decade has proved that for all of us. Greenspan has even talked of Japan's ''ensuring failures of policy.'' We need to build future productivity, not more bubbles. Hopefully, it's not too late.

Greenspan is up for reappointment in 2004. He's already lobbying to be reelected, hoping to surpass the last William McChesny Martin as the longest-running Federal Reserve chairman in history. He shouldn't be reappointed. By then, things may be so bad that even he won't be able to hide what he's done. In his recent speech in Wyoming, Greenspan said, ''As history attests, investors too often exaggerate the extent of the improvement in economic fundamentals.'' Boy, did he speak from the heart and get that right, although he was trying to blame others for his mistakes. But who can blame investors for their rose-colored glasses when the Federal Reserve chairman—the man who allegedly makes the most important financial decisions for the entire nation—ignores history in order to protect his friends and his legacy?

On Sept. 25, 2002, Greenspan told a group of economists again not to worry about his approach of sustaining the economy with a new housing ad consumption base with more credit piled on top of the huge debt increase of 1997–2001. He is getting in deeper while still trying to override normal economic history and rules. He said, ''These episodes suggest a market increase over the past two or three decades in the ability of modern economics to absorb shocks.'' We do not need to worry he said because the world economy ''has become more flexible.'' He is now a believer once again—in a New Flexibility.

Among the most dangerous words in the world are: ''It is different this time.'' The Maestro still believes once again that things are now different. History will judge him one of the worst Central Bankers ever.●

ADDITIONAL STATEMENTS

EARTH RESOURCES OBSERVATION SYSTEMS DATA CENTER CELEBRATES 30 YEARS

● Mr. JOHNSON. Mr. President, it is with great honor that I rise today to congratulate the Earth Resources Observation Systems, EROS, Data Center in Sioux Falls, SD, which will hold its 30th anniversary celebration on Tuesday, September 30, 2003.

Opened in the early seventies, the EROS Data Center was staffed by only a handful of people and the largest mainframe computer in the State of South Dakota. Thirty years later, the EROS Data Center has grown to an organization with over 600 employees and they are responsible for supplying data to a worldwide community of users. Scholars, engineers, and land managers use their data to study a growing list of environmental issues such as resource development, global change, and land use planning. In addition to maintaining Earth science data, EROS scientists are working constantly to discover new ways to utilize this information.

Within the EROS Data Center lies a computer room that was associated with NASA's Earth Science Enterprise initiative. The robotic mass storage systems within this room hold approximately 920,000 separate images and make much of the EROS Data Center's NASA satellite information immediately available to scientists working at desktop workstations in both South Dakota and around the world. A major part of NASA's Earth Science Enterprise initiative is the Earth observing system which will collect data required to measure changes in the Earth system. Beginning in 1999, and running for at least the next 15 years, The EOS will collect data through a series of satellites and field experiments to observe the Earth. In addition, since 1991, the EROS Data Center has supported the United Nations environment programme/global resources information database making environmental data available to developing countries.

While the EROS Data Center's mission has changed and grown over the years, its original mission, which was to receive, process, and distribute data collected and transmitted, still holds true. It is my belief that the center will keep on growing and continue to make a large impact within the Department of the Interior. As a small state, South Dakota can be extremely proud of the impact such a center has not only on the State but on the United States and other nations.

I am proud to have this opportunity to honor the EROS Data Center for its 30 years of outstanding service. It is an honor for me to share with my colleagues the exemplary leadership and strong commitment to data management and research the EROS Data Center has provided. I strongly commend their years of hard work and dedication, and I am very pleased that their substantial efforts are being publicly honored and celebrated.●

TRIBUTE TO KEVIN A. POPE

● Mr. DODD. Mr. President, I rise to pay tribute to Kevin A. Pope, of Waterford, Connecticut, who passed away on July 14, 2003 at the age of 53.

I join all those who knew Kevin Pope in expressing my sadness at his untimely passing, and extending my deepest sympathies to his wife Donna, their two sons Jeffrey and Jason, their grandchildren, and Kevin's entire family.

In an age when so many of us move around from place to place, Kevin was a true Connecticut son—he was born in our state, grew up there, got married and raised children there, and lived there until his unexpected passing last week.

Kevin was a devoted husband and father to his two sons and was a vital member of the Waterford community. He was especially active in youth sports in Waterford, coaching Little League and Babe Ruth baseball and Preteen Basketball, umpiring baseball,

softball, and basketball games, and working with the ''Chain Gang'' at Waterford High School football games. He was also a member of the Waterford Democratic Town Committee and the New London Lodge of Elks, and was the president of the New London Central Labor Union.

I met Kevin through his association with the International Association of Machinists and Aerospace Workers, where, since 1990, he was a Grand Lodge Representative serving not only Connecticut, but New York, New Jersey, and all of New England. I am grateful for all of the occasions that we had to work together, and I especially appreciate the support he gave me over the years.

Kevin was a loyal union man since joining the IAM while working for General Dynamics in 1969. He earned respect throughout Connecticut and the Northeast for standing up for the rights and interests of workers. He was known as a good leader, and a skilled and effective negotiator as well. There are so many people in factories across the Northeast, and nationwide, who have never met Kevin Pope, but their lives are better off today because of his efforts.

Kevin represented the best of the State of Connecticut. I know I speak for a great many people in Connecticut when I say that he was taken from us much too soon.

Once again, my thoughts and prayers go out to Kevin's family, his friends, and his colleagues. We will all miss him very much.●

MARKING THE SERVICE OF JOHN ALEXANDER ANDERSON

● Mr. CRAPO. Mr. President, I rise to express my appreciation to John Alexander Anderson, my senior policy advisor. John has been an important member of my staff. His counsel and efforts will be missed.

As my senior advisor on banking, finance, trade, and transportation issues, John managed policy initiatives and assisted me on numerous legislative accomplishments. He was also my liaison to the Senate Committee on Banking, Housing, and Urban Affairs.

John has been a tireless advocate for policies that promote economic growth, sound government, and financial deregulation. He has a keen comprehension of banking law and understands its impact on markets, investments, and business decisions. He has helped me fight numerous unsound financial initiatives, such as our recent success in protecting derivatives products from unnecessary Federal regulation. He has always been a critical advocate of good policy, including lowering Federal taxes and implementing market-opening trade agreements.

Prior to joining my staff, John served as a legislative assistant to Representative Jack Metcalf of Washington. Before his tenure with Congressman Metcalf, John worked for the Senate Committee on Foreign Relations.

Beyond his professional qualifications, John has an astute political sense and outstanding personal qualities. His loyalty, intellectual independence, talent for reaching consensus and his tactical ability to realize desired outcomes are all characteristics recognized and admired by his peers. He shares my political philosophy and commitment to the principles of limited government and open markets. John proves that the old tag line—better government through better people—is still on the mark.

It is rewarding to see John embrace a new challenge with the leadership and integrity that he demonstrated as a member of my staff. As he enters a new phase, I know my Senate colleagues will join me in acknowledging John's dedicated service as a congressional staffer and wish him every success in his future role. I will miss his counsel but I know John will remain a valued friend and advisor.●

LEADERS IN STEWARDSHIP

● Mr. SMITH. Mr. President, I rise today to speak about some Oregonians who are real leaders in environmental stewardship, the Bailey family of The Dalles, OR. Their family-owned and operated cherry operation, Orchard View Farms, is renowned for its high standards, both in product quality and in environmental management. Orchard View Farms was established in 1923 in the heart of Oregon's cherry growing region, the mid-Columbia Gorge area nestled in the foothills of Mt. Hood.

The Baileys have worked hard to ensure their operation is a good neighbor the environment and the surrounding community. They have championed the Mid-Columbia cherry Integrated Fruit Program, a total farm conservation plan that is modeled on a similar program in northern Italy. The Integrated Fruit Program, or IFP, encompasses all aspects of fruit production, from growing to packing and marketing. IFP emphasizes high quality fruit production that is economical for the grower and has a minimal impact to the environment. This requires careful placement of orchard plants, close monitoring of soil moisture levels and nutrients to avoid unnecessary irrigation or excess fertilizers. There is also an emphasis on non-chemical means of controlling plant pests and disease. The end result is more than 3000 tons of Ranier and Bing cherries that the Baileys ship to markets across the country and to Europe and Asia every year. Their accomplishments have not gone unnoticed by the farm conservation community—the American Farmland Trust recognized the Bailey family last year with its prestigious Steward of the Land Award.

In addition to their important work in the area of farm conservation, the Baileys have also worked closely with my office in the past on the challenging problem of reforming the agricultural guest worker program.

I am speaking about Orchard View Farms today to remind my colleagues that every day farm families like the Baileys are working hard to make a living in farming, ranching, or forestry in a way that is good for their community and good for the environment. They take their stewardship responsibilities seriously and deserve our commendation for adhering to these principles, especially in a time of unprecedented economic challenges for farmers in the form of increasing food imports and numerous regulatory mandates. I think we can all be proud of families like the Baileys who are truly leaders in environmental stewardship and demonstrate how American agriculture can succeed in this increasingly competitive global food market.●

SCOTT COUNTY FIRE DEPARTMENT

● Mr. BUNNING. Mr. President, I pay tribute to the Scott County Fire Department and its personnel for their progress in providing outstanding fire protection for the citizens of Scott County. Their efforts have not gone unnoticed.

Through the leadership of Scott County Fire Chief Billy Willhoite, the amount of full-time firefighters over the past 10 years has doubled. The efforts of full-time and volunteer firefighters alike along with increased investment in manpower, equipment, training, and facilities, have enabled the department to make great strides in serving their fellow Kentuckians. Billy Willhoite's 29 years of experience as a firefighter, 25 of which were as chief, have enabled him to shape the personnel of the Scott County Fire Department to make great strides in their firefighting capabilities.

While funding is a significant component to fire protection, no dollar sign can be placed on the bravery, courage, and commitment inherent of those who put themselves into harm's way to protect those in danger. The firefighters of the Scott County Fire Department are heroes to so many and deserve our gratitude. At a moment's notice, they can be relied upon to respond to any emergency regardless of the circumstances to assure the safety of those in need.

As our Nation takes measures to strengthen our homeland security, it will be imperative that fire departments throughout Kentucky and across America follow the example of the Scott County Fire Department and adapt to improve fire protection services. I am proud of their efforts and am grateful for how well they have represented the Commonwealth. I thank the Senate for allowing me to recognize the Scott County Fire Department and its personnel for their service to their community and to our Nation. They are Kentucky at its finest.●

MESSAGE FROM THE HOUSE

At 11:03 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of the reading clerks, announced that the House has passed the following bills, without amendment.

S. 1015. An act to authorize grants through the Centers for Disease Control and Prevention for mosquito control programs to prevent mosquito-borne diseases, and for other purposes.

S. 1435. An act to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2746. An act to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the ''Barbara B. Kennelly Post Office Building''.

H.R. 2854. An act to amend title XXI of the Social Security Act to extend the availability of allotments for fiscal years 1998 through 2001 under the State Children's Health Insurance Program, and for other purposes.

H.R. 2859. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2003.

H.R. 2861. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 259. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2746. An act to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the ''Barbara B. Kennelly Postal Office Building''; to the Committee on Governmental Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3452. A communication from the Secretary of Energy, transmitting, the report of proposed legislation entitled ''Power Marketing Administration Authority Act''; to the Committee on Energy and Natural Resources.

EC–3453. A communication from the Secretary of Energy, transmitting, the report of proposed legislation relative to waste materials stored in silos at the Department of Energy uranium processing facility in Fernald, Ohio; to the Committee on Environment and Public Works.

EC–3454. A communication from the Chairman, Central Interstate Low-Level Radioactive Waste Commission, transmitting, pursuant to law, a report that the Commission has revoked Nebraska's membership in the Central Interstate Low-Level Radioactive Waste Commission; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 610. A bill to amend the provisions of title 5, United States Code, to provide for workforce flexibilities and certain Federal personnel provisions relating to the National Aeronautics and Space Administration, and for other purposes (Rept. No. 108–113).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1404. A bill to amend the Ted Stevens Olympic and Amateur Sports Act (Rept. No. 108–114).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself, Mr. ENZI, Mr. DASCHLE, Mr. JOHNSON, and Mr. INOUYE):

S. 1469. A bill to amend the Head Start Act to provide grants to Tribal Colleges and Universities to increase the number of post-secondary degrees in early childhood education and related fields earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the community involved; to the Committee on Indian Affairs.

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

S. 1470. A bill to establish the Financial Literacy and Education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL:

S. 1471. A bill to amend the Public Utility Regulatory Policies Act of 1978 to require electric utilities to provide net metering service; to the Committee on Energy and Natural Resources .

By Mr. TALENT:

S. 1472. A bill to authorize the Secretary of the Interior to provide a grant for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri; to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 1473. A bill to authorize the Secretary of the Army to carry out a project for the mitigation of shore damage attributable to the project for navigation, Saco River, Maine; to the Committee on Environment and Public Works.

By Mr. ALEXANDER:

S. 1474. A bill to amend the Head Start Act to designate up to 200 Head Start centers as Centers of Excellence in Early Childhood, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH:

S. 1475. A bill to amend the Internal Revenue Code of 1986 to promote the competitiveness of American businesses, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. DAYTON):

S. 1476. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, and Mrs. CLINTON):

S. 1477. A bill to posthumously award a Congressional gold medal to Celia Cruz; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCAIN (for himself and Mr. HOLLINGS):

S. 1478. A bill to reauthorize the National Telecommunications and Information Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 202. A resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33; to the Committee on Foreign Relations.

By Mr. LUGAR (for himself, Mr. BAYH, Mr. FRIST, Mr. DASCHLE, and Mr. BYRD):

S. Res. 203. A resolution relative to the death of Vance Hartke, former United States Senator for the State of Indiana; considered and agreed to.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUYE, the names of the Senator from Nevada (Mr. REID) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 349, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and

appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 846

At the request of Mr. SMITH, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 882

At the request of Mr. BAUCUS, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 882, a bill to amend the Internal Revenue Code of 1986 to provide improvements in tax administration and taxpayer safe-guards, and for other purposes.

S. 894

At the request of Mr. WARNER, the names of the Senator from California (Mrs. BOXER) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 894, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center.

S. 939

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 939, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part, to provide an exception to the local maintenance of effort requirements, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1046

At the request of Mr. STEVENS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1046, a bill to amend the Communications Act of 1934 to preserve localism, to foster and promote the diversity of television programming, to foster and promote competition, and to prevent excessive concentration of ownership of the nation's television broadcast stations.

S. 1063

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1063, a bill to amend the Public Health Service Act to authorize the Commissioner of Food and Drugs to conduct oversight of any entity engaged in the recovery, screening, testing, processing, storage, or distribution of human tissue or human tissue-based products.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1143, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1439

At the request of Mr. BUNNING, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1439, a bill to amend part E of title IV of the Social Security Act to reauthorize adoption incentives payments under section 473A of that Act and to provide incentives for the adoption of older children.

S. RES. 164

At the request of Mr. ENSIGN, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Minnesota (Mr. DAYTON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 169

At the request of Mrs. CLINTON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 169, a resolution expressing the sense of the Senate that the United States Postal Service should issue a postage stamp commemorating Anne Frank.

S. RES. 200

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. JEFFORDS), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. PRYOR) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 200, a resolution expressing the sense of the Senate that Congress should adopt a conference agreement on the child tax credit and on tax relief for military personnel.

AMENDMENT NO. 1140

At the request of Mr. BINGAMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of amendment No. 1140 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

AMENDMENT NO. 1349

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of amendment No. 1349 intended to be proposed to S. 14, a bill to enhance the energy security of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—JULY 25, 2003

By Ms. MURKOWSKI:

S. 1466. A bill to facilitate the transfer of land in the State of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I am pleased to be joined by my colleague, Senator TED STEVENS, in introducing this very important legislation.

The Alaska Land Transfer Acceleration Act of 2003 will transfer millions of acres of land to Alaska Natives, the State of Alaska and to Native Corporations by 2009. The Federal agencies in Alaska have management jurisdiction of over 63 percent of the State. It is time to transfer these public lands from Federal Government control to private ownership. This legislation creates a strategic plan for the Bureau of Land Management to finally resolve long-standing land survey, land entitlement issues and land claim issues, some of which date back to 1906. Since 1906 Congress has enacted other legislation that requires the BLM to transfer public lands to Alaska Natives, the State of Alaska and to the Alaska Native Corporations.

The land conveyance program is the largest and most complex of any in United States history. For many years, BLM's primary goal was to convey title to unsurveyed lands to the State

and Native Corporations by tentative approval and interim conveyance respectively. This management practice allowed the State and Native Corporations to manage their lands subject only to the survey of the final boundaries.

This legislation will accelerate release of lands for conveyance to Native corporations and the State of Alaska. It will complete land patterns to allow land owners to more efficiently manager their land. It will clarify that certain minerals can be transferred to Native landowners. And frankly, split estates can be minimized. The University will be given the opportunity to select the remaining Federal interests in lands the University already owns, that will likely produce economic opportunities not presently available under this land lock.

The complexity of land patterns and uses in Alaska is evident in the presence of Federal mining claims that are within lands owned or selected by the State of Alaska. Our legislation would clarify miners' right to convert from Federal to State claims without jeopardizing ongoing mining operations. At the same time, BLM would be allowed to expedite conveyances to the State. Properly maintained Federal claims will continue to be excluded from conveyance. Entitlements to the State will remain secure. The miner will decide when or whether to convert his claims to State claims.

For too many years, individuals, Native corporations and the State have been patiently waiting to receive title to their land. In 1958 the State of Alaska was promised 104 million acres of land, and has to date received final title to only 42 million acres; less than half of what is due. Of the 44 million acres of land that the Native Corporations are entitled to, only about a third has been conveyed or about 15 million acres. Worse yet, are the 2500 parcels pending title to Native individuals out of 16000 parcels. Almost 14000 parcels are still awaiting basic adjudication to even make a determination of land transfer. Too much land is hanging in the balance that must be surveyed and patented to rightful owners. Between now and the sunset of this bill in 2009, more than 89 million acres must be surveyed on State and Native Corporation lands. The lands that are awaiting survey do not include lands that will eventually be titled to Native individuals; these lands too must first be surveyed.

While some Native allotments have been conveyed, issues have arisen to challenge final conveyance to the land. Such challenges have included whether actual use of the land occurred; the location of the parcel; or even who should receive title to the land. Sadly, some of the original Native allotment applicants have died waiting to receive title or have disputes resolved. Oftentimes, the death of an applicant can present the agency with chain of title questions to determine who the rightful heir is, causing further delays to getting the lands transferred.

Some disputes have been easier to handle than others, resulting in settlement through an administrative appeals process. The Federal agencies have been hampered by many administrative and legal obstacles. There have been court decisions and lawsuit settlements, new legislation creating new rights or changing rules midstream. Old cases have been reopened that have created new land patterns for adjudication and survey. The administrative appeals process was designed to be efficient, and immediately accessible to individuals who believe they have been adversely impacted by actions taken by the BLM. In too many instances this process has resulted in long delays that hinder the BLM from finalizing its work. In the meantime, the applicant suffers at the hands of a process that generally takes years just for a case to be reviewed for resolution.

This legislation will provide the BLM with broader authority to solving many of the problems associated with land claims affecting all disputes that occur in Alaska. When disputes arise over the adjudication of land claims, BLM needs to have full authority to work in a more collaborative environment with its clientele.

This legislation will provide the BLM the opportunity to caucus with its clients. It will allow for a process of negotiation to gain consensus on final resolution of land applications. What has been missing all these years is the flexibility for the Federal agencies to work in such a cooperative fashion. This new process is intended to be free of complicated rules that have plagued the agency to finding solutions. Resolution and closure must come quicker.

I give great credit to the management and the employees of the BLM Alaska for their efforts over the years to transfer the land. They have proven to be dedicated and committed public servants. I believe they have tried to do the right thing; they just need the tools and the resources. They want to close the books on the Alaska conveyance program once and for all, and this bill will help them achieve that goal by 2009.

In 1973 the Alaska Native Claims Appeal Board was established. The Board had jurisdiction over decisions made under the Alaska Native Claim Settlement Act. The Board consisted of four judges, and was able to decide a case within three to six months of the close of briefing. It usually had a small backlog. While the Board was able to act in a fairly responsive manner, there was criticism the Board did not correctly apply general Federal land law precedent and that some of their rulings were inconsistent with policy of the Department of the Interior. The Board was dissolved in 1981. The backlog of cases was not necessarily attributed to Native Corporation cases; most of the backlog related to all other matters. This legislation will create a hearings and appeals process located in Alaska. Presently, there are almost 100 appeals of Alaska decisions pending before the Interior Board of Land Appeals. It usually takes this Board several years to rule on a case, sometimes as long as three to five years. The present process is broken. There should never be a process that controls the fate of someone's livelihood. Matters requiring resolution must not sit and languish for years without resolution. This practice is unacceptable and unreasonable.

Additionally, more than twenty cases are pending before Administrative Law judges at various Office of Hearings Appeals offices—Virginia, Minnesota and Utah. The cases currently in their hands are Native allotments and mining claims. Substantial delays have resulted from the slow pace of scheduling hearings in Alaska. Establishing an Alaska hearings unit to handle all Alaska appeals would significantly speed up the current process. Such a new process would be able to routinely issue decisions within three to six months of the close of briefing.

Challenges likely to emerge on land actions requiring judicial review will be handled by judges located in Alaska. Moreover, having judges located in Alaska, conducting Alaska business, would ensure an understanding of the special laws that are applicable to Alaska. In addition, this process would include all land transfer matters, not just claims under the Alaska Native Claims Settlement Act.

To achieve the acceleration of land conveyances, we must be able to count on a consistent level of funding. We do not want any aspect of the acceleration plan to be hampered. As I pointed out earlier, almost 90 million acres must be surveyed between now and 2009. The BLM is the single agency of the Federal Government that is charged with the authority and responsibility for surveys and land title record keeping. Official survey plats are the government's record of the boundaries of an area and the description of such surveyed land is known as the legal land description. Land title or patents are based on such plats of survey. And, until the land is surveyed, the Alaska Natives, the State of Alaska and the Native Corporations will still be waiting way off into the future for this work to be finalized.

The Alaska Land Transfer Acceleration Act of 2003 imposes very strict provisions on the agency to complete land conveyances by 2009 to Alaska Natives, the State of Alaska and to the Native Corporations. Some might view this plan as ambitious. I view it as being long overdue.

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. 1466

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Alaska Land Transfer Acceleration Act of 2003''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STATE SELECTIONS AND CONVEYANCES

Sec. 101. Community grant selections and conveyances.
Sec. 102. Prioritization of land to be conveyed.
Sec. 103. Selection of certain reversionary interests held by the United States.
Sec. 104. Effect of powersite reserves, powersite classifications, power projects, and hot spring withdrawals.
Sec. 105. Entitlement for the University of Alaska.
Sec. 106. Settlement of remaining entitlement.
Sec. 107. Effect of Federal mining claims.
Sec. 108. Land mistakenly relinquished or omitted.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 201. Land available after selection period.
Sec. 202. Combined entitlements.
Sec. 203. Conveyance of last whole section of land.
Sec. 204. Discretionary authority to convey subsurface estate in pre-ANCSA refuges.
Sec. 205. Conveyance of cemetery sites and historical places.
Sec. 206. Approved allotments.
Sec. 207. Allocations based on population.
Sec. 208. Authority to withdraw land.
Sec. 209. Bureau of Land Management land.
Sec. 210. Automatic segregation of land for underselected Village Corporations.
Sec. 211. Procedures relating to dissolved or lapsed Native Corporations.
Sec. 212. Settlement of remaining entitlement.
Sec. 213. Conveyance to Kaktovik Inupiat Corporation and Arctic Slope Regional Corporation.

TITLE III—NATIVE ALLOTMENTS

Sec. 301. Title affirmation of Native allotment location and description.
Sec. 302. Title recovery of Native allotments
Sec. 303. Native allotment relocation on land selected by or conveyed to a native corporation.
Sec. 304. Compensatory acreage.
Sec. 305. Native allotment deadlines.
Sec. 306. Elimination of shore space measurement.
Sec. 307. Amendments to section 41 of the Alaska Native Claims Settlement Act.

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

Sec. 401. Deadline for establishment of regional plans.
Sec. 402. Deadlines for establishment of village plans.
Sec. 403. Final prioritization of ANCSA selections
Sec. 404. Final prioritization of State selections.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

Sec. 501. Alaska land claims hearings and appeals.

TITLE VI—REPORT TO CONGRESS

Sec. 601. Report.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

Sec. 701. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) STATE.—The term ''State'' means the State of Alaska.

TITLE I—STATE SELECTIONS AND CONVEYANCES

SEC. 101. COMMUNITY GRANT SELECTIONS AND CONVEYANCES.

(a) IN GENERAL.—Section 6 of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340) is amended by adding at the end the following:

''(n) WAIVER OF MINIMUM TRACT SELECTION SIZE.—With respect to a selection made by the State of Alaska under subsection (a), the Secretary of the Interior may waive the minimum tract selection size if the Secretary determines that—

''(1) an existing selection does not meet the original minimum statutory acreage; and

''(2) the only alternative to waiver is to reject the application.

''(o) REQUIREMENTS APPLICABLE TO UNITS OF THE NATIONAL FOREST SYSTEM.—A selection of land in a unit of the National Forest System under subsection (a) shall not be valid unless the Secretary of Agriculture has approved the selection before the date of enactment of this subsection.

''(p) NO RELINQUISHMENT.—If there is a selection under subsection (a) with respect to a tract of land that is equal to or greater than 160 acres, the State of Alaska may not relinquish such portion of the tract as is necessary for the tract to be less than 160 acres.

''(q) RATIFICATION OF PATENTS AND TENTATIVE APPROVALS.—Any patent or tentative approval for a selection under subsection (a) of less than 160 acres that is issued before the date of enactment of this subsection is ratified and confirmed.''.

(b) COMMUNITY GRANT SELECTIONS.—Section 6 of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340) (as amended by subsection (a)) is amended by adding at the end the following:

''(r) CONVERSION TO COMMUNITY GRANT SELECTION.—

''(1) IN GENERAL.—The State of Alaska may elect to convert a selection filed under subsection (b) to a selection under subsection (a) by notifying the Secretary of the Interior in writing.

''(2) NO PARTIAL CONVERSION.—If the State of Alaska makes an election under paragraph (1), the entire selection shall be converted to a selection under subsection (a).

''(3) LIMITATION ON ACREAGE.—The Secretary shall not convey a total of more than 400,000 acres of—

''(A) land that is selected before the date of enactment of this subsection under subsection (a); or

''(B) land that is converted to a subsection (a) selection under paragraph (1).

''(4) EFFECT ON SURVEY OBLIGATIONS.—Conversion of a selection under paragraph (1) shall not affect the survey obligation of the United States with respect to the land converted.

''(s) USE OF SELECTED LAND FOR COMMUNITY AND RECREATIONAL PURPOSES.—All selection applications of the State of Alaska that are on file with the Secretary of the Interior under subsection (a) on the date of enactment of this subsection are approved as suitable for community or recreational purposes.''.

SEC. 102. PRIORITIZATION OF LAND TO BE CONVEYED.

Section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2)) is amended—

(1) by striking ''(2) As soon as practicable'' and inserting the following:

''(2) TENTATIVE APPROVAL.—

''(A) ISSUANCE.—As soon as practicable'';

(2) by striking ''The sequence of'' and inserting the following:

''(B) PRIORITY.—

''(i) IN GENERAL.—The sequence of''; and

(3) by adding at the end the following:

''(ii) REQUIREMENTS.—In establishing the priorities for tentative approval under clause (i), the State shall—

''(I) in the case of a selection under section 6(a) of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340), include all land selected; or

''(II) in the case of a selection under section 6(b) of that Act—

''(aa) include at least 5,760 acres; or

''(bb) if a waiver has been granted under section 6(g) of that Act or less than 5,760 acres of the entitlement remains, prioritize the selection in such increments as are available for conveyance.''.

SEC. 103. SELECTION OF CERTAIN REVERSIONARY INTERESTS HELD BY THE UNITED STATES.

(a) IN GENERAL.—All reversionary interests held by the United States in land owned by the State or any political subdivision of the State, and any Federal land leased by the State under the Act of August 23, 1950 (25 U.S.C. 293a), or the Act of June 4, 1953 (67 Stat. 41, chapter 47), that is prioritized for conveyance by the State under section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2))—

(1) is deemed to be selected; and

(2) may, with the concurrence of the Secretary or the Secretary of Agriculture, as appropriate, be selected under section 6 of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340).

(b) EFFECT ON ENTITLEMENT.—If, before the date of enactment of this Act, the entitlement of the State has not been charged with respect to a parcel for which a reversionary interest is conveyed under subsection (a), the total acreage of the parcel shall be charged against the remaining entitlement of the State.

(c) MINIMUM ACREAGE REQUIREMENT NOT APPLICABLE.—The minimum acreage requirement under subsections (a) and (b) of section 6 of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340) shall not apply to the selection of reversionary interests under subsection (a).

(d) STATE WAIVER.—On conveyance of any reversionary interest to the State selected under subsection (a), the State shall be deemed to have waived all right to any future credit should the reversion not occur.

(e) LIMITATION.—This section shall not apply to—

(1) reversionary interests in land acquired by the United States through the use of amounts from the Exxon Valdez Oil Spill Trust Fund; or

(2) reversionary interests in any land conveyed to the State as a result of the ''Terms and Conditions for Land Consolidation and Management in Cook Inlet Area'' as ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

SEC. 104. EFFECT OF POWERSITE RESERVES, POWERSITE CLASSIFICATIONS, POWER PROJECTS, AND HOT SPRING WITHDRAWALS.

(a) IN GENERAL.—If the State has filed a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)) for land withdrawn, reserved, or classified for power site or power project purposes, or for land containing hot or medicinal springs withdrawn by Executive Order No. 5389 of July 7,

1930, as amended by Public Land Order No. 399 of August 20, 1947, notwithstanding the withdrawal, reservation, or classification, the land shall be deemed to be vacant, unappropriated, and unreserved within the meaning of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 339).

(b) LIMITATION.—Subsection (a) does not apply to any land that is reserved for an additional Federal purpose other than those listed in—

(1) subsection (a); or

(2) section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)).

(c) REQUIREMENT APPLICABLE TO NATIONAL FOREST SYSTEM LAND.—Any land described in subsection (a) that is in a unit of the National Forest System shall not be deemed to be vacant, unappropriated, or unreserved unless the Secretary of Agriculture approved the State selection before January 3, 1994.

(d) REQUIREMENTS APPLICABLE TO HYDROELECTRIC PROJECTS.—Any conveyance of land described in subsection (a) that is included in a hydroelectric application or licensed project shall be subject to—

(1) the rights of third parties; and

(2) the right of reentry under section 24 of the Federal Power Act (16 U.S.C. 818).

(e) DISCLAIMER OF INTEREST.—If the Federal Energy Regulatory Commission has determined that a reservation made under section 24 of the Federal Power Act (16 U.S.C. 818) is not necessary, the patentee may apply to the Secretary for a disclaimer of interest instead of petitioning Congress for private relief legislation.

SEC. 105. ENTITLEMENT FOR THE UNIVERSITY OF ALASKA.

(a) IN GENERAL.—As of January 1, 2003, the remaining entitlement of the University of Alaska under the Act of January 21, 1929 (45 Stat. 1091, chapter 92), is equal to 456 acres.

(b) ADDITIONAL ENTITLEMENT.—The entitlement under subsection (a) shall be increased to reflect the reconveyance of any land by the University of Alaska to the United States to accommodate conveyance of a Native allotment.

(c) REVERSIONARY INTERESTS.—The Act of January 21, 1929 (45 Stat. 1091, chapter 92), is amended by adding at the end the following:

''SEC. 8. SELECTION BY STATE.

''(a) REVERSIONARY INTERESTS.—

''(1) IN GENERAL.—The State of Alaska, on behalf of the University of Alaska, may select any mineral interest (including an interest in oil or gas) or reversionary interest held by the United States in land located in the State of Alaska that—

''(A) is owned by the University of Alaska; or

''(B) was previously conveyed to a nongovernmental third party.

''(2) WRITTEN CONSENT REQUIRED.—If an interest in land selected under paragraph (1) is otherwise available under this Act, to be valid a selection under that paragraph shall be approved in writing by the owner or owners of the remaining interests.

''(3) EFFECT ON ENTITLEMENT.—The total acreage of any parcel of land for which only the reserved or retained mineral interest or reversionary interest is conveyed shall be charged against the remaining entitlement of the University of Alaska.

''(4) WAIVER.—In taking title to a reversionary interest, the University of Alaska waives all right to any future credit if the reversion does not occur.

''(b) SELECTION OF ISOLATED TRACTS.—The State, on behalf of the University of Alaska, may select any tract of land, regardless of size, that—

''(1) is vacant, unappropriated, and unreserved, other than land withdrawn under section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); and

''(2) is an isolated tract of public land.

''(c) SELECTION OF TRACTS OF MORE THAN 40 ACRES.—The State, on behalf of the University of Alaska, may, with the concurrence of the Secretary, select any tract of land that—

''(1) is vacant, unappropriated, and unreserved, other than land withdrawn under 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)); and

''(2) is not less than 40 acres.

''SEC. 9. LIMITATION ON ACREAGE SELECTED.

''The total acreage selected under this Act shall be not more than—

''(1) 125 percent of the entitlement of the University of Alaska remaining on the date of enactment of this section; plus

''(2) the number of acres that are in conflict with land of the University of Alaska, as identified in Native allotment applications on record with the Bureau of Land Management.

''SEC. 10. SELECTION OF LAND SUBJECT TO A PENDING APPLICATION.

''The University of Alaska may not select land under this Act that is subject to a pending selection by the State of Alaska or a Native Corporation or to which the State of Alaska or the Native Corporation is entitled to make a claim unless the University has received written consent for the selection from the State of Alaska or the Native Corporation.''.

SEC. 106. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into binding, written agreements with the State with respect to—

(1) the exact number and location of acres of land remaining to be conveyed to the State under each entitlement established or confirmed by—

(A) Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340); and

(B) the Act of January 21, 1929 (45 Stat. 1091, chapter 92);

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed;

(4) the survey of the exterior boundaries of the land to be conveyed; and

(5) any other matters that would assist in carrying out the conveyances to the State.

(b) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall consult with the head of the agency administering the land to be conveyed.

(c) ERRORS.—The State, by entering into an agreement under subsection (a), shall receive any gain or bear any loss resulting from errors in prior surveys, protraction diagrams, or the computation of the ownership of third parties on any land conveyed.

SEC. 107. EFFECT OF FEDERAL MINING CLAIMS.

(a) IN GENERAL.—Land encumbered by a Federal mining claim shall be deemed to be vacant, unappropriated, and unreserved within the meaning of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 339) and may be conveyed to the State under subsection (b) if, with respect to the land—

(1) the State has filed—

(A) a selection application under Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 339); or

(B) a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)); and

(2) the owner of the Federal mining claim has filed with the Secretary a voluntary relinquishment of the Federal mining claim conditioned on conveyance of the land to the State by tentative approval or patent.

(b) CONVEYANCE.—

(1) IN GENERAL.—The Secretary may, subject to the conditions described in paragraph (2), convey to the State without charge against entitlement land encumbered by a Federal mining claim if—

(A)(i) a mining claimant files a conditional relinquishment described in subsection (a); or

(ii) a mining claim recordation is—

(I) deemed abandoned and void; or

(II) otherwise closed by final decision of the Secretary; and

(B) the State owns land surrounding or effectively surrounding the land encumbered by the Federal mining claim.

(2) CONDITIONS.—A conveyance under paragraph (1)—

(A) shall not include more than 1,280 acres of land;

(B) shall not require reclamation of the land; and

(C) shall be effective only if, at least 30 days before the date on which the land is to be conveyed, the Secretary submits to the State written notice of the pending conveyance.

(3) NO RELINQUISHMENT.—If the land encumbered by the Federal mining claim is not conveyed to the State under paragraph (1), the relinquishment of land under subsection (a)(2) shall be of no effect.

(4) OBLIGATIONS UNDER FEDERAL LAW.—Until the date on which the land is conveyed under paragraph (1), the owner of the Federal mining claim shall be subject to any obligations relating to the land under Federal law.

(c) SURVEYS.—

(1) LAND ENCUMBERED BY FEDERAL MINING CLAIMS.—Land encumbered by Federal mining claims shall not be surveyed for the purpose of conveying to the State the land surrounding the encumbered land.

(2) EXTERIOR BOUNDARY.—A patent to the State for land surrounding land encumbered by a Federal mining claim shall be made based on an exterior boundary survey of the total conveyance.

(3) EXCLUSION FOR FEDERAL MINING CLAIMS.—In a conveyance of land encumbered by a Federal mining claim, the Federal mining claim—

(A) shall not be included in the patent document; and

(B) shall not be charged against the entitlement of the State.

SEC. 108. LAND MISTAKENLY RELINQUISHED OR OMITTED.

(a) IN GENERAL.—Subject to valid existing rights and the concurrence of the Secretary with jurisdiction over the land, the State may, with respect to any land that is mistakenly relinquished or omitted from a selection under section 6 of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') or top-filing under section 906(e) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1635(e)), select or top-file the relinquished or omitted land.

(b) STATE.—The Secretary with jurisdiction over the land may convey to the State the relinquished or omitted land if—

(1) the State demonstrates, to the satisfaction of the Secretary with jurisdiction over the land, that the land was mistakenly relinquished or omitted from the selection or top-filing; and

(2) there is sufficient acreage in the remaining entitlement to make the conveyance.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

SEC. 201. LAND AVAILABLE AFTER SELECTION PERIOD.

Section 12(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended by adding at the end the following:

''(3) LAND AVAILABLE AFTER SELECTION PERIOD.—

''(A) DEFINITION OF CORE TOWNSHIP.—In this paragraph, the term ''core township'' means the township or townships in which all or any part of a Native Village is located.

''(B) CORE TOWNSHIP LAND.—The Secretary may make available for selection land in a core township that was unavailable before December 18, 1974, if—

''(i) there is sufficient remaining entitlement; and

''(ii) the processing and conveyance of the selection can be completed by 2009.

''(C) LAND OUTSIDE CORE TOWNSHIP.—

''(i) IN GENERAL.—Subject to subclause (ii), the Secretary may make available for selection land that—

''(I) is in a township in which a Village Corporation that was unavailable for selection by a Village Corporation before December 18, 1974; and

''(II)(aa) was withdrawn for selection; or

''(bb) is completely surrounded by land withdrawn for selection.

''(ii) CONDITIONS.—The Secretary may make the land described in clause (i) available for selection if—

''(I) there is sufficient remaining entitlement;

''(II) the land is contiguous to land that is owned by or that will be conveyed to the Village Corporation; and

''(III) the processing and conveyance of the selection can be completed by 2009.

''(iii) LIMITATION.—

''(I) IN GENERAL.—If the land described in clause (i) is selected, or top filed under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)) by the State, not later than 90 days after the date on which the Secretary notifies the State that the land has become available for selection, the State may add the parcel to the current conveyance priority list of the State on file with the Bureau of Land Management.

''(II) FAILURE TO ADD PARCEL TO PRIORITY LIST.—Except as provided in subclause (III), if the State does not add the parcel to the current conveyance priority list in accordance with subclause (I)—

''(aa) the land shall be deemed selected by the appropriate Village Corporation; and

''(bb) the application of the State shall be rejected.

''(III) ELECTION.—Subclause (II) shall not apply if, not later than 90 days after notification by the Secretary that the land has become available for selection—

''(aa) the Village Corporation elects not to take the land that has become available by filing a written election that—

''(AA) declines the selection; and

''(BB) relinquishes any pending selection of the land; and

''(bb) the State has not exercised the option of the State to take title to the land.

''(D) CONDITIONS.—

''(i) IN GENERAL.—A conveyance of land under subparagraph (B) or (C) shall be made—

''(I) subject to—

''(aa) valid existing rights; and

''(bb) existing third party interests;

''(II) in accordance with the requirements applicable to conveyances under this Act; and

''(III) subject to the reservation of an easement for public access in accordance with section 17(b) that aligns with the easements reserved on land adjoining the conveyed land.

''(ii) WAIVER OF ACREAGE LIMITATION.—For purposes of conveying land under subparagraphs (B) and (C), the Secretary may waive the 69,120 acreage limit under paragraph (1).

''(iii) CONGRESSIONAL ACTION.—Subparagraphs (B) and (C) shall not apply in a case in which Congress has specifically provided for the disposition of a tract of land in a particular manner.''.

SEC. 202. COMBINED ENTITLEMENTS.

Section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended—

(1) in the second sentence of subsection (b), by striking ''Regional Corporation shall'' and inserting ''Regional Corporation shall, not later than October 1, 2005,''; and

(2) by adding at the end the following:

''(f) COMBINED ENTITLEMENTS.—

''(1) IN GENERAL.—The entitlements received by any Village Corporation under subsection (a) and acreage reallocated under subsection (b) may be combined, at the discretion of the Secretary, without—

''(A) increasing or decreasing to either entitlement; or

''(B) increasing the limitation on selections of Wildlife Refuge System land, National Forest System land, or State-selected land under subsection (a).

''(2) SOURCE OF ENTITLEMENT.—The combined entitlement under paragraph (1) may be fulfilled from selections under subsection (a) or (b) without regard to the entitlement specified in the selection application.

''(3) ADJUDICATION AND CONVEYANCE.—All selections under a combined entitlement shall be adjudicated and conveyed in compliance with this Act.

''(4) NO ADDITIONAL PATENTS OR SURVEYS.—Except in a case in which is a survey has been contracted for before the date of enactment of this subsection, the combination of entitlements under paragraph (1) shall not require separate patents or surveys, to distinguish between conveyances made to a Village Corporation under subsections (a) and (b).''.

SEC. 203. CONVEYANCE OF LAST WHOLE SECTION.

Section 14(d) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(d)) is amended—

(1) by striking ''(d) the Secretary'' and inserting the following:

''(d) ACREAGE LIMITATIONS.—

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) CONVEYANCE OF LAST WHOLE SECTION.—

''(A) IN GENERAL.—If the calculations of the Bureau of Land Management relating to acreage entitlements indicate that an entitlement may be fulfilled by conveying the next prioritized section to a Village Corporation (other than a Village Corporation under section 16), the Director of the Bureau of Land Management and the affected Village or Regional Corporation may enter into an agreement providing that all land entitlements under this Act shall be deemed satisfied by conveyance of a specifically identified and agreed upon tract of that land.

''(B) REQUIREMENTS.—An agreement entered into under subparagraph (A) shall be—

''(i) in writing;

''(ii) executed by the Director of the Bureau of Land Management and the Village or Regional Corporation; and

''(iii) authorized by a corporate resolution enacted by the affected Village or Regional Corporation.

''(C) NO ADJUSTMENTS TO LAND ENTITLEMENTS.—After execution of an agreement under subparagraph (A) and conveyance of the agreed upon tract to the affected Village or Regional Corporation—

''(i) the Director of the Bureau of Land Management shall not make any further adjustments to calculations relating to acreage entitlements of the Village or Regional Corporation; and

''(ii) the Village or Regional Corporation shall not be entitled to any further conveyances under this Act.

''(D) LIMITATION.—A Village or Regional Corporation shall not be eligible to receive land under subparagraph (A) if—

''(i) the Village or Regional Corporation has received the full land entitlement of the Village or Regional Corporation through—

''(I) actual conveyance of the land; or

''(II) an agreement; or

''(ii) the final survey boundaries of the Village or Regional Corporation's land entitlement have been established.

''(E) EFFECT.—This paragraph does not limit or otherwise affect the ability of a Village or Regional Corporation to enter into land exchanges with the United States.''.

SEC. 204. DISCRETIONARY AUTHORITY TO CONVEY SUBSURFACE ESTATE IN PRE-ANCSA REFUGES.

Section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)) is amended—

(1) by striking ''(f) When the Secretary'' and inserting the following:

''(f) PATENT TO THE SUBSURFACE ESTATE.—

''(1) IN GENERAL.—When the Secretary'';

(2) by striking '': *Provided*,'' and inserting a period;

(3) by striking ''That the right'' and inserting the following:

''(2) CONSENT OF VILLAGE CORPORATION REQUIRED.—The right''; and

(4) by adding at the end the following:

''(3) OFFERING OF CERTAIN SUBSURFACE ESTATES IN REFUGE LAND.—The subsurface estate beneath the surface estate conveyed to a Village Corporation in a National Wildlife Refuge in existence on December 18, 1971 (except the Kenai National Wildlife Refuge and the Kodiak National Wildlife Refuge), may, at the discretion of the Secretary, be offered to the appropriate Regional Corporation as an alternative to the selection of the subsurface estate under section 12(a)(1).''.

SEC. 205. CONVEYANCE OF CEMETERY SITES AND HISTORICAL PLACES.

Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended—

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

''(1) CEMETERY SITES AND HISTORICAL PLACES.—

''(A) IN GENERAL.—The Secretary'';

(2) by striking ''Only title'' and inserting the following:

''(B) LAND LOCATED IN A WILDLIFE REFUGE.—Only title''; and

(3) by adding at the end the following:

''(C) WAIVER OF ACREAGE ALLOCATIONS.—

''(i) IN GENERAL.—Notwithstanding acreage allocations made before the date of enactment of this subparagraph, the Secretary may convey any cemetery site or historical place—

''(I) with respect to which there is an application on record with the Secretary on the date of enactment of this paragraph; and

''(II) that is eligible for conveyance.

''(ii) APPLICABILITY.—Clause (i) shall apply to any of the 188 closed applications that are determined to be eligible and reinstated under Secretarial Order No. 3220 dated January 5, 2001.

''(D) NO REINSTATEMENT.—No applications submitted for the conveyance of land under subparagraph (A) that were closed before the date of enactment of this paragraph may be reinstated other than those specified in subparagraph (C)(ii).

''(E) NO NEW APPLICATIONS OR AMENDMENTS.—After the date of enactment of this paragraph—

''(i) no application may be filed for the conveyance of land under subparagraph (A); and

''(ii) no pending application may be amended to include additional land under that subparagraph.

''(F) NO WAIVER OF REGULATIONS.—The Secretary shall not waive any regulations relating to withdrawals and conveyances under subparagraph (A).

''(G) REQUIREMENTS APPLICABLE TO APPLICATIONS FOR HISTORIC PLACES.—Unless, not later than 1 year after the date of enactment of this paragraph, a Regional Corporation that has filed an application for a historic place submits to the Secretary a statement on the significance of and the location of the historic place—

''(i) the application shall not be valid; and

''(ii) the Secretary shall reject the application.

''(H) RELINQUISHMENT.—A Regional Corporation may elect to relinquish eligible cemetery sites or historical places located within the boundaries of a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)) on the execution of an agreement between the Federal land management agency and the affected Regional Corporation that describes—

''(i) the statutory responsibilities of the Federal land management agency with respect to protecting the cemetery site or historical place that is relinquished; and

''(ii) any other terms to which the Federal land management agency and Regional Corporation agree.

''(I) NO RESERVATION OF EASEMENT.—Section 17(b)(3) shall not apply to cemetery sites or historical places conveyed under subparagraph (A), but a conveyance under that paragraph shall be subject to an easement for roads and trails in existence at the time of conveyance.''.

SEC. 206. APPROVED ALLOTMENTS.

Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(6)) is amended—

(1) by striking ''(6) The Secretary'' and inserting the following:

''(6) APPROVED ALLOTMENTS.—

''(A) IN GENERAL.—The Secretary'';

(2) by striking ''this Act;'' and inserting ''this Act, a total of 184,663 acres, as described in the report entitled 'Audit Summary ANCSA 14(h)(6) Acreage', dated July 1983, and in 48 Fed. Reg. 37086 (August 16, 1983).'';

(3) by striking ''Any minerals'' and inserting the following:

''(B) MINERAL RESERVATIONS.—

''(i) IN GENERAL.—Any minerals''; and

(4) by inserting after subparagraph (B)(i) (as redesignated by paragraph (3)) the following:

''(ii) ELECTION.—With respect to reserved mineral estates that are located partly in an area that qualifies for in-lieu subsurface selection, the Regional Corporation may elect to take the reserved minerals in the entire allotment or to take the entire acreage as in-lieu.

''(iii) NO SUBDIVISION.—United States surveys shall not be subdivided to accommodate conveyance of a reserved mineral estate under this subparagraph.''.

SEC. 207. ALLOCATIONS BASED ON POPULATION.

Section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) is amended—

(1) by striking ''(8)(A) Any portion'' and inserting the following:

''(8) ALLOCATIONS BASED ON POPULATION.—

''(A) IN GENERAL.—Any portion'';

(2) by striking ''(B) Such allocation'' and inserting the following:

''(B) ALLOCATION FOR SOUTHEASTERN ALASKA.—Such allocation''; and

(3) by adding at the end the following:

''(C) ALTERNATIVE METHODS OF DISTRIBUTION.—

''(i) IN GENERAL.—In lieu of an allocation in accordance with the method of distribution under subparagraph (A), a Regional Corporation may elect to receive an allocation in accordance with clause (ii) or (iii).

''(ii) PERCENTAGE SHARE.—

''(I) IN GENERAL.—A Regional Corporation eligible for an additional allocation under subparagraph (A) may irrevocably elect, not later than 1 year after the date of enactment of this subparagraph, to take the Regional Corporation's percentage share of an additional 255,000 acres above any acreage allocated as of January 1, 2003.

''(II) WAIVER.—Any Regional Corporation electing to take a percentage share under subclause (I) shall waive any additional gain or loss that the Regional Corporation may have been eligible to receive under subparagraph (A).

''(iii) SETTLEMENT AGREEMENT.—

''(I) IN GENERAL.—A Regional Corporation eligible to participate in an additional allocation under subparagraph (A) may irrevocably elect, not later than 1 year after the date of enactment of this subparagraph, to enter into good faith negotiations with the Secretary for a settlement agreement relating to the Regional Corporation's entitlement under subparagraph (A).

''(II) REQUIREMENTS.—An agreement entered into under subclause (I) shall—

''(aa) establish the number of acres to be allocated to the Regional Corporation, which shall be considered to be the remaining entitlement of the Regional Corporation; and

''(bb) provide that the United States and the Regional Corporation agree to waive any additional gain or loss that would have been available under subparagraph (A).

''(III) DEADLINE FOR AGREEMENT.—A Regional Corporation shall have not later than the date that is 2 years after the date of enactment of this subparagraph to reach a final agreement with the Secretary under this clause.

''(IV) NO AGREEMENT.—If an agreement is not executed by the date specified in clause (III)—

''(aa) the authority of the Secretary to enter into such an agreement shall terminate; and

''(bb) any allocations of entitlements under subparagraph (A) of the Regional Corporation shall be deferred until the date on which all allocations under this subsection are completed.

''(iv) APPLICABILITY.—This subparagraph shall not apply to—

''(I) Cook Inlet Region Incorporated and Koniag, Inc.; or

''(II) any Regional Corporation that has entered into a prior agreement relating to the entitlement of the Regional Corporation under subparagraph (A), the terms of which would be modified or negated by the agreement entered into under clause (iii).''.

SEC. 208. AUTHORITY TO WITHDRAW LAND.

Section 14(h)(10) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(10)) is amended—

(1) by striking ''(10) Notwithstanding'' and inserting the following:

''(10) WITHDRAWALS.—

''(A) IN GENERAL.—Notwithstanding''; and

(2) by adding at the end the following:

''(B) SELECTIONS NOT ON FILE.—If a Regional Corporation does not have enough valid selections on file to fulfill the remaining entitlement of the Regional Corporation under subsection (a) or (b), the Secretary may use the withdrawal authority under subparagraph (A) to withdraw land for selection and conveyance to the Regional Corporation to fulfill that entitlement, except that the Secretary may not withdraw land located within the boundaries of a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)).''.

SEC. 209. BUREAU OF LAND MANAGEMENT LAND.

(a) CLASSIFICATION.—

(1) IN GENERAL.—Notwithstanding revocation of a withdrawal under section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)), the Secretary may classify or reclassify any land administered by the Bureau of Land Management in the State to open or close the land to any form of appropriation or use under the public land laws.

(2) JUDICIAL REVIEW.—A decision to classify or reclassify land under paragraph (1) shall not be subject to judicial review.

(b) WITHDRAWN LAND.—Land in the State administered by the Bureau of Land Management that is withdrawn under section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)), but not otherwise withdrawn or reserved, may be opened, without environmental review, to all forms of appropriation under the public land laws, including location and entry under the Mining Law of 1872 (30 U.S.C. 22 et seq.), by publication of a classification order in the Federal Register.

(c) LAND INCLUDED IN AN APPROVED RESOURCE MANAGEMENT OR LAND USE PLAN.—Land that is included in an approved resource management or land use plan and that is not segregated (including land in the Steese National Conservation Area) may be opened or closed to location and entry under the Mining Law of 1872 (30 U.S.C. 22 et seq.) and under the Mineral Leasing Act (30 U.S.C. 181 et seq.), consistent with the plan, by publication in the Federal Register of a classification order that describes—

(1) the land to be opened;

(2) the public land laws to which the opening applies; and

(3) the effective date of the opening.

SEC. 210. AUTOMATIC SEGREGATION OF LAND FOR UNDERSELECTED VILLAGE CORPORATIONS.

Section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) is amended by adding at the end the following:

''(3) AGREEMENT.—In lieu of withdrawal under paragraph (2), land may be segregated from all other forms of appropriation for the purposes described in that paragraph if—

''(A) the Secretary and the Village Corporation enter into an agreement identifying the land for selection; and

''(B) the Village Corporation files an application for selection of the land.''.

SEC. 211. PROCEDURES RELATING TO DISSOLVED OR LAPSED NATIVE CORPORATIONS.

Section 22 of the Alaska Native Claims Settlement Act (43 U.S.C. 1621) is amended by adding at the end the following:

''(n) DISSOLVED OR LAPSED NATIVE CORPORATIONS.—

''(1) IN GENERAL.—Not later than the date that is 2 years after the date of enactment of this subsection, a Native Corporation entitled to receive land under this Act that has allowed the corporate status of the Native Corporation to lapse or has otherwise dissolved or ceased to do business, may, in accordance with State law, reestablish the Native Corporation.

''(2) CONVEYANCE.—If the Native Corporation is not reestablished by the date described in subsection (a) or allows the corporate status of the Native Corporation to

lapse after that date, the remaining entitlement of the Native Corporation, if any, shall be conveyed to the Regional Corporation, subject to the condition that the land not be sold or otherwise alienated to any other person or entity other than the Village Corporation for a period of at least 12 years.

''(3) EFFECT.—After the Regional Corporation assumes responsibility for administering the assets for a lapsed or dissolved Native Corporation, the Regional Corporation may—

''(A) file relinquishments of selections;

''(B) return land to the United States to accommodate an allotment;

''(C) reprioritize land selections before the deadline in section 404 of the Alaska Land Transfer Acceleration Act of 2003;

''(D) negotiate settlement of remaining entitlement under section 212 of the Alaska Land Transfer Acceleration Act of 2003; and

''(E) take any appropriate actions to bring the lapsed or dissolved Native Corporation into compliance with State law.

''(4) REESTABLISHMENT UNDER STATE LAW.—If the lapsed or dissolved Native Corporation reestablishes itself under State law, on petition from the reestablished Native Corporation, the property conveyed to the Regional Corporation from the reestablished Native Corporation's prior entitlement shall be conveyed by the Regional Corporation to the reestablished Native Corporation.

''(5) PRIORITIES.—If a lapsed or dissolved Native Corporation fails to establish, by the prioritization deadlines established by the Alaska Land Transfer Acceleration Act of 2003, irrevocable final priorities in accordance with section 404 of that Act, the Regional Corporation shall establish the priorities by the deadline established by section 404 of that Act.''.

SEC. 212. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding, written agreement with any Native Corporation relating to—

(1) the land remaining to be conveyed to the Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed;

(4) the selection entitlement to which selections are to be charged, regardless of the entitlement under which originally selected;

(5) the survey of the exterior boundaries of the land to be conveyed;

(6) the additional survey to be performed under section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c));

(7) the resolution of conflicts with Native allotment applications; and

(8) any other matters that may facilitate the conveyance to the Native Corporation.

(b) REQUIREMENTS.—An agreement under subsection (a)—

(1) shall be authorized in a corporate resolution of the Native Corporation subject to the agreement; and

(2) shall include a statement that the entitlement of the Native Corporation shall be considered complete on execution of the agreement.

(c) RESERVATION OF EASEMENTS.—In an agreement under subsection (a), the Secretary may—

(1) reserve easements under subsection (b) of section 17 of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(b));

(2) realign easements reserved under that subsection before the date of enactment of this Act; and

(3) correct conveyance documents to reflect the reservation of easements under that subsection.

(d) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall consult with the head of the agency administering the land to be conveyed and the State.

(e) ERRORS.—Any Native Corporation entering into an agreement under subsection (a) shall receive any gain or bear any loss arising out of errors in prior surveys, protraction diagrams, or computation of the ownership of third parties on any land conveyed.

(f) EFFECT.—

(1) IN GENERAL.—An agreement under subsection (a) shall not—

(A) affect the obligations of Native Corporations under prior agreements; or

(B) result in a Native Corporation relinquishing valid selections of land in order to qualify for the withdrawal of other tracts of land.

(2) EFFECT ON SUBSURFACE RIGHTS.—The terms of an agreement entered into by the Secretary and a Village Corporation or other Native Corporation under subsection (a) shall be binding on a Regional Corporation with respect to the location and quantity of subsurface rights of the Regional Corporation under section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)).

SEC. 213. CONVEYANCE TO KAKTOVIK INUPIAT CORPORATION AND ARCTIC SLOPE REGIONAL CORPORATION.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), the Secretary shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959—

(A) to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611); and

(B) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which the Regional Corporation is entitled under the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States.

TITLE III—NATIVE ALLOTMENTS

SEC. 301. TITLE AFFIRMATION OF NATIVE ALLOTMENT LOCATION AND DESCRIPTION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following:

''(d) TITLE AFFIRMATION.—

''(1) IN GENERAL.—The Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in a valid allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

''(2) CONCURRENCE.—A written concurrence shall—

''(A) include a finding that the land description proposed by the Secretary is acceptable; and

''(B) attest that the Native Corporation or the State has not—

''(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and;

''(ii) stored or allowed the deposit of hazardous waste on the land.

''(3) CORRECTED DOCUMENT.—On receipt of an acceptable written concurrence, the Alaska State Office of the Bureau of Land Management shall—

''(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

''(B) issue a certificate of allotment to the allotment applicant.

''(4) NO OTHER DOCUMENTATION REQUIRED.—No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (1), are necessary to use the procedures authorized by this subsection.

''(5) EFFECT ON LIABILITY.—Nothing in this section relieves the State, the United States, or any other entity of any existing liability under Federal or State law arising out of the presence or release of hazardous or toxic substances or solid wastes nor shall the United States be subject to such liability under applicable laws solely as a result of taking any actions under this subsection.''.

SEC. 302. TITLE RECOVERY OF NATIVE ALLOTMENTS

(a) IN GENERAL.—If the State or any Native Corporation does not elect to take advantage of the title affirmation process available under subsection (d) of section 18 of th Alaska Native Claims Settlement Act (as added by section 301), the State or any Native Corporation may quitclaim, by a date certain established by the Secretary, all or any part of its interest in the land encompassed by an allotment claim by tendering a valid and appropriate deed to the United States.

(b) ACCEPTANCE OF DEED BY UNITED STATES.—The United States may accept the deed if the United States determines that the issuance of an allotment is appropriate based on evidence of record with the Bureau of Land Management or attestation of the State or Native Corporation as to the use of the land by the allotment applicant.

(c) OFFERING OF ALTERNATE LAND.—The State, under the authority granted in section 18(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1617(c)), or a Native Corporation under the authority granted in section 303, may elect to offer land other than those encompassed by the allotment claim in substitution for the originally described land.

(d) ACCEPTANCE OF DEED BY APPLICANT.—Before the acceptance of the title by the United States, the Secretary shall provide the applicant or the personal representative of a deceased applicant 90 days to accept the offered deed.

(e) ACCEPTANCE BY UNITED STATES.—On receipt of the applicant's acceptance, the Secretary may accept the quit claim deed and issue the allotment.

(f) BINDING EFFECT.—The allottee shall be bound by the terms and conditions of the conveyance to the United States and the conveyance to the allottee by the United States.

(g) SURVEY.—If acceptance by the applicant is not received by the Bureau of Land Management, Alaska State Office, within the 90-day time period provided under subsection (d), the United States shall, with the permission of the landowner, survey the boundaries of the allotment claim on file with the Secretary to fix in an irrevocable manner the location of the claim.

(h) NO DOCUMENTATION REQUIRED.—When the Secretary reacquires title to land from a Native Corporation or the State for the purpose of conveying an allotment, there shall be no requirement to prepare a certificate of inspection and possession or to perform a hazardous materials inspection prior to the acceptance of the reconveyance to the United States or conveyance to the Native allotment applicant.

(i) NO LIABILITY.—The United States shall not be liable for any contamination on the

land solely by virtue of reacquiring title or conveying the allotment.

SEC. 303. NATIVE ALLOTMENT RELOCATION ON LAND SELECTED BY OR CONVEYED TO A NATIVE CORPORATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 301) is amended by adding at the end the following:

''(e) AMENDMENT OF LAND DESCRIPTION.—

''(1) IN GENERAL.—An allotment applicant who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Secretary as of the date of enactment of this subsection may amend the land description in the application to describe land other than the land that the applicant originally intended to claim if—

''(A) the application—

''(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this Act; or

''(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

''(B) the amended land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application; and

''(C) the Native Corporation, or its successor in interest, that selected the land or received an interim conveyance or patent for the land, provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the amended application.

''(2) RIGHT OF FIRST REFUSAL.—

''(A) IN GENERAL.—The allotment applicant and the Native Corporation may agree that the Native Allotment Certificate, when issued, shall contain a right of first refusal allowing the Native Corporation to match any offer to buy the allotted land at or over appraised value, with approval of an authorized official of the Bureau of Indian Affairs, within 30 days of notice of intent to accept an offer.

''(B) FILING.—Any agreement to make the allotment subject to such a right of first refusal shall be in writing and shall be filed with the Alaska State Office of the Bureau of Land Management. The right of first refusal shall not apply to transfers of the land to family members or to transfers by gift deed.

''(3) CONCURRENCE REQUIRED.—If an application pending before the Department of the Interior as described in paragraph (1) describes land selected by, but not conveyed by interim conveyance or patent to a Native Corporation, the concurrence of an authorized official of the Bureau of Land Management and regional head of the managing Federal agency if different than the Bureau of Land Management shall be required in order for an application to proceed under this section.

''(4) NATIVE ALLOTMENT CERTIFICATE.—

''(A) IN GENERAL.—On acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

''(B) INCLUSIONS.—The Native Allotment Certificate shall include a right of first refusal if a written copy of an agreement to include such provision is filed with the Alaska State Office of the Bureau of Land Management prior to issuance of the Native Allotment Certificate.

''(C) RESERVATIONS.—Any allotment relocated under this section shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the relocated allotment land on the date of relocation.''.

SEC. 304. COMPENSATORY ACREAGE.

(a) IN GENERAL.—The Secretary shall adjust the acreage entitlement computation records for the State of Alaska or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301), section 302, or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating timely completion of land transfer in Alaska.

(b) LIMITATION.—No adjustment to the acreage conveyance computations shall be made where the State of Alaska or an affected Native Corporation retains a partial estate in the described allotment land.

(c) AVAILABILITY OF ADDITIONAL LAND.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or section 302, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary has sole and unreviewable discretion to use the authority and procedures available under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)) and section 207 to make additional land available for selection by the Village Corporation.

SEC. 305. NATIVE ALLOTMENT DEADLINES.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 303) is amended by adding at the end the following:

''(f) REQUEST FOR REINSTATEMENT.—

''(1) IN GENERAL.—An applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) or filed under section 41 of this Act shall be entitled to have the Secretary accept a reinstatement of a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, only if the applicant filed a request for reinstatement or acceptance of a reconstructed application with the Alaska State Office, Bureau of Land Management, before the date of enactment of this subsection.

''(2) REQUIREMENTS.—No request to accept a Native allotment application as timely filed, submitted before the date of enactment of this subsection, shall be granted unless the request or application contains—

''(A) the name of the person to whom the application was originally given;

''(B) the Department of the Interior Bureau for whom that person worked;

''(C) the month and year in which the application was originally submitted;

''(D) the place at which the application was originally submitted (address or specific location, more than the community's name);

''(E) a complete application, including—

''(i) the date of commencement of qualifying use and occupancy;

''(ii) a description of the land for which the application is being made;

''(iii) a map sufficient to locate the property on the ground; and

''(iv) at least 2 written statements from knowledgeable individuals attesting to the applicant's qualifying use and occupancy of the land described in the application;

''(F) a written explanation setting forth all information known concerning the original filing of the application and the reasons that the application was not forwarded when originally submitted, if known, which explanation shall not include any additional information or explanatory material that was filed after the date of enactment of this Act; and

''(G) sworn statements from at least 2 knowledgeable individuals, with their current addresses, who will not benefit from the granting of the Native allotment application, attesting to the fact that an application for Native allotment was originally filed as set forth in the request, not including any additional witness statements or supplementation of the previously submitted statements.

''(3) PROHIBITION ON REOPENING OF APPLICATION.—No application for a Native allotment that was closed, whether through relinquishment, denial or otherwise, under the laws (including regulations) that existed as of the date of closure, shall be reopened after the date of enactment of this subsection.

''(4) VOLUNTARY RECONVEYANCE.—The United States—

''(A) may seek voluntary reconveyance of any land described in a application that is reopened, accepted, or is reconstructed that is accepted as timely filed after the date of enactment of this Act; but

''(B) shall not file an action in any court to recover title from a current landowner.

''(5) EXCEPTION.—Except as otherwise provided in this subsection, after the date of enactment of this subsection, no requests to amend an allotment description may be granted unless the request is initiated by the Secretary in order to conform the allotment description to its on-the-ground or surveyed description.''.

SEC. 306. ELIMINATION OF SHORE SPACE MEASUREMENT.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 305) is amended by adding at the end the following:

''(g) APPLICABILITY OF SHORE SPACE MEASUREMENT REQUIREMENT.—Section 2094 of part 43, Code of Federal Regulations, (relating to Shore Space) shall not apply to Native allotment applications which are required to be adjudicated under the Act of May 17, 1906 (34 Stat. 197, chapter 2469), if the land has been surveyed before the date of enactment of this Act or has been the subject of a field examination, before the date of enactment of this subsection, which did not recommend adjustment of the land that is the subject of the application due to excessive shore space.''.

SEC. 307. AMENDMENTS TO SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Section 41(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g(b)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon at the end the following: ''(except that the term 'nonmineral', as used in that Act, shall for the purpose of this subsection, include land valuable for deposits of sand or gravel except for claims describing land within the National Park System)''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(B) by inserting ''(A)'' after ''(2)'';

(C) in clause (ii) (as redesignated by subparagraph (A)), by inserting after ''Department of Veterans Affairs'' the following: ''or based on other evidence acceptable to the Secretary of the Interior''; and

(D) by adding at the end the following:

''(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

''(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

''(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

''(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.''.

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

SEC. 401. DEADLINE FOR ESTABLISHMENT OF REGIONAL PLANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Director of the Bureau of Land Management (referred to in this title as the ''Director''), in coordination and consultation with Native Corporations, Federal land management agencies, and the State, shall update and revise the 12 preliminary Regional Conveyance and Survey Plans.

(b) INCLUSIONS.—The updated and revised plans under subsection (a) shall identify any conflicts to be resolved and recommend any actions that should be taken to facilitate the finalization of land conveyances in a region by 2009.

SEC. 402. DEADLINES FOR ESTABLISHMENT OF VILLAGE PLANS.

Not later than 30 months after the date of enactment of this Act, the Director, in coordination with affected Federal land management agencies, the State, and Village Corporations, shall complete a final closure plan with respect to the entitlements for each Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 403. FINAL PRIORITIZATION OF ANCSA SELECTIONS

(a) IN GENERAL.—Any Village or Regional Corporation that has not entered in a voluntary, negotiated settlement of final entitlement under section 212 by the date of enactment of this Act, shall submit the final, irrevocable priorities of the Village or Regional Corporation—

(1) not later than 36 months after the date of enactment of this Act for Village Corporations; and

(2) not later than 42 months after the date of enactment of this Act for Regional Corporations.

(b) ACREAGE LIMITATIONS.—The priorities submitted under subsection (a) shall not exceed land that is the greater of—

(1) not more than 125 percent of the remaining entitlement; or

(2) not more than 640 acres in excess of the remaining entitlement.

(c) CORRECTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the priorities submitted under subsection (a) may not be revoked, rescinded, or modified by the Village or Regional Corporation.

(2) TECHNICAL CORRECTIONS.—Not later than 90 days after the date of receipt of a notification by the Director that there is a technical error in the priorities, the Village or Regional Corporation may correct the technical error in accordance with any recommendations of, and in the manner prescribed by, the Director.

(d) RELINQUISHMENT.—

(1) IN GENERAL.—As of the date on which the Village or Regional Corporation submits the final priorities of the Village or Regional Corporation under subsection (a), any unprioritized, remaining selections of the Village or Regional Corporation—

(A) are relinquished; and

(B) shall have no further segregative effect.

(2) RECORDS.—All relinquishments under paragraph (1) shall be included in Bureau of Land Management land records.

(e) FAILURE TO SUBMIT PRIORITIES.—If a Village or Regional Corporation fails to submit priorities by the deadline specified in subsection (a)—

(1) with respect to a Village or Regional Corporation that has priorities on file with the Director, the Director—

(A) shall convey to the Village or Regional Corporation the remaining entitlement of the Village or Regional Corporation, as determined based on the most recent priorities of the Village or Regional Corporation on file with the Director; and

(B) may reject any selections not needed to fulfill the entitlement; or

(2) with respect to a Village or Regional Corporation that does not have priorities on file with the Bureau of Land Management, the Director shall satisfy the entitlement by conveying land selected by the Director, in consultation with the Village or Regional Corporation, the Federal land managing agency, and the State, that, to the maximum extent practicable, is—

(A) compact;

(B) contiguous to land previously conveyed to the Village or Regional Corporation; and

(C) consistent with the applicable preliminary Regional Conveyance and Survey Plan referred to in section 401.

SEC. 404. FINAL PRIORITIZATION OF STATE SELECTIONS.

(a) FILING OF SELECTION PRIORITIES.—

(1) IN GENERAL.—Not later than 180 days after the date on which the Director notifies the State that the portion of the Regional Conveyance and Survey Plan relating to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is complete, the State shall file selection priorities for the Regional Conveyance and Survey Plan area.

(2) IDENTIFICATION OF PRIORITIES.—In the selection priorities filed under paragraph (1), the State shall identify all prioritized selections as being in 1 of the following 3 categories:

(A) Irrevocable priorities available for immediate conveyance.

(B) Topfiled priorities not currently available for conveyance.

(C) Revocable priorities not available for immediate conveyance.

(b) CONVEYANCE.—The Director shall convey any irrevocable priorities identified under subsection (a)(2)(A) as soon as practicable after the date of enactment of this Act but not later than September 30, 2009.

(c) CORRECTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), irrevocable priorities identified under subsection (a)(2)(A) may not be rescinded or modified by the State.

(2) TECHNICAL CORRECTIONS.—Not later than 30 days after the date of receipt of a notification by the Director that there is a technical error in the irrevocable priorities, the State may correct the technical error in accordance with any recommendations of, and in the manner prescribed by, the Director.

(d) MAXIMUM ACREAGE.—The cumulative quantity of revocable selections (other than topfilings) shall not exceed 3,525,000 acres.

(e) RELINQUISHMENT.—

(1) IN GENERAL.—The State shall relinquish any State selections in a Regional Conveyance and Survey Plan area not identified as an irrevocable, topfiled, or revocable priority.

(2) FAILURE TO RELINQUISH.—If the State fails to relinquish a selection under paragraph (1), the Director shall reject the selection.

(f) FILING OF FINAL PRIORITIES.—

(1) IN GENERAL.—In addition to the prioritization required under subsection (a), the State shall, not later than the date that is 4 years after the date of enactment of this Act, in accordance with section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)), file final priorities with the Bureau of Land Management for all land grant entitlements to the State which remain unsatisfied on the date of the filing.

(2) RANKING.—All selection applications on file with the Bureau of Land Management on the date specified in paragraph (1) shall—

(A) be ranked; and

(B) include an estimate of the acreage included in each selection.

(3) INCLUSIONS.—The State shall include in the prioritized list land which has been topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)).

(4) ACREAGE LIMITATION.—

(A) IN GENERAL.—Acreage for topfilings shall not be counted against the 125 percent limitation.

(B) RELINQUISHMENT.—

(i) IN GENERAL.—The State shall relinquish any selections that exceed the 125 percent limitation.

(ii) FAILURE TO RELINQUISH.—If the State fails to relinquish a selection under clause (i), the Director shall reject the selection.

(g) DEADLINE FOR PRIORITIZATION.—

(1) IN GENERAL.—The State shall irrevocably prioritize sufficient selections to allow the Director to complete transfer of 101,000,000 acres by September 30, 2009.

(2) FINANCIAL ASSISTANCE.—The Director may, using amounts made available to carry out this Act, provide financial assistance to other Federal agencies, the State, and Native Corporations and entities to assist in completing the transfer of land by September 30, 2009.

(3) REPRIORITIZATION.—Any selections remaining after September 30, 2009, may be reprioritized.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

SEC. 501. ALASKA LAND CLAIMS HEARINGS AND APPEALS.

(a) ESTABLISHMENT.—The Secretary shall establish a hearings and appeals process to decide appeals from land transfer decisions issued by the Secretary in the State.

(b) ADMINISTRATIVE LAW JUDGES.—

(1) APPOINTMENT.—For purposes of carrying out subsection (a), the Secretary may appoint administrative law judges or other officers to hear appeals under subsection (a) for a specified term, as determined by the Secretary.

(2) POWERS.—Judges and other officers appointed under paragraph (1) shall have the powers set forth in section 556(c) of title 5, United States Code.

(c) REGULATIONS.—

(1) IN GENERAL.—Notwithstanding the fact that proposed regulations have not been published, on establishment of the hearings and appeals process under subsection (a) the Secretary shall immediately publish in the Federal Register final regulations establishing procedures and practices for the hearings and appeals process.

(2) APPLICABLE LAW.—Section 910 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1638) shall apply to the regulations published under paragraph (1).

TITLE VI—REPORT TO CONGRESS

SEC. 601. REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the implementation of this Act.

(b) CONTENTS.—The report shall—

(1) describe the status of conveyances to Alaska Natives, Native Corporations, and the State; and

(2) include recommendations for completing the conveyances required by this Act.

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) shall be available until expended.

By Mr. CAMPBELL:

S. 1467. A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I rise today to introduce a bill to designate a stretch of the Rio Grande River as an Outstanding Natural Area. This Outstanding Natural Area designation is the hallmark of successful partnerships between local landowners, farmers, governments and interested advocacy groups to develop a plan to preserve an important stretch of river and the southwest Willow Flycatcher, a federally recognized endangered species.

The Rio Grande River and its tributaries rise in the San Juan Mountains and flow into the San Luis Valley. The Valley, like so much of Colorado is dependent on snowmelt for water. In fact, the 600,000 acres of irrigated farm land within the Valley only get an average of seven inches of precipitation each year. It goes without saying that the Rio Grande River is the lifeblood of the Valley for flora and fauna as well as thousands of farmers and landowners.

The legislation that I am introducing today is the product of careful collaboration between interested stakeholder, including environmental groups, landowners, farmers, and local governments. All of these parties recognized that in order to protect this important thirty-three miles of watershed something had to be done. After much deliberation, all agreed that designating the stretch of River from the southern edge of the Alamosa National Wildlife Refuge to the New Mexico State line as an Outstanding Natural Area would be the best way to maintain this critical reach.

This bill establishes a Commission made up of Federal, State, and local stakeholders who are charged with developing a management plan to restore and protect the area. The Secretary of Interior must review and approve the plan. Upon approval, the Secretary of Interior would implement the management plan, coordinating with State and local governments, and cooperating with land owners. Private landowners are encouraged to participate in the Commission.

As in much of the West, Rio Grande River's water is apportioned to downstream states through interstate compact. Therefore, make no mistake; this bill does not include an implied or reserved water right.

The Outstanding Natural Area legislation that I am introducing today is supported by the local Boards of county Commissioners, the local water user organizations, the local Cattlemen's Association, the environmental community, and affected private landowners along the River.

We often talk about bringing interested folks to the table to work out a cooperative solution to an issue. All too often, either people don't come to the table or the discussions fail to bear fruit. This bill is a positive example of what can be accomplished when interested stakeholders come together in good faith and work toward a common goal. I am proud to introduce this legislation and continue that effort.

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

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

S. 1467

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 ''Rio Grande Outstanding Natural Area Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds as follows:

(1) Preservation and restoration of the land in the Area are required to preserve the Area's unique scientific, scenic beauty, educational, and environmental values, including unique land forms, scenic beauty, cultural sites, and habitats used by various species of raptors and other birds, mammals, reptiles, and amphibians.

(2) There are archaeological and historic sites in the Area resulting from at least 10,000 years of use for subsistence and commerce.

(3) The archaeological sites represent regional ancestry, including Paleo-Indian and nomadic bands of Ute and Apache.

(4) The Area contains exceptional scenic values and opportunities for wildlife viewing.

(5) Approximately 2,771 acres of land within the Area are owned by the United States and administered by the Secretary, acting through the Director of the Bureau of Land Management, and approximately 7,885 acres of land within the Area are owned by private landowners.

(6) The Area is located downstream from areas in Colorado of significant and long-standing water development and use.

(7) The availability of water for use in Colorado is governed, in significant part, by the Compact, which obligates the State of Colorado to deliver certain quantities of water to the Colorado-New Mexico State line for the benefit of the States of New Mexico and Texas in accordance with the terms of the Compact.

(8) Because of the allocations of water made by the Compact to downstream States, the levels of use and development of water in Colorado, and the unpredictable and seasonal nature of the water supply, the Secretary shall manage the land within the Area to accomplish the purposes of this Act without asserting reserved water rights for instream flows or appropriating or acquiring water rights for that purpose.

(b) PURPOSES.—The purposes of this Act are to conserve, restore, and protect for future generations the natural, ecological, historic, scenic, recreational, wildlife, and environmental resources of the Area.

SEC. 3. DEFINITIONS.

In this Act:

(1) AREA.—The term ''Area'' means the Rio Grande Outstanding Natural Area established under section 4.

(2) AREA MANAGEMENT PLAN.—The term ''Area Management Plan'' means the plan developed by the Commission in cooperation with Federal, State, and local agencies and approved by the Secretary.

(3) COMMISSION.—The term ''Commission'' means the Rio Grande Outstanding Natural Area Commission as established in this Act.

(4) COMPACT.—The term ''Compact'' means the Rio Grande Compact, consented to by Congress in the Act of May 31, 1939 (53 Stat. 785, chapter 155).

(5) MAP.—The term ''Map'' means the map entitled ''___'', dated ___, and numbered ___.

(6) PUBLIC LANDS.—The term ''public lands'' has the meaning given that term in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) STATE.—The term ''State'' means the State of Colorado.

SEC. 4. ESTABLISHMENT OF AREA.

(a) IN GENERAL.—There is established the Rio Grande Outstanding Natural Area.

(b) BOUNDARIES.—The Area shall consist of approximately 10,656 acres extending for a distance of 33.3 miles along the Rio Grande River in southern Colorado from the southern boundary of the Alamosa National Wildlife Refuge to the Colorado-New Mexico State line, encompassing the Rio Grande River and its adjacent riparian areas extending not more than 1,320 feet on either side of the river.

(c) MAP AND LEGAL DESCRIPTION.—

(1) LEGAL DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the Area in the office of the Director of the Bureau of Land Management, Department of the Interior, in Washington, District of Columbia, and the Office of the Colorado State Director of the Bureau of Land Management.

(2) FORCE AND EFFECT.—The Map and legal description of the Area shall have the same force and effect as if they were included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description as they may appear from time to time.

(3) PUBLIC AVAILABILITY.—The Map and legal description of the Area shall be available for public inspection in the office of the Colorado State Director of the Bureau of Land Management, Department of the Interior in Denver, Colorado.

SEC. 5. COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Rio Grande Outstanding Natural Area Commission.

(b) PURPOSE.—The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Area called the Area Management Plan.

(c) MEMBERSHIP.—The Commission shall be composed of 9 members, designated or appointed not later than 6 months after the date of the enactment of this Act as follows:

(1) 2 officials of Department of the Interior designated by the Secretary, 1 of whom shall represent the Federal agency responsible for the management of the Area and 1 of whom shall be the manager of the Alamosa National Wildlife Refuge.

(2) 2 individuals appointed by the Secretary, 1 of whom shall be based on the recommendation of the State Governor, representing the Colorado Division of Wildlife, and 1 representing the Colorado Division of Water Resources responsible for the Rio Grande drainage.

(3) 1 representative of the Rio Grande Water Conservation District appointed by the Secretary based on the recommendation of the State Governor, representing the local region in which the Area is established.

(4) 4 individuals appointed by the Secretary based on recommendations of the State Governor, representing the general public who are citizens of the State and of the local region in which the Area is established, who have knowledge and experience in the appropriate fields of interest relating to the preservation and restoration and use of the Area. 2 appointees from the local area shall represent nongovernmental agricultural interests and 2 appointees from the local area shall represent nonprofit nongovernmental environmental interests.

(d) TERMS.—Members shall be appointed for terms of 5 years and may be reappointed.

(e) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission.

(f) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which the last of its initial members is appointed, and shall meet at least quarterly at the call of the chairperson.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ACQUISITION OF REAL PROPERTY.—Except as provided in section 12, the Commission may not acquire any real property or interest in real property.

(d) COOPERATIVE AGREEMENTS.—For purposes of carrying out the Area Management Plan, the Commission may enter into cooperative agreements with the State, with any political subdivision of the State, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, a political subdivision, or a person which may affect the implementation of the Area Management Plan.

SEC. 7. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Not later than 2 years after the Commission conducts its first meeting, it shall submit to the Secretary an Area Management Plan. The Area Management Plan shall be—

(1) based on existing Federal, State, and local plans, but shall coordinate those plans and present a unified preservation, restoration, and conservation plan for the Area;

(2) developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); and

(3) consistent, to the extent possible, with the management plans adopted by the Director of the Bureau of Land Management for adjacent properties in Colorado and New Mexico.

(b) CONTENTS.—The Area Management Plan shall include the following:

(1) An inventory which includes any property in the Area which should be preserved, restored, managed, developed, maintained, or acquired because of its natural, scientific, scenic, or environmental significance.

(2) Recommended policies for resource management which consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the Area's natural, scenic, and wildlife resources and environment.

(3) Recommended policies for resource management to provide for protection of the Area for solitude, quiet use, and pristine natural values.

(c) IMPLEMENTATION OF THE PLAN.—Upon approval of the Area Management Plan by the Secretary, as provided in section 9, the Commission shall assist the Secretary in implementing the Area Management Plan by taking appropriate steps to preserve and interpret the natural resources of the Area and its surrounding area. These steps may include the following:

(1) Assisting the State in preserving the Area.

(2) Assisting the State and local governments, and political subdivisions of the State in increasing public awareness of and appreciation for the natural, historical, and wildlife resources in the Area.

(3) Encouraging local governments and political subdivisions of the State to adopt land use policies consistent with the management of the Area and the goals of the Area Management Plan, and to take actions to implement those policies.

(4) Encouraging and assisting private landowners within the Area in understanding and accepting the provisions of the Area Management Plan and cooperating in its implementation.

SEC. 8. TERMINATION OF THE COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate 10 years and 6 months after the date of the enactment of this Act.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination specified in subsection (a) if, not later than 180 days before that day, the Commission—

(1) determines that such an extension is necessary in order to carry out the purpose of this Act; and

(2) submits such proposed extension to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9. ADMINISTRATION BY SECRETARY.

(a) PLAN APPROVAL; PUBLICATION.—Not later than 60 days after the Secretary receives a proposed management plan from the Commission, the Secretary, with the assistance of the Commission, shall initiate the environmental compliance activities which the Secretary determines to be appropriate in order to allow the review of the proposed plan and any alternatives thereto and to allow public participation in the environmental compliance activities. Thereafter, the Secretary shall approve an Area Management Plan for the Area consistent with the Commission's proposed plan to the extent possible, that reflects the results of the environmental compliance activities undertaken. Not later than 18 months after the Secretary receives the proposed management plan, the Secretary shall publish the Area Management Plan in the Federal Register.

(b) ADMINISTRATION.—The Secretary shall administer the lands owned by the United States within the Area in accordance with the laws and regulations applicable to public lands and the Area Management Plan in such a manner as shall provide for the following:

(1) The conservation, restoration, and protection of the Area's unique scientific, scenic, educational, recreational, and wildlife values.

(2) The continued use of the Area for purposes of education, scientific study, and limited public recreation in a manner that does not substantially impair the purposes for which the Area is established.

(3) The protection of the wildlife habitat of the Area.

(4) The elimination of opportunities to construct water storage facilities within the Area.

(5) The reduction or elimination of roads and motorized vehicles from the public lands to the greatest extent possible within the Area.

(6) The elimination of roads and motorized use on the public lands within the area on the western side of the river from Lobatos Bridge south to the State line.

(c) NO RESERVATION OF WATER RIGHTS.—Public lands affected by this Act shall not be subject to reserved water rights for any Federal purpose.

(d) CHANGES IN STREAMFLOW REGIME.—To the extent that changes to the streamflow regime beneficial to the Area can be accommodated through negotiation with the State of Colorado, the Rio Grande Water Conservation District, and water users within Colorado, such changes should be encouraged, but may not be imposed as a requirement.

(e) PRIVATE LANDS.—Private lands within the Area will be affected by the designation and management of the Area only to the extent that the private landowner agrees in writing to be bound by the Area Management Plan.

SEC. 10. MANAGEMENT.

(a) AREA MANAGEMENT PLAN.—

(1) IN GENERAL.—The Secretary shall implement the Area Management Plan for all of the land within the Area that accomplishes the purposes of and is consistent with the provisions of this Act.

(2) NON-FEDERAL LAND.—The Area Management Plan shall apply to all land within the Area owned by the United States and may be made to apply to non-Federal land within the Area only when written acceptance of the Area Management Plan is given by the owners of such land.

(b) COORDINATION WITH STATE AND LOCAL GOVERNMENTS.—The Area Management Plan shall be developed and adopted in coordination with the appropriate State agencies and local governments in Colorado.

(c) COOPERATION BY PRIVATE LANDOWNERS.—In implementing the Area Management Plan, the Secretary shall encourage full public participation arid seek the cooperation of all private landowners within the Area, regardless of whether the landowners are directly or indirectly affected by the Area Management Plan. If accepted by private landowners, in writing, the provisions of the Area Management Plan may be applied to the individual parcels of private land.

(d) NEW IMPOUNDMENTS.—In managing the Area, neither the Secretary nor any other Federal agency or officer may approve or issue any permit for, or provide any assistance for, the construction of any new dam, reservoir, or impoundment on any segment of the Rio Grande River or its tributaries within the exterior boundaries of the Area.

SEC. 11. RESTORATION TO PUBLIC LANDS STATUS.

(a) EXISTING RESERVATIONS.—All reservations of public lands within the Area for Federal purposes that have been made by an Act of Congress or Executive order prior to the date of enactment of this Act are revoked.

(b) PUBLIC LANDS.—Subject to subsection (c), public lands within the Area that were subject to a reservation described in subsection (a)—

(1) are restored to the status of public lands; and

(2) shall be administered in accordance with the Area Management Plan.

(c) WITHDRAWAL.—All public lands within the Area are withdrawn from settlement, sale, location, entry, or disposal under the laws applicable to public lands, including the following:

(1) Sections 910, 2318 through 2340, and 2343 through 2346 of the Revised Statutes (commonly known as the ''General Mining Law, of 1872'') (30 U.S.C. 21, 22, 23, 24, 26 through 30, 33 through 43, 46 through 48, 50 through 53).

(2) The Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a).

(3) The Act of April 26, 1882 (22 Stat. 49, chapter 106; 30 U.S.C. 25, 31).

(4) Public Law 85–876 (30 U.S.C. 28–1, 28–2).

(5) The Act of June 21, 1949 (63 Stat. 214, chapter 232; 30 U.S.C. 28b through 28e, 54).

(6) The Act of March 3, 1991 (21 Stat. 505, chapter 140; 30 U.S.C. 32).

(7) The Act of May 5, 1876 (19 Stat. 52, chapter 91; 30 U.S.C. 49).

(8) Sections 15, 16, and 26 of the Act of June 6, 1990 (31 Stat. 327, 328, 329, chapter 786; 30 U.S.C. 49a, 49c, 49d).

(9) Section 2 of the Act of May 4, 1934 (48 Stat. 1243, chapter 2559; 30 U.S.C. 49e, 49f).

(10) The Act entitled ''An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain'', approved February 25, 1920 (commonly known as the ''Mineral Lands Leasing Act of 1920''; 30 U.S.C. 181 et seq.).

(11) The Act entitled ''An Act to provide for the disposal of materials on public lands of the United States'', approved July 31, 1947 (commonly known as the ''Materials Act of 1947''; 30 U.S.C. 601 et seq.).

(d) WILD AND SCENIC RIVERS.—No land or water within the Area shall be designated as a wild, scenic, or recreational river under section 2 of the Wild and Scenic Rivers Act (16 U.S.C. 1273).

SEC. 12. ACQUISITION OF NON-FEDERAL LANDS.

(a) ACQUISITION OF LANDS NOT CURRENTLY IN FEDERAL OWNERSHIP.—The Secretary, with the cooperation and assistance of the Commission, may acquire by purchase, exchange, or donation all or any part of the land and interests in land, including conservation easements, within the Area from willing sellers only.

(b) ADMINISTRATION.—Any lands and interests in lands acquired under this section—

(1) shall be administered in accordance with the Area Management Plan;

(2) shall not be subject to reserved water rights for any Federal purpose, nor shall the acquisition of the land authorize the Secretary or any Federal agency to acquire instream flows in the Rio Grande River at any place within the Area;

(3) shall become public lands; and

(4) shall upon acquisition be immediately withdrawn as provided in section 11.

SEC. 13. STATE INSTREAM FLOW PROTECTION AUTHORIZED.

Nothing in this Act shall be construed to prevent the State from acquiring an instream flow through the Area pursuant to the terms, conditions, and limitations of Colorado law to assist in protecting the natural environment to the extent and for the purposes authorized by Colorado law.

SEC. 14. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to—

(1) authorize, expressly or by implication, the appropriation or reservation of water by any Federal agency, or any other entity or individual other than the State of Colorado, for any instream flow purpose associated with the Area;

(2) affect the rights or jurisdiction of the United States, a State, or any other entity over waters of any river or stream or over any ground water resource;

(3) alter, amend, repeal, interpret, modify, or be in conflict with the Compact;

(4) alter or establish the respective rights of any State, the United States, or any person with respect to any water or water-related right;

(5) impede the maintenance of the free-flowing nature of the waters in the Area so as to protect—

(A) the ability of the State of Colorado to fulfill its obligations under the Compact; or

(B) the riparian habitat within the Area;

(6) allow the conditioning of Federal permits, permissions, licenses, or approvals to require the bypass or release of waters appropriated pursuant to State law to protect, enhance, or alter the water flows through the Area;

(7) affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers along the Rio Grande River and its tributaries upstream of the Area;

(8) impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or upstream of the Area, that is more restrictive than those that would be applicable had the Area not been established; or

(9) modify, alter, or amend title I of the Reclamation Project Authorizing Act of 1972, as amended (Public Law 92-514, 86 Stat. 964; Public Law 96-375, 94 Stat. 1507; Public Law 98-570, 98 Stat. 2941; and Public Law 100-516, 100 Stat. 257), or to authorize the Secretary to acquire water from other sources for delivery to the Rio Grande River pursuant to section 102(c) of such title.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself, Mr. ENZI, Mr. DASCHLE, Mr. JOHNSON, and Mr. INOUYE):

S. 1469. A bill to amend the Head Start Act to provide grants to Tribal Colleges and Universities to increase the number of post-secondary degrees in early childhood education and related fields earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the community involved; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Tribal Colleges and Universities/Head Start Partnership Act, on behalf of myself and Senators ENZI, DASCHLE, JOHNSON, and INOUYE.

As I am sure you all know, Head Start is the flagship Federal program that insures that disadvantaged children have access to the educational, social, health, and behavioral services that they need in order to be ready to enter and excel in school. Studies clearly show that Head Start is a strong and effective program and that children who enroll in it benefit from improved cognitive and social skills. Although Head Start is a model program, it can be even better. One factor that we know is strongly related to student outcomes is teacher quality and education. Simply put, the more advanced the credentials of the teacher, the better the outcomes for students.

In recognition of this fact, the 1998 Head Start reauthorization required that 50 percent of all Head Start teachers have at least an Associate's Degree, AA, in early childhood or a related field by 2003. In the impending reauthorization of Head Start, is it likely that teacher credential requirements will be increased even further.

Although across the Nation as a whole, the 50 percent AA degree requirement for Head Start teachers has been met, there are some regions and sub-groups in the U.S. for which this is not the case. It is particularly difficult for Head Start teachers on Indian reservations, in rural areas, and those who teach migrants to access the necessary educational opportunities. Often, the distance these individuals would have to travel to take classes at the nearest college that offers an early childhood education degree is simply prohibitive.

The purpose of the Tribal College and University/Head Start Partnership Act is to facilitate the continuing education of Native American Head Start teachers so that they can obtain the credentials they need to provide the best outcomes for the children under their care. Nationally, only 14 percent of Native American Head Start teachers have an AA degree and a scant 7 percent have a BA degree or higher.

The current Act is based on the ''Head Start Partnerships with Tribally Controlled Land-Grant Colleges and Universities'' discretionary grants program at HHS. This program provided grants to 16 tribal universities and colleges during the period 1999–2001. The purpose of the program was to utilize the capabilities of these institutions of higher education to improve the quality of Head Start and Early Head Start programs funded through the American Indian Programs Branch, primarily by providing education and training opportunities for Head Start staff. Partnership agreements provided academic credits primarily toward Associate's or Bachelor's Degrees. Since the program began in 1999, 322 students have graduated from these programs and an additional 59 are expected to graduate by the end of 2003.

In my home State of New Mexico, Southwestern Indian Polytechnic Institute, SIPI, received a 3-year grant of $150,000 per year. This grant has supported the teaching of courses leading directly to an AA degree in early childhood. There are roughly 125 declared majors, 90 percent of whom are Head Start teachers, enrolled in these classes each semester, distributed across eleven reservations and pueblos in New Mexico, the closest of which is 30 miles from the SIPI campus. Without access to this type of distance education, these dedicated Head Start teachers would not be able to receive the education that is crucial to both their own futures and to the lives of the many children they teach.

Although the Head Start Partnerships discretionary grants program at HHS has been very successful, funding has been sporadic. No grants were awarded in 2001 and 2002. Although HHS just recently announced a new competition for these grants, it is unclear if new grants will also be awarded in future years. I believe that an authorized grants program would be the best way to insure a steady and dependable source of funding so that tribal Head Start teachers can obtain the education that is so crucial to their success.

The TCU /Head Start Partnership Act would authorize 5-year grants to TCUs so that these institutions can develop programs resulting in increased numbers of advanced degrees for tribal Head Start teachers, particularly in technology mediated formats. The act authorizes $10,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005–2008, in order to achieve these goals.

I urge my colleagues to join me in supporting this extremely important program. At a time when we are rightfully demanding that Head Start teachers be highly credentialed, we must provide the supports that are necessary to help teachers gain these credentials.

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. 1469

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 ''Tribal Colleges and Universities Head Start Partnership Act''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Head Start Act requires that 50 percent or more of teachers nationwide in center-based Head Start programs must have at least an associate degree in early childhood education, or a field related to early childhood education, by 2003.

(2) A goal of the Head Start Act is to ensure that all Head Start programs nationwide will provide accredited continuing education for Head Start staff that provides college or university credit for such staff. However, Indian Head Start programs are generally located in areas isolated from mainstream colleges or universities where such credit can be earned.

(3) The vast majority of the Nation's 34 Tribal Colleges and Universities have early childhood education programs and, of these, 32 are accredited, or designated candidates for accreditation, by national accrediting associations.

(4) Tribal Colleges and Universities were created by Indians for Indians primarily on rural and remote Indian reservations, which were virtually excluded from the Nation's system of higher education.

(5) Tribal Colleges and Universities are engaged community institutions, offering higher education and continuing education opportunities to individuals who otherwise might find attaining such education impossible due to family responsibilities, and financial and geographic barriers.

(6) Tribal Colleges and Universities have been more successful than any other institutions of higher education in educating Indians and helping to retain Indians in high-need fields such as nursing and teaching. According to a 2000 survey, over 80 percent of Tribal College and University graduates go on to further higher education or become employed in the local community.

(7) Through partnerships developed between Tribal Colleges and Universities and Head Start programs nationwide—

(A) Indian Head Start agency personnel can gain greater access to accredited college and university programs in their career field;

(B) the knowledge, skills, and aptitude of those working at Indian Head Start agencies will be increased, thus enabling them to provide high quality and comprehensive services to Indian children and their families; and

(C) the health, early childhood development, and school readiness of Indian children will be improved as a result of increased staff knowledge, skills, and aptitude.

(b) PURPOSES.—The purposes of this Act are to—

(1) promote social competencies and school readiness in Indian children; and

(2) provide high quality, accredited educational opportunities to Indian Head Start agency staff so that they can better deliver services that enhance the social and cognitive development of low-income children through the provision of health, educational, nutritional, social, and other services to low-income children and their families.

SEC. 3. TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.

The Head Start Act (42 U.S.C. 9831 et seq.) is amended by inserting after section 648A the following:

''SEC. 648B. TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.

''(a) TRIBAL COLLEGE OR UNIVERSITY-HEAD START PARTNERSHIP PROGRAM.—

''(1) GRANTS.—The Secretary is authorized to award grants, of not less than 5 years duration, to Tribal Colleges and Universities to—

''(A) implement education programs that include tribal culture and language and increase the number of associate, baccalaureate, and graduate degrees in early childhood education and related fields that are earned by Indian Head Start agency staff members, parents of children served by such an agency, and members of the tribal community involved;

''(B) develop and implement the programs under subparagraph (A) in technology-mediated formats; and

''(C) provide technology literacy programs for Indian Head Start agency staff members and children and families of children served by such an agency.

''(2) STAFFING.—The Secretary shall ensure that the American Indian Programs Branch of the Head Start Bureau of the Department of Health and Human Services shall have staffing sufficient to administer the programs under this section and to provide appropriate technical assistance to Tribal Colleges and Universities receiving grants under this section.

''(b) APPLICATION.—Each Tribal College or University desiring a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require, including a certification that the Tribal College or University has established a partnership with 1 or more Indian Head Start agencies for the purpose of conducting the activities described in subsection (a).

''(c) DEFINITIONS.—In this section:

''(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

''(2) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' means an institution—

''(A) defined by such term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)); and

''(B) determined to be accredited or a candidate for accreditation by a nationally recognized accrediting agency or association.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.''.

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

S. 1470. A bill to establish the Financial Literacy and education Coordinating Committee within the Department of the Treasury to improve the state of financial literacy and education among American consumers; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, today I am introducing the Financial Literacy and Education Coordinating Act of 2003. This legislation creates an intergovernmental coordinating Committee whose goal is to improve the financial decision making of all Americans by strengthening education to raise financial literacy levels.

The phrase ''financial literacy'' is one we often hear but often do not really understand. It is analogous in financial matters to basic literacy—the ability to read and understand what is read—in our everyday lives. We are keenly aware from our efforts to improve our schools and raise our students' ability to read that there are higher and lower levels of literacy. Numerous statistical studies indicate that in the field of personal finances, substantial numbers of people are financially illiterate. Among those who have some degree of literacy, the vast majority are performing below what their 'grade level' ought to be.

This bill addresses that problem. It reflects my long-standing concern that inadequate knowledge of financial issues leaves our consumers seriously vulnerable to exploitation, with devastating consequences for them and their families. As Chairman of the Committee on Banking, Housing and Urban Affairs, during the last Congress, I chaired a series of hearings to examine the state of financial literacy and education throughout the Nation. The Committee received testimony from a wide range of witnesses on the state of financial literacy and education among Americans of all ages and from all walks of life—from school age children to retirees, small investors to those without bank accounts, and first time workers to those saving for retirement. The witnesses were unanimous in the view that we needed to increase financial education in this country.

Federal Reserve Chairman Alan Greenspan stated before the Committee

that: ''In considering means to improve the financial status of families, education can play a critical role by equipping consumers with the knowledge required to make wise decisions. . . . This is especially the case for populations that have traditionally been underserved by our financial system.'' Chairman Greenspan made the point that increased financial education has the potential to improve significantly the economic situation of the vast majority of Americans.

The goal of this legislation is to promote better financial decision-making among consumers. While at present substantial work is in progress both within the government and outside of it, it suffers from the lack of a single comprehensive strategy—there is too little coordination, and too much duplication. As Tess Canja, President of AARP testified before the Committee: ''We see a need for a coherent and coordinated national strategy for making available a well-researched and well-evaluated progression of financial literacy programs and services.'' By creating an underlying strategy to address these problems, the legislation will help enable Americans to make the financial decisions that best serve their needs and aspirations. This legislation seeks to address these problems and create a strategy to improve the financial choices and outcomes for all Americans.

The bill creates a Coordinating Committee chaired by the Secretary of the Treasury, based in the Treasury Department's Office of Financial Education. The Committee will be responsible for coordinating and centralizing the various existing financial education activities in our government agencies as well as any future initiatives. Currently there are at least sixteen active financial-education programs. They operate in each of the Federal banking agencies—the Federal Reserve, FDIC, OCC, and OTS; the NCUA; the SEC; in six executive departments—Education, Agriculture, Defense, Health and Human Services, Labor, and Veterans Affairs; and in such agencies as the Social Security Administration, Federal Trade Commission, the Commodities Futures Trading Commission, and the Office of Personnel Management.

The Committee will coordinate these and other efforts. Additional members can be added at the discretion of the Chairperson of the Committee. All will benefit from the better coordination and the elimination of unnecessary duplication that the Committee will provide.

In addition, many State and local governments, non-profit entities, and private enterprises have developed and implemented excellent financial education programs. A successful national strategy to increase financial literacy and education must involve a partnership that engages all levels of government, including at the State and local level, along with leaders of the non-profit and private sectors. As Don Blandin, President of the American Savings Education Council noted in his testimony before the Committee: ''Organizations in both the private and public sectors must collaborate on all levels to help educate Americans about the importance of taking control of their financial future. By combining and leveraging our comprehensive networks and resources, we have a better chance of reaching people that none of us would be able to reach alone.'' The Coordinating Committee established by this legislation will undertake just such a collaboration. It will develop a national strategy in conjunction with State and local governments and with the private and non-profit sectors, and will report its findings back to the Congress.

It is disturbing to hear the statistics about the current situation and how financially under-educated the American people are. The Consumer Federation of America found that the typical American failed a 14-question test of basic knowledge of personal finances. Fewer than one in ten, 8, answered three-quarters of the questions correctly. Eighty-two percent of high school seniors failed a 13-question personal financial quiz on such basic questions as interest rates, savings, loans, credit cards, and calculating net worth.

The lack of financial education affects Americans of every age and background. There may be differing opinions on issues of financial security for retirees, but I suspect there is little disagreement on the importance to every family of budgeting and savings for retirement. We have data showing that households with a savings plan save twice as much as those without a plan, and yet surveys indicate that half of all Americans have not taken the basic step of calculating how much they will need to save for retirement. Teaching families how to budget and develop a savings plan as well as the importance of doing so would enhance many Americans' financial security.

There are far too many people today who lack a bank account, which is the passport for access to mainstream financial services. The Wall Street Journal, in an article appearing June 28, 2001, estimated that 10 million adult Americans have no relationship with a mainstream financial services provider. Of the millions of households that have no relationship with a bank, one-third are African American and 29 percent are Hispanic. The large costs of failing to bring people into the mainstream financial system makes it imperative to pursue all avenues to bring them in. A lack of basic consumer financial education on how a checking and a savings account work and why it's important to have such an account is one explanation for these disturbing figures. Once people enter into the financial mainstream a lot of the protections and safeguards which have been developed for the board mass of the public are enjoyed by these newly banked people.

The Banking Committee heard from witnesses that many college students have access to significant credit through credit cards, but have little experience and often little to no education on how to use them responsibly. Kentucky State Treasurer Jonathan Miller, who has held a series of hearings on financial literacy throughout his state, testified before the Banking Committee that: ''for a significant and growing minority of college students, credit card use and misuse can be devastating.'' The Department of Education estimates that the average credit card debt among college students was over $3,000 in the year 2000. College students are not the only ones susceptible to credit card debt: the average credit card debt per American family is over $8,000. Furthermore, too many people are unaware of their own credit score, how to access that score, and the impact that their credit score has on both their access to credit and the terms on which that credit is offered.

Students are entering college with insufficient knowledge of the financial system and as a result, they are getting into serious financial problems. One of the Committee's witnesses, Ms. Ellen Frishberg, Director of Student Financial Services at John Hopkins University, testified that, ''Because of the case of getting credit, the lack of financial savy on the part of these otherwise very bright students, and the unchecked solicitation and giveaways that were going on during orientation, in 1994 the Dean of Students decided it was best to prohibit credit card vendors from the Homewood campus.'' We can all agree that college students who are better educated in the basics of the financial system will be less susceptible to falling into serious credit card debt.

Special attention should also be paid to immigrants, often of modest means who send, or remit, a significant portion of their income to family in their country of origin. According to a recent study by the Inter-American Development Bank, in the aggregate $32 billion was remitted out of America last year, with over $10 billion going to Mexico alone. It is estimated that nearly 70 percent of all Hispanic immigrants send money home. The financial transaction of sending money internationally is complex: there are transaction fees, currency conversion fees and exchange rate spreads. The full costs can range up to $50 even when the amount being sent home is $300. A survey by Bendixen and Associates estimated that ⅔ of Hispanic immigrants who send money home are unaware of the full costs. Before the Banking Committee, Mr. Bendixen testified that, ''When these immigrants were informed that besides a fee paid in the U.S., international money transfer companies often provide unfavorable exchange rates or discount additional commissions or charges in Latin America, a large majority of them felt that the fees paid for the service are excessive and unfair. Customers should have

access to information about the full costs of their transactions, and they need a level of financial literacy that enables them to interpret the information. Only then will they be able to shop effectively, compare costs, and make wise financial choices.

Increased financial education is a first step in the consumer education process but as Federal Reserve vice-Chairman Roger Ferguson testified before the Committee, ''legislation, careful regulation and education are all components of the response to these emerging consumer concerns.'' The legislation I introduce today will make a significant contribution to improving the quality of financial education in this country. It is modeled closely on the Trade Promotion Coordinating Committee established by the Export Enhancement Act of 1992.

A number of Senators have taken a strong interest in this issue. Senator CORZINE is a co-sponsor of this legislation and has been actively involved on the issue. I particularly want to acknowledge the outstanding leadership of Senators STABENOW and ENZI as well as Senator AKAKA. I know that Senators STABENOW and ENZI are working on a bill and I look forward to working closely with them.

I also want to express my appreciation to Senate Banking Committee Chairman SHELBY for the time and attention is devoting to this subject. Tomorrow Chairman SHELBY is holding a hearing in the Committee on ''Consumer Awareness and Understanding of the Credit Granting Process.'' These issues are directly related.

I ask unanimous consent that a summary of the Financial Literacy and Education Coordinating Act and the bill be printed in the RECORD together with letters in support of the bill. I urge my colleagues to work toward speedy enactment of meaningful legislation to improve the financial literacy and education of all Americans.

There being no objection, the summary and letters of support were ordered to be printed in the RECORD, as follows:

FINANCIAL LITERACY AND EDUCATION COORDINATING ACT OF 2003

This legislation establishes an interagency Committee, based in the Department of the Treasury, with assistance provided by Treasury's Office of Financial Education. The Committee shall be chaired by the Secretary of the Treasury and charged with coordinating governmental financial literacy initiatives and developing a national strategy, in cooperation with state and local governments, and non-profit and private enterprises, to improve financial education and literacy of all Americans.

The Committee initially includes representatives from the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Departments of Treasury, Agriculture, Defense, Education, Health and Human Services, Labor, Veterans Affairs, the Social Security Administration, the Federal Trade Commission, the Commodities Futures Trading Commission, and the Office of Personnel Management. The chairperson has the authority to include other agencies and departments that are engaged in a serious effort to improve the state of financial literacy and education among any group of Americans. The Committee shall meet no less than quarterly.

There is substantial evidence that many Americans do not have an adequate basis for making sound decisions about their personal and household finances, especially given the myriad choices of financial products and services available to them. A more comprehensive financial education would help provide individuals with the necessary tools to create household budgets, initiative savings plans, manage debt, and make strategic investment decisions for education, retirement, home ownership or other savings goals. While increased levels of financial literacy and education are critically important, improved financial decision making by consumers, not simply improved knowledge, should be the most important financial education goal.

The Committee is required to: review financial literacy and education efforts throughout the federal government; identify and remove duplicative financial literacy efforts within the federal government; coordinate and promote financial literacy efforts including partnerships between federal, state and local governments, non-profit organizations and private enterprises; develop within one year a national strategy to promote financial literacy and education among all Americans; develop and implement the strategy with the participation of non-profit and private sector institutions; coordinate efforts towards the implementation of the strategy; and submit an annual report, providing testimony if requested, to Congress detailing the state of financial literacy and education as it relates to the strategy.

CONSUMER FEDERATION OF AMERICA,
July 25, 2003.

Hon. PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES, the Consumer Federation of America commends you for introducing legislation to boost financial awareness and improve financial decision-making by Americans. There has never been a greater need to advance financial education. CFA strongly supports the creation of the Financial Literacy and Education and Coordinating Committee within the Department of the Treasury, as called for in this bill, and looks forward to working with you to enact this timely legislation.

The financial education needs of the least affluent and well-educated Americans are especially pressing, in part because recent changes in the financial services marketplace have increased the vulnerability of these households. In particular, the dramatic expansion of high-cost and sometimes predatory lending to moderate and lower income Americans in the last decade has put many of these people at great financial risk. Because these individuals lack financial resources and often are charged high prices, they cannot afford to make poor financial choices. But because of low general and financial literacy levels, they often have difficulty making smart financial decisions, in part because they are especially vulnerable to abusive seller practices.

THIS LEGISLATION WOULD ESTABLISH EFFECTIVE FEDERAL LEADERSHIP ON FINANCIAL EDUCATION

While many worthwhile financial education programs exist, they are not well-coordinated, effectively reach only a small minority of the population, and do not reflect any broad, compelling vision. Many focus only on increasing consumer knowledge of how to best operate in the financial services marketplace, and not on actually changing consumer behavior to improve decisions about spending, saving, and the use of credit. Moreover, there is no clear consensus about how to effectively provide financial education, especially to those who have completed their secondary education and to those with low literacy levels. What is most needed is a comprehensive needs assessment and plan to guide and inspire financial educators and their supporters. Such a plan could also convince a broad array of government, business and nonprofit groups to work together to persuade the nation to implement that plan.

This legislation recognizes that, for any comprehensive plan to win broad public and private support and participation, the federal government must provide leadership. The bill would give the Department of Treasury the authority to establish a federal governmental network to coordinate financial literacy efforts and requires every relevant agency to participate at a high level, including the Securities and Exchange Commission, the Department of Education, the Federal Reserve, and the Department of Defense. It emphasizes the importance of assessing the federal government's capacity for promoting financial literacy. It requires the Coordinating Committee to evaluate different financial programs and strategies and identify those that are most effective in improving consumer decision making—not just awareness. It makes the Coordinating Committee directly accountable to Congress for its activities and accomplishments. Most importantly, it requires the Coordinating Committee to develop and implement a national strategy to promote basic financial literacy, with broad input from business, educational and nonprofit leaders.

LOWER INCOME CONSUMERS NEED BETTER FINANCIAL LITERACY EFFORTS

There is no large population that would benefit more from improved financial education than the tens of millions of the least affluent and well-educated Americans. In 1998, 37 percent of all households had incomes under $25,000. With the exception of older persons who had paid off home mortgages, these households had accumulated few assets. In 1998, according to the Federal Reserve Board's Survey of Consumer Finances, most of these least affluent households had net financial assets (excluding home equity) of less than $1,000. Moreover, between 1995 and 1998, a time of rising household incomes, the net worth of lower-income households actually declined.

For lower income households with few discretionary financial resources, failing to adequately budget expenditures may pressure these consumers into taking out expensive credit card or payday loans. Mistakenly purchasing a predatory mortgage loan could cost them most of their economic assets.

These households also need to make smart buying decisions because they tend to be charged higher prices than more affluent families: higher homeowner and auto insurance rates because they live in riskier neighborhoods; higher loan rates because of their low and often unstable incomes; higher furniture and appliance prices from neighborhood merchants that lack economies of scale and face relatively high costs of doing business; and higher food prices in their many neighborhoods without stores from major supermarket chains. Lower-income families are also faced with higher prices for basic banking services and they lack access to essential savings options.

Lower-income households with low literacy levels are especially vulnerable to seller abuse. Consumers who do not understand percentages may well find it impossible to understand the costs of mortgages, home equity, installment, and credit card, payday, and other high-cost loans. Individuals who do not read well may find it difficult to check whether the oral promises of salespersons were written into contracts. And, those who do not write fluently are limited in their ability to resolve problems by writing to merchants or complaint agencies. Consumers who do not speak, read, or write English well face special challenges obtaining good value in their purchases.

MORE AVAILABLE CREDIT HAS INCREASED FINANCIAL EDUCATION NEEDS

Over the past decade, the financial vulnerability of low- and moderate-income households has increased simply because of the dramatic expansion of the availability of credit. The loans that subjected the greatest number of Americans to financial risk were made with credit cards. From 1990 to 2000, fueled by billions of mail solicitations annually and low minimum monthly payments of 2–3 percent, credit card debt outstanding more than tripled from about $200 billion to more than $600 billion. Just as significantly, the credit lines made available just to bankcard holders rose to well over $2 trillion. By the middle of the decade, having saturated upper- and middle-class markets, issuers began marketing to lower-income households. By the end of the decade, an estimated 80 percent of all households carried at least one credit card. Independent experts agree that expanding credit card debt has been the principal reason for rising consumer bankruptcies.

Also worrisome has been the expansion of high-priced mortgage loans and stratospherically-priced smaller consumer loans. In the 1990s, creditors began to aggressively market subprime mortgage loans carrying interest rates greater than 10 percent and higher fees than those charged on conventional mortgage loans. By 1999, the volume of subprime mortgage loans peaked at $160 billion. Mortgage borrowers in low-income neighborhoods were three times more likely to have subprime loans than mortgage borrowers in high-income neighborhoods. A significant minority of these subprime borrowers would have qualified for much less expensive conventional mortgage loans. Some of these borrowers were victimized by exorbitantly priced and frequently refinanced predatory loans that ''stripped equity'' from the homes of many lower-income households.

The 1990s also saw explosive growth in predatory small loans—payday loans, car title pawn, rent-to-own, and refund anticipation loans—typically carrying effective interest rates in triple digits. The Fannie Mae Foundation estimates that these ''loans'' annually involve 280 million transactions worth $78 billion and carrying $5.5 billion in fees. The typical purchaser of these financial products has income in the $20,000 to $30,000 range with a disproportionate number being women.

Both proper regulation and education are necessary to insure that lower and moderate income Americans are not subject to abusive lending practices and that they have the knowledge to make effective decisions in an increasingly complex financial services marketplace. We applaud you for proposing this comprehensive and achievable vision for improving financial awareness and decisionmaking. We look forward to working with you and leaders in the House of Representatives to put such an approach in law as soon as possible.

Sincerely,

TRAVIS B. PLUNKETT,
Legislative Director.

AARP,
July 28, 2003.

Hon. PAUL SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: AARP is pleased to offer our support for your legislation, the ''Financial Literacy and Education Coordinating Act of 2003,'' that will begin to address this nation's need to improve financial literacy.

Last year, at the Senate Banking Committee's hearing on the status of financial literacy and education in America, AARP President Tess Canja documented in her testimony the need for a coherent and coordinated national strategy to make available a well-researched and well-evaluated progression of financial literacy programs and services. Your legislation establishes a permanent inter-agency platform for developing a national financial literacy strategy, and it will begin to provide the necessary coordination to integrate and to help deliver educational and training programs that already exist at the federal, state and local levels. For example, the Congress is working to expand the availability of credit reports and credit scores to all Americans. This is critical information for consumers, but it does not become effective knowledge until it is understood.

The dramatic loss in stock market valuations in recent years highlights the financial vulnerability facing many retired Americans. The haunting prospect of an underinformed generation of Baby-Boomers nearing retirement age suggest that there is little time to waste in developing, testing and arraying improved financial education and training services.

We look forward to actively working with you to enact the ''Financial Literacy and Education Coordination Act of 2003.'' If there are further questions, please do not hesitate to call upon me, or have your staff contact Roy Green of our Federal Affairs staff at (202) 434–3800.

Sincerely,

MICHAEL W. NAYLOR,
Director of Advocacy.

NATIONAL COUNCIL ON ECONOMIC EDUCATION,
July 25, 2003.

Hon. PAUL SARBANES,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR SENATOR SARBANES: We at the National Council on Economic Education (NCEE) strongly endorse the Financial Literacy and Education Coordination Committee Act. This Act, which proposes establishing a committee chaired by the Secretary of the Treasury, to coordinate the activities of all Federal Agencies with an interest in financial and literacy, could not come at a better time.

This is a time of growing public interest in financial education. Parents everywhere want their children to know how the world works before they go to work in it, and to possess the basic knowledge and decision-making skills that will help them to become productive and responsible citizens, employees, consumers, savers and investors.

In response to the growing interest in financial literacy, a number of government agencies have set up departments focusing on this issue. In our opinion, the fact that the Coordinating Committee will bring the various departments together will reduce duplication of much needed resources, and get new programs into the community more quickly. We also understand that the Coordinating Committee will work with non-profits, and state and local organizations—both private and public—to develop strategies for improving financial literacy. We welcome this inclusive approach to getting a sound economic education into the hands of our young people.

The NCEE is pleased to support the Financial Literacy and Education Coordination Committee Act. Please keep us informed of its progress.

Yours sincerely,

ROBERT F. DUVALL,
President & Chief Executive Officer.

HOWARD UNIVERSITY,
OFFICE OF THE PRESIDENT,
Washington, DC, July 25, 2003.

Hon. PAUL S. SARBANES,
Committee on Banking, Housing, and Urban Affairs, Senate Dirksen Building, Washington, DC.

DEAR SENATOR SARBANES: Last year, as a representative of higher education and Historically Black Colleges and Universities, I testified before the Committee in support of its proposed national strategy to promote financial literacy and education. Today, I remain steadfast in my advocacy of this initiative.

Financial illiteracy continues to plague many American: an unfortunate reality that further underscores the urgent need for The Financial Literacy and Education Coordinating Act. It provides the most effective solution to establishment of a nationwide program that will protect and educate our citizens.

Although financial literacy should be a lifelong program beginning in elementary school, I believe that higher education has a special responsibility to ensure that students in postsecondary institutions develop sound financial competency as early in their college careers as possible.

The typical college graduate leaves school with an average of $19,400 in student loans. Throughout their matriculation, students are routinely bombarded by aggressive credit card companies who entice them with offers of free gifts and easy credit. The addition of credit card debt creates an overwhelming burden on recent graduates.

Promoting financial education for our youth is consistent with Howard University's core values. The University, in collaboration with other organizations—including our strategic partner Fannie Mae—is addressing the national financial literacy problem as it relates to African Americans and other minorities, who are already disadvantaged by the wealth gap. Howard believes that the ability to make informed financial decisions is an increasingly important skill.

We have introduced a number of initiatives to empower our students and members of the community by teaching them the importance of effectively managing their money and improving their credit so that the dream of homeownership and other personal financial opportunities can become a reality.

We now look to the Congress to enact legislation that will buttress our efforts in this regard. The Financial Literacy and Education Coordinating Act is indeed representative of a worthy, collective, non-partisan effort that will have a lasting impact on generations to come.

Respectfully,

H. PATRICK SWYGERT,
President.

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

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

S. 1470

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 ''Financial Literacy and Education Coordinating Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there is substantial evidence that many Americans do not have an adequate basis for making sound decisions about personal and household finances;

(2) financial education could play a critical role in equipping consumers with the knowledge to make wise decisions, especially for lower income consumers and those underserved by the mainstream financial system;

(3) an increased awareness of the availability of credit scores and credit reports, the process of accessing them, their significance in obtaining credit, and their effects on credit terms, are of paramount importance to consumers;

(4) easily accessible and affordable resources which inform and educate investors as to their rights and avenues of recourse should be provided when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries;

(5) a basic understanding of the operation of the financial services industry would help consumers and their families to make more informed choices about how best to progress economically, avoid harmful personal debt, avoid discriminatory and predatory practices, invest wisely, develop financial planning skills necessary for maximizing short- and long-term financial well being, and better prepare for retirement;

(6) comprehensive financial education would help to provide individuals with the necessary tools to create household budgets, initiate savings plans, manage debt, and make strategic investment decisions for education, retirement, home ownership, or other savings goals; and

(7) improved financial decision making, not simply more knowledge, should be the primary financial education goal.

SEC. 3. FINANCIAL LITERACY AND EDUCATION COORDINATING COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish within the Office of Financial Education of the Department of the Treasury, the Financial Literacy and Education Coordinating Committee (in this Act referred to as the ''Committee'').

(b) PURPOSES.—The purposes of the Committee shall be—

(1) to coordinate financial literacy and education efforts among Federal departments and agencies;

(2) to develop and implement a national strategy to promote basic financial literacy and education among all Americans;

(3) to reduce overlap and duplication in Federal financial literacy and education activities;

(4) to identify the most effective types of public sector financial literacy programs and techniques, as measured by improved consumer decision making;

(5) to coordinate and promote financial literacy efforts at the State and local level, including partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises; and

(6) to carry out such other duties as are deemed to be appropriate, consistent with this Act.

SEC. 4. COMMITTEE DUTIES.

(a) IN GENERAL.—The Committee shall—

(1) not later than 1 year after the date of enactment of this Act, develop a national strategy to promote basic financial literacy among all American consumers;

(2) coordinate Federal efforts to implement the strategy developed under paragraph (1);

(3) not later than 1 year after the date of enactment of this Act, and annually thereafter, submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding actions taken and progress made by the Committee in carrying out this Act during the reporting period, and any challenges remaining to implementation of such purposes; and

(4) provide testimony by the chairperson of the Committee to either Committee referred to in paragraph (3), upon request.

(b) STRATEGY.—The strategy to promote basic financial literacy required to be developed under subsection (a)(1) shall provide for—

(1) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(2) the development of methods—

(A) to increase the general financial education level of current and future consumers of financial services and products; and

(B) to enhance the general understanding of financial services and products;

(3) review of Federal activities designed to promote financial literacy and education and development of a plan to improve coordination of such activities;

(4) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication; and

(5) a proposal to the President of a Federal financial literacy and education budget that supports such strategy and eliminates funding for such areas of overlap and duplication.

SEC. 5. COMMITTEE MEMBERSHIP.

(a) COMPOSITION.—The Committee shall be comprised of—

(1) the Secretary of the Treasury, who shall serve as the chairperson of the Committee; and

(2) a representative from—

(A) each Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Labor, and Veterans Affairs, the Social Security Administration, the Federal Trade Commission, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(B) a representative from any other department or agency that the Secretary determines to be engaged in a serious effort to improve financial literacy and education.

(b) ASSISTANCE.—The Director of the Office of Financial Education of the Department of the Treasury shall provide to the Committee, upon request, such assistance as may be necessary.

(c) MEMBER QUALIFICATIONS.—Members of the Committee shall be appointed by the heads of their respective departments or agencies. Each member and each alternate designated by any member unable to attend a meeting of the Committee, shall be an individual who exercises significant decision-making authority.

(d) MEETINGS.—Meetings of the Committee shall occur not less frequently than quarterly, and at the call of the chairperson.

(e) CONSULTATION.—The Committee shall consult with private and nonprofit organizations and State and local agencies, as determined appropriate by the chairperson and the Committee.

By Mr. TALENT:

S. 1472. A bill to authorize the Secretary of the Interior to provide a grant for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri; to the Committee on Energy and Natural Resources.

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

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

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

SECTION 1. HARRY S TRUMAN STATUE, KANSAS CITY, MISSOURI.

(a) GRANT AUTHORITY.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') may provide a grant to pay the Federal share of the costs for the construction of a statue of Harry S Truman at Union Station in Kansas City, Missouri.

(b) REQUIREMENTS.—To receive a grant under subsection (a), an eligible entity shall submit to the Secretary a proposal for the use of the grant funds.

(c) MAINTENANCE.—The Federal Government shall not be responsible for the costs of maintaining the statue.

(d) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed $50,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act $50,000, to remain available until expended.

By Mr. ALEXANDER:

S. 1474. A bill to amend the Head Start Act to designate up to 200 Head Start centers as Centers of Excellence in Early Childhood, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, I introduce today a bill to be considered as part of the legislation reauthorizing Head Start. My bill would create a way for states to help strengthen and coordinate Head Start, but would continue to send federal funds directly to grantees for the 19,000 Head Start centers that serve one million disadvantaged children.

My proposal authorizes the Secretary of Health and Human Services to create a nationwide network of 200 Centers of Excellence in Early Childhood built around exemplary Head Start programs. These Centers of Excellence would be nominated by Governors. Each Center of Excellence would receive a Federal bonus grant of at least $100,000 in each of 5 years, in addition to its base funding. And each State would receive a grant to establish and fund a State Council in Early Childhood, which would work with the State Head Start collaboration office to showcase the work of exemplary Head Start centers within a state, capture and disseminate best practices, and identify barriers to and opportunities for coordinated service delivery.

The bill would authorize $100 million for those grants for each of the 5 years.

The Centers of Excellence bonus grants will be used for centers:

(1) to work in their community to model the best of what Head Start can do for at-risk children and families, including getting those children ready for school and ready for academic success;

(2) to coordinate all early childhood services in their community;

(3) to offer training and support to all professionals working with at-risk children;

(4) to track these families and ensure seamless continuity of services from prenatal to age 8;

(5) to become models of excellence by all performance measures and be willing to be held accountable for good outcomes for our most disadvantaged children; and

(6) to have the flexibility to serve additional Head Start or early Head Start children or provide more full-day services to better meet the needs of working parents.

Head Start has been one of our country's most successful and popular social programs. That is because it is based upon the principle of equal opportunity, which is at the core of the American character. Americans uniquely believe that each of us has the right to begin at the same starting line and that, if we do, anything is possible for any one of us.

We also understand that some of us need help getting to that starting line. Most Federal funding for social programs is based upon this understanding of equal opportunity.

Head Start began in 1965 to make it more likely that disadvantaged children would successfully arrive at one of the most important of our starting lines, the beginning of school.

Head Start over the years has served hundreds of thousands of our most at risk children. The program has grown and changed. It has been subjected to debates and studies touting its successes and decrying its deficiencies. But Head Start has stood the test of time because it is so very important.

We have made great progress in what we know about the early growth and development of young children since Head Start began in 1965. At that time very few professionals had studied early childhood education. Even fewer had designed programs specifically for children in poverty.

The origins of Head Start had its roots in an understanding that success for these children was not only about education. The program was designed to be certain these children were healthy, got their immunizations, were fed hot meals, and, of crucial importance that their parents were deeply involved in the program.

From the beginning comprehensive services and parent and community involvement were essential parts of good Head Start programs. And that is still true today. In the early days, teacher training and curriculum were seen as less important. But we now know a great deal more about brain development and how children learn from birth.

Today young children are expected to learn more and be able to do more in order to succeed in school. Public schools offer kindergarten and 40 states now offer early childhood programs.

In addition to the $7 billion spent each year on federal Head Start programs, there are 69 other federal and state programs costing $18 billion a year. The greatest increases have come in private spending as parents seek early childhood development services for their own children.

As Congress approached the 5-year reauthorization of Head Start, President Bush challenged Congress to make a ''good Head Start program excellent.'' The President suggested four objectives for strengthening Head Start:

(1) Improve school readiness by focusing more attention on specific cognitive development;

(2) Increase accountability;

(3) Improve coordination with other programs that serve young children, including public and private schools.

(4) Increase state involvement in strengthening Head Start by transferring federal funding for Head Start to states, with certain criteria and restrictions.

The House of Representatives completed work last week on the reauthorization bill. It is called the School Readiness Act. It made significant progress toward the President's first three objectives: school readiness, accountability, and coordination.

(1) On school readiness, the bill would ensure a greater number of Head Start teachers are adequately trained.

(2) On accountability, the triennial reviews are strengthened by adding unscheduled visits, and chronic underachievers would be subject to a more aggressive review.

(3) On coordination, the bill expands the requirements for the State Head Start Collaboration Offices to coordination.

As for the idea of letting states administer Head Start, the House created a pilot program that would allow eight states to take over Head Start as long as they maintain or improve the level of services.

As the Senate begins its consideration of Head Start, I believe there is consensus about the need to improve school readiness, accountability, and coordination of programs—but no consensus on how to involve the states more actively.

I believe that states should be more involved with Head Start. States have primary responsibility for setting standards for and funding public education. A child who arrives at school too far behind the starting line may never catch up. In addition, the state is in the best position to help coordinate the variety of public and private programs that have grown up since Head Start began.

But the need to involve states does not necessarily mean sending federal dollars first to states and then to Head Start centers. As important as the state is, education and caring for children is primarily local—a community and family responsibility. I believe that in education and in child care local solutions work best.

While Head Start centers are uneven in performance, they have generally excelled in two areas critical to success in caring for and educating children—developing community support and encouraging parental involvement. I do not believe that it would be wise—at least at this stage of the Head Start program—to risk interrupting the strong community support and parental involvement in the 19,000 Head Start centers by transferring funding to the states. There are other and better ways to meet this objective.

That is why I believe creating a nationwide network of 200 Head Start Centers of Excellence in Early Childhood is the right step for the next 5 years. Governors would nominate 149 of these centers. Governors would create or designate a State Council for Early Childhood. Governors could then use these Centers of Excellence and the State Council to encourage other centers to adopt best practices and to improve coordination of programs.

At the federal level additional funds will be made available—$100 million is authorized—for research on the effectiveness of these Centers of Excellence as a strategy for coordination of all early childhood federal and state programs and ensure school success for at-risk children.

In addition, I would hope the President would convene an annual conference of these Centers of Excellence and State Councils to highlight their successes. After four years, we would learn from these activities how state involvement in Head Start might be increased in the next 5-year authorization.

Alex Haley, the author of Roots lived by these six words, ''Find the good and praise it.'' For me that was an invaluable lesson. My mother taught me another invaluable lesson—the importance of preschool education. When I was growing up, she ran a kindergarten in a converted garage in our backyard in Maryville, Tennessee. She helped our community appreciate the value of a good preschool program. I have remembered both lessons in trying to fashion this proposal to bring out the best in Head Start.

The work that the House of Representatives has done on readiness, accountability and coordination—plus the adoption of this proposal for 200 Centers of Excellence in Early Childhood should provide a strong basis for our Head Start reauthorization bill.

The president would have challenged the Congress to improve Head Start in four major respects—readiness accountability, coordination, and state involvement—and he will be able to sign legislation that will do just that.

I ask unanimous consent to have printed in the RECORD a one-page summary of my bill and a copy of the bill itself.

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

HEAD START CENTERS OF EXCELLENCE IN EARLY CHILDHOOD

What are the objectives for reauthorization? The reauthorization should strengthen Head Start for one million disadvantaged

children in all 19,000 Head Start Centers by improving (1) school readiness, (2) accountability, and (3) coordination with other programs that serve young children, including public and private schools.

What is the proposal? In support of these objectives, to create a nationwide network of 200 Centers of Excellence in Early Childhood built around exemplary Head Start centers. These Centers of Excellence will receive a special grant to serve as a ''magnet'' for teachers and others working with at-risk young children to come, learn, and develop action plans to take back to improve their own practices.

Exactly how would the Centers of Excellence do this? The Centers of Excellence will strengthen Head Start, early childhood programs and public and private schools by: (1) *modeling excellence* in high quality seamless service coordination while achieving measured academic success in pre-literacy, number recognition and school readiness; (2) modeling the use of *effective accountability systems;* (3) coordinating services for low-income children from *prenatal through age 8;* (4) following children who *transition from Head Start* to public or private schools, working with both their parents and their teachers; (5) providing *support and training to teachers and others* working with those low-income children, sharing best practices and dramatically leveraging themselves; (6) having the *flexibility* to serve additional Head Start or Early Head Start children or to provide more full-day services to better meet the needs of working parents.

Who could become a Center of Excellence? All 19,000 Head Start centers would be eligible to apply for five-year designations as a Center of Excellence in Early Childhood.

Who would pick the Centers of Excellence? The Secretary of HHS. One hundred forty-nine (149) of the Centers picked would be selected from among applicants nominated by governors; the other 51 would be picked by the Secretary to try to achieve a goal of one in each state.

What are the criteria for selection? (1) a track record of achieved measured academic success including school readiness, (2) a strong demonstrated ability to work with parents and the community, (3) the ability to serve as a model of high quality seamless service coordination, (4) the ability to provide outreach support and training for teachers in other Head Start programs, and in other early childhood settings and in public and private schools, (5) ability to work in partnership with the State Head Start Collaboration Office.

What would the states' role be in these Centers of Excellence? (1) For 149 of the 200 Centers the Governor's nomination is a necessary part of the application. (2) Each state will receive a grant to establish and fund a State Council in Early Childhood which will work with the Head Start Collaboration Office to tie together the work of exemplary Head Start centers within a state, capture and disseminate emerging best practices and identify barriers to and opportunities for better coordination of service delivery.

How will Centers of Excellence be funded? Each Center of Excellence will receive a five-year grant directly from HHS. These excellence grants are bonus grants and are in addition to the center's base Head Start funding.

What is the total Cost of the Centers of Excellence? $100 million—which includes grants to 200 Centers of Excellence in Early Childhood, the grants to state council as well as the costs of research and HHS administrative costs.

S. 1474

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 ''Head Start Centers of Excellence Act of 2003''.

SEC. 2. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

The Head Start Act is amended by inserting after section 641A (42 U.S.C. 9836a) the following:

''SEC. 641B. CENTERS OF EXCELLENCE IN EARLY CHILDHOOD.

''(a) DEFINITIONS.—In this section:

''(1) CENTER OF EXCELLENCE.—The term 'center of excellence' means a Center of Excellence in Early Childhood designated under subsection (b).

''(2) STATE COUNCIL.—The term 'State council' means a State Council for Excellence in Early Childhood described in subsection (e).

''(b) DESIGNATION AND BONUS GRANTS.—The Secretary shall establish a program under which the Secretary shall—

''(1) designate up to 200 exemplary Head Start agencies as Centers of Excellence in Early Childhood; and

''(2) make bonus grants to the designated centers of excellence to carry out the activities described in subsection (d).

''(c) APPLICATION AND DESIGNATION.—

''(1) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive designation as a center of excellence under subsection (b), a Head Start agency in a State shall be nominated by the Governor of the State and shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENTS.—At a minimum, the application shall include—

''(i) evidence that the Head Start program carried out by the agency has improved the school readiness of, and enhanced academic outcomes for, children who have participated in the program;

''(ii) evidence that the program meets or exceeds Head Start standards and performance measures described in subsections (a) and (b) of section 641A, as evidenced by successful completion of programmatic and monitoring reviews, and has no citations for substantial deficiencies with respect to the standards and measures;

''(iii) information demonstrating the existence of a collaborative partnership between the Head Start agency and the Governor's office;

''(iv) a nomination letter from the Governor, demonstrating the agency's ability to carry out the coordination, transition, and training services of the program to be carried out under the bonus grant involved, including coordination of activities with State and local agencies that provide early childhood services to children and families in the community served by the agency; and

''(v) information demonstrating the existence of, or the agency's plan to establish, a local council for excellence in early childhood, which shall include representatives of all the institutions, agencies, and groups involved in the work of the center for and the local provision of services to eligible children and other at-risk children, and their families.

''(2) SELECTION.—In selecting agencies to designate as centers of excellence under subsection (b), the Secretary shall designate at least 1 from each of the 50 States and the District of Columbia.

''(3) TERM OF DESIGNATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall designate a Head Start agency as a center of excellence for a 5-year term. During the period of that designation, subject to the availability of appropriations, the agency shall be eligible to receive a bonus grant under subsection (b).

''(B) REVOCATION.—The Secretary may revoke an agency's designation under subsection (b) if the Secretary determines that the agency is not demonstrating adequate performance.

''(4) AMOUNT OF BONUS GRANT.—The Secretary shall base the amount of funding provided through a bonus grant made under subsection (b) to a center of excellence for the center's staff costs on the number of children served at the center of excellence. The Secretary shall make such a bonus grant in an amount of not less than $100,000 per year.

''(d) USE OF FUNDS.—

''(1) ACTIVITIES.—A center of excellence that receives a bonus grant under subsection (b) may use the funds made available through the bonus grant—

''(A) to provide Head Start services to additional eligible children;

''(B) to better meet the needs of working families in the community served by the center by serving more children in Early Head Start programs or in full-working-day, full calendar year Head Start programs;

''(C) to model and disseminate best practices for achieving early academic success, including achieving school readiness and developing preliteracy and prenumeracy skills for at-risk children, and to provide seamless service delivery for eligible children and their families;

''(D) to coordinate early childhood and social services available in the community served by the center for at-risk children (prenatal through age 8) and their families, including services provided by child care providers, health care providers, and providers of income-based financial assistance, and other State and local services;

''(E) to provide training and cross training for Head Start teachers and staff, and to develop agency leaders;

''(F) to provide effective transitions between Head Start programs and elementary school, to facilitate ongoing communication between Head Start and elementary school teachers concerning children receiving Head Start services, and to provide training and technical assistance to providers who are public elementary school teachers and other staff of local educational agencies, child care providers, family service providers, and other providers of early childhood services, to help the providers described in this subparagraph increase their ability to work with low-income, at-risk children and their families; and

''(G) to carry out other activities determined by the center to improve the overall quality of the Head Start program carried out by the agency and the program carried out under the bonus grant involved.

''(2) INVOLVEMENT OF OTHER HEAD START AGENCIES AND PROVIDERS.—Not later than the second year for which the center receives a bonus grant under subsection (b), the center, in carrying out activities under this subsection, shall work with the center's delegate agencies, several additional Head Start agencies, and other providers of early childhood services in the community involved, to encourage the agencies and providers described in this sentence to carry out model programs. The center shall establish the local council described in subsection (c)(1)(B)(v).

''(e) STATE COUNCILS FOR EXCELLENCE IN EARLY CHILDHOOD.—

''(1) ESTABLISHMENT.—The Secretary shall make grants to States to enable the States to establish State Councils for Excellence in Early Childhood. The State council established by a State shall include representatives of Head Start agencies, public elementary schools, providers of early childhood services (including family service providers), and other entities working with centers of

excellence in the State. The State council shall be chaired by a Director of a center of excellence in the State.

''(2) FUNCTIONS.—The State council shall work with the State Head Start Office of Collaboration. The State council shall review and compile information on the work of the centers of excellence in the State, collecting and disseminating information on the findings of the centers, and identifying barriers to and opportunities for success in that work that could be addressed at a State level. The State Head Start Office of Collaboration shall address the barriers and opportunities.

''(f) RESEARCH AND REPORTS.—

''(1) RESEARCH.—The Secretary shall make a grant to an independent organization to conduct research on the ability of the centers of excellence to improve the school readiness of children receiving Head Start services, and to positively impact school results in the earliest grades. The organization shall also conduct research to measure the success of the centers of excellence at encouraging the center's delegate agencies, additional Head Start agencies, and other providers of early childhood services in the communities involved to meet measurable improvement goals, particularly in the area of school readiness.

''(2) REPORT.—Not later than 48 months after the date of enactment of the Head Start Centers of Excellence Act of 2003, the organization shall prepare and submit to the Secretary and Congress a report containing the results of the research described in paragraph (1).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2004 and each subsequent fiscal year—

''(1) $90,000,000 to make bonus grants to centers of excellence under subsection (b) to carry out activities described in subsection (d);

''(2) $2,500,000 to pay for the administrative costs of the Secretary in carrying out this section, including the cost of a conference of centers of excellence;

''(3) $5,500,000 to make grants to States for State councils to carry out the activities described in subsection (e); and

''(4) $2,000,000 for research activities described in subsection (f).''.

By Mr. HATCH:

S. 1475. A bill to amend the Internal Revenue Code of 1986 to promote the competitiveness of American businesses, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, I rise today to introduce legislation to change the way this country taxes business income, whether earned at home or abroad. The bill I am introducing, the ''Promote Growth and Jobs in the USA Act of 2003,'' or the ''Pro Grow USA Act,'' was made necessary because the World Trade Organization has ruled that a significant feature of our current tax system, the Extraterritorial Income Exclusion (or ETI), is an impermissible trade subsidy under WTO rules.

This final WTO ruling followed a similar decision of that body made a few years ago that a previous U.S. tax provision, the Foreign Sales Corporation (or FSC), was also an illegal trade subsidy under the WTO rules. After that first WTO decision, Congress replaced the FSC provision with the ETI provision, which generally replicated the benefits of the FSC to its recipients. Both provisions were designed to help U.S. exporters better compete in the global economy.

Unfortunately, we now find ourselves in the very unpleasant situation of having to repeal the ETI tax benefit. This repeal will cost the exporters of this nation more than $4 billion per year. Failure to repeal it by the end of 2003 could bring upon us trade sanctions by the European Union, which has already been authorized by the WTO to assess these sanctions in an amount exceeding $4 billion per year.

Even though I am not enthusiastic about introducing legislation to repeal that tax benefit, I believe we should make a virtue out of necessity. This is what I am trying to accomplish with this bill. We know we cannot, in a WTO-compliant way, give those lost tax benefits back to the companies that are losing them by the repeal. What we can do, however, is pass tax reform measures to strengthen all American businesses.

I see this as an opportunity to once again make America the world's greatest location to start a business, and the world's greatest location to grow a business.

Today, savings and investment dollars flow around the world at the speed of light, and businesses look all over the world when deciding where to put their global headquarters, their research departments, and their manufacturing operations. We need to take these facts into account when we reform our tax rules, which we now are forced to do. Our goal should be to make the U.S. economy a magnet for greater innovation and greater capital formation.

I believe, that this is the right time to look at how our companies do business overseas, both how they export products abroad and how they expand their operations abroad. And, I believe we should also take this opportunity to examine whether our tax policy can be improved to better help U.S. firms that operate only domestically grow and thrive.

In my view, the ETI repeal has to address the legitimate concerns of both domestic producers and U.S.-based multinationals. Both kinds of companies hire Americans, both kinds of companies make interest payments and dividend payments to Americans, and both kinds of companies pay American taxes.

In response to this situation, Members of Congress have introduced several proposals to repeal and replace the ETI benefit. One leading proposal would create a new, lower tax rate for American manufacturers. While I am certainly not opposed to lowering tax rates on U.S. manufacturers, I am convinced that such a solution, by itself, is not adequate. This is because it ignores the very real problems our tax code presents to U.S. businesses that expand overseas.

As with several of my colleagues on the Finance Committee, I have long been interested in improving our tax rules that govern international transactions. They are woefully out of date and harm the ability of U.S. firms to compete on a global basis. Moreover, the rules are mind numbingly complex.

Legislation I introduced with Senator BAUCUS in 1999 would have gone a long way toward updating and simplifying these laws so they work much better. Some of those provisions were included in a large tax bill that both the Senate and House passed that year that was unfortunately vetoed by President Clinton for reasons unrelated to the international provisions.

Since then, however, there has been a great deal of interest in reforming the international rules, but the opportunities to bring such measures to the floors of the House and Senate have been quite limited, until now. As I mentioned, I believe that the repeal of the ETI represents a rare opportunity to address these much-needed changes.

Another major solution to the ETI repeal and replacement problem is the one taken by Chairman BILL THOMAS of the House Ways and Means Committee in the bill he introduced last Friday. I want to emphasize that while my bill and Chairman THOMAS's bill are very different in many respects, they are very much alike in the approach they take to the problem. Both Chairman THOMAS and I believe it is vital to address the issues presented by both domestic businesses and by multinational firms.

There are three principles underlying my legislation. The first is that as we repeal ETI, we should strive to replace it with provisions that would increase the competitiveness of U.S. companies at home as well as abroad, and that would increase the productivity growth of our economy. I want to increase the ability of all American firms to compete, both those just at home and those that also operate abroad

There is a false notion we hear from time to time that if we make it easier for U.S. companies to operate effectively on a worldwide basis, we are making them more likely to move U.S. jobs abroad. I believe just the opposite is true—that making U.S. firms more competitive worldwide increases the quality and quantity of American jobs.

When companies expand overseas, they likely hire more people at the U.S. headquarters. The R&D jobs, the marketing jobs, management and support jobs—we can have those jobs here, supporting a U.S. company's worldwide operations. I think we should make it easier to grow those kind of good-paying headquarters jobs right here at home.

The second principle is that we ought to simplify the tax code to the extent possible. My bill would do this both in the international arena and in the depreciation rules.

Finally, I want to make it clear that I disagree with the notion that replacing the ETI provision has to be a zero

sum game. The Senate budget resolution calls for nearly $500 billion more in tax cuts outside of budget reconciliation. I believe we should be willing to spend some of this tax cut money to ensure that all American businesses are better able to grow and compete.

Notwithstanding our new deficit projections, I still believe that President Bush and those who support him are on the right track in trying to pass tax cuts to increase economic growth and productivity, combined with spending discipline. One thing is for certain—we will never get out of a deficit mode with the slower growth that comes from tax hikes and more government spending.

I understand the political realities facing the Senate in this, the 108th Congress. I understand that a bill featuring $200 billion or more in additional tax cuts is not likely to attract the kind of bipartisan support it needs in order to be marked up in the Finance Committee and to make it to the floor of the Senate.

Therefore, my goal in introducing this legislation is threefold. First, I hope to help convince my colleagues of the importance of meeting our WTO obligations this year, by repealing the ETI provision. As our economy struggles to shake off the last recession, the last thing we need is to impose large and onerous trade sanctions upon it.

Second, I want to expand the options on the table for the Finance Committee to consider when we start putting the bill together this autumn. Even in a revenue neutral environment, the ideas put forward by my bill should provide many additional choices for the Committee to consider.

Finally, I hope that by introducing this legislation, we will end up with a final bill that will be more beneficial to U.S. domestic and U.S.-based multinational companies and their workers. In my view, we simply cannot afford to focus on just workers for domestic companies or just on employees of global companies. We need both for our long-term prosperity.

The bill I am introducing today has four major components. First, of course, it repeals the ETI provision and provides three years of generous transition relief. When a representative of the U.S. Trade Representative's office testified before the Finance Committee a few weeks ago, I asked him what the appropriate phase-out of the ETI benefit might be, so as not to trigger the trade sanctions by the E.U. In reply to my question, he stated that he believed the Europeans would view one or two years as a normal and expected phase out period.

On the other hand, the USTR official indicated that he believed that a longer period of, four or five years I believe he said, would definitely cause some real concern on the part of the Europeans. Therefore, I included a three-year phaseout of the ETI benefit in my bill. Specifically, the benefits of the ETI exclusion would be phased out at the rate of 25 percent in 2004, 50 percent in 2005, 75 percent in 2006, and no benefits in 2007 and thereafter.

Second, the bill contains a substantial international tax reform title. Our international tax system is based on two key principles, neither of which work very well in practice under our current outdated laws. The first principle is that U.S. companies that pay income tax to other countries should not be double taxed on that income. The second principle is that companies engaged in active overseas businesses should not pay tax on that income until it is returned to the U.S. parent corporation. Our current rules violate these principles again and again, and I think it's time to return to these principles.

For example, our foreign base company tax rules, which make it expensive for companies to create an overseas regional marketing and distribution network for U.S. products, are an anachronism. They hurt U.S. exports, and need to be fixed. But we are told that repealing these rules would cost the Treasury too much revenue, and that they may open up opportunities for transfer pricing abuses.

Recognizing this revenue concern, I am proposing to allow a repeal of the foreign base company rules as long as the base company is in a country with which we have a comprehensive tax treaty, or when the U.S. parent has an advanced pricing agreement in place with the IRS. These backstops should reduce these concerns about base company repeal.

Further, I want to open a debate on the merits of a territorial tax system. I want to open that debate by proposing an expansion of the temporary dividend repatriation proposal that some of my colleagues have embraced, and that I myself voted for in the Finance Committee and on the floor. While I believe that such a temporary provision has merit from an economic stimulus standpoint, I have real tax policy concerns about it.

Therefore, in my bill I propose a permanent, reduced corporate tax rate of 5.25 percent to companies that repatriate foreign earnings to the U.S., as long as they spend that money on higher levels of business equipment and research expenditures. Overseas profits can pay for new machines, new research, and better jobs right here at home, and multinational businesses will be given a strong incentive in my bill to invest in such economically positive activities. I hope that my colleagues will give serious consideration to this proposal.

In the 107th Congress, Senator BREAUX and I introduced S. 1475, a bill to provide an appropriate and permanent tax structure for investments in the Commonwealth of Puerto Rico and the possessions of the United States. That bill would have allowed subsidiaries of U.S. companies incorporated in Puerto Rico and the U.S. possessions to repatriate active business income earned in these jurisdictions at the equivalent of a 5.25 percent tax rate.

As I just mentioned, the bill I am introducing today would provide generally comparable treatment for U.S. subsidiaries incorporated in all foreign jurisdictions, including Puerto Rico and the U.S. possessions, to the extent the companies invested those repatriated earnings on higher levels of business equipment and research.

As a result of expanding the scope of last year's bill, I recognize that U.S. companies might not be encouraged to invest in Puerto Rico and the U.S. possessions as compared to any foreign country. Since 1921, the United States has accorded preferential tax treatment to the business operations of U.S. companies in Puerto Rico and the U.S. possessions. This tax treatment offsets U.S. regulatory mandates—such as minimum wage and environmental and safety regulations—and has supported Puerto Rico's industrial development program, which has resulted in an increase in Puerto Rico's per capita income from 16 percent of the U.S. average in 1948 when the industrial incentives program began, to 32 percent today.

I remain concerned about the economic development of Puerto Rico and the U.S. possessions and therefore will continue to support separate legislation that supports employment and economic opportunity for American citizens living in the Commonwealth and the possessions.

The third section of my bill extends and expands the research credit on a permanent basis. This provision is identical to the bill that Senator BAUCUS and I introduced earlier this year. And as many of my colleagues know, a permanent research credit enjoys significant bipartisan support here in the Senate, both on and off the Finance Committee.

Finally, the bill offers real depreciation reform. The bill offers three years of complete expensing of business equipment and leasehold improvements. It builds on the bonus depreciation incentives we included in both the 2002 stimulus tax cut bill and the growth tax cut bill we passed earlier this year.

Essentially, all the same kinds of assets that qualified for the bonus depreciation benefits in those two bills would now qualify for 100 percent immediate expensing under this bill. Moreover, the bill would extend the Section 179 expensing provision for small businesses by one full year. Economists tell us that what this recovery lacks is capital spending by business. By building on the incentives we passed in the earlier tax bills, we can get capital spending moving again. This will lead to higher productivity and higher wages.

I would like to comment on more aspects of the depreciation section of my bill. I have been told by some of my business constituents in Utah that the bonus depreciation provisions are not

helpful to them. This is because those companies are currently suffering losses and have no current taxable income. Moreover, some of these businesses have been having difficulties for so long that they have no recent year when tax was paid to which they may carry back a net operating loss.

One tax attribute that many of these companies do have, however, is prepayment credits under the Alternative Minimum Tax. As many of my colleagues know, the AMT has the perverse effect of hurting companies when business conditions are poor, thus exacerbating an already difficult financial situation. So, unprofitable companies often find themselves continuing to pay the alternative minimum tax.

In order to assist companies like the ones I described, my bill includes a provision that would allow a taxpayer to elect to forego the expensing of newly acquired business property and instead to effectively monetize their corporate alternative minimum tax credits to that extent. This simple proposal bestows no new tax benefits on these companies, but rather delivers the full expensing provision at the time it is most needed by the company and in the economy generally.

Moreover, this provision helps to equalize the tax treatment between fully taxable companies that can take full advantage of tax incentives and their less fortunate competitors that cannot at the present fully utilize those benefits. Having Congress assist those companies who are enjoying good times at the expense of those who are struggling is not in the best interest of this nation.

I hope this bill will make a positive contribution to the debate in both the Senate and the House. And, I hope the final ETI repeal and replacement bill that the President signs will be more beneficial to more domestic and multinational companies because of the ideas we are proposing.

Finally, I hope that throughout this debate, as accusations and proposals fly back and forth regarding how best to help the U.S. economy, we keep our eyes on the real goal—keeping America's workers the most productive in the world, whether they work in an office park or in a factory. And as the 1990s proved beyond doubt, high productivity and lower unemployment rates can easily go hand in hand. As we saw in the 1990s, higher productivity is the key to higher wages and better jobs.

I ask unanimous consent that a section-by-section summary of my bill be printed in the RECORD.

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

ETI REPEAL AND REPLACEMENT BILL—PROMOTE GROWTH & JOBS IN THE USA (PRO GROW USA) ACT OF 2003

SECTION-BY-SECTION DESCRIPTION

Title I—Repeal ETI & Provide Transition Relief

Section 101. Repeal of exclusion for extraterritorial income.

Provides for repeal of ETI regime with three years of transition relief, (i.e., 75 percent of current benefit in 2004, 50 percent in 2005, and 25 percent in 2006).

Title II—Simplification of Rules Relating to Taxation of U.S. Businesses Operating Abroad

Subtitle A—Treatment of Controlled Foreign Corporations

Section 201. Exceptions from foreign base company sales and services income rules.

Provides for repeal of the foreign base company sales and services income rules for income derived either from transactions covered by an Advanced Pricing Agreement with IRS (APA) or from transactions with countries with whom the U.S. has a comprehensive income tax treaty and exchange of information program, excluding Barbados. Provides that transactions in which an APA would not apply will not trigger subpart F income in any case. This provision allows companies to centralize their offshore marketing and sales operations in one country without triggering current U.S. tax.

Section 202. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company income rules.

Dividends, interest, rents, and royalties received by one CFC from a related CFC would not be treated as foreign personal holding company income to the extent attributable to non-subpart F earnings of the payor. Under current law, many companies can already achieve this result through the use of hybrid branches. This provision would simplify the subpart F rules and reduce the expense of international tax planning.

Section 203. Look-thru treatment for sales of partnership interests.

Treats the sale of a partnership interest by a CFC as the sale of a proportionate share of partnership assets for purposes of determining foreign personal holding company income under subpart F.

Section 204. Repeal of foreign personal holding company rules and foreign investment company rules.

Eliminates redundancy in the U.S. tax code. Recommended by the Joint Committee on Taxation, in its simplification study.

Section 205. Clarification of treatment of pipeline transportation income.

Foreign base company oil-related income would not include income derived from a source within a foreign country in connection with the pipeline transportation of oil or gas within such foreign country. Pipeline transportation income is not mobile income, and the arms-length price of such income is readily determined.

Section 206. Permanent extension and modification of Subpart F exemption for active financing.

Permanently extends the subpart F exemption for active financing income, currently due to expire January 1, 2007. This provision first became law in 1997, and accords with the underlying policy that income earned by a domestic parent corporation from active foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax only when repatriated. Until such repatriation, the U.S. tax on such income is generally deferred. In addition, for purposes of defining ''qualified banking or financing income'' (under section 954(h)(3)), activities conducted by employees of certain related persons are treated as conducted directly by an eligible CFC or qualified business unit in its home country.

Section 207. Expansion of de minimis rule under subpart F.

Expands Subpart F de minimis rule to be the lesser of 5 percent of gross income or $5 million. Current law threshold is 5 percent of gross income or $1 million. Recommended by the Joint Committee on Taxation in its simplification study, this provision would simplify tax planning for small- and medium-sized companies just starting their overseas operations.

Section 208. Modification of interaction between Subpart F and PFIC rules.

Adds an exception to the rules governing the overlap of the Subpart F and passive foreign investment company rules for U.S. shareholders that face only a remote likelihood of incurring a Subpart F inclusion in the event that a CFC earns Subpart F income, thus preserving the potential application of the passive foreign investment company rules in such cases. Recommended by the Joint Committee on Taxation in its Enron report. This provision would raise a small amount of revenue.

Section 209. Determination of foreign personal holding company income with respect to transactions in commodities.

Allows a company to hedge its commodities without triggering Subpart F as long as the company uses these commodities in the course of its business. Since hedging allows companies to lock in long-term prices on commodities with fluctuating spot-market prices, this hedging simplifies long-run business planning, and is an integral part of a company's active operations.

Section 210. Repeal of foreign base company shipping income rules.

Foreign base company shipping rules are repealed outright. The proposal also relaxes the ''active rents'' test under subpart F for rents derived from aircraft or vessels. Requires the CFC receiving such rental income to be actively in the business of renting or leasing such aircraft or vessels. The current ''active rents'' test, by looking at the CFC's active leasing expense rather than its actual activity, sets too high a bar for companies leasing aircraft and vessels.

Section 211. Reduced tax on repatriated earnings previously exempt from tax under Subpart F.

Allows companies to repatriate overseas profits at a reduced tax rate as long as those funds are spent to increase U.S. innovation. Specifically, reduces the tax on repatriated earnings by 85 percent, to a 5.25 percent rate, to the extent that a company's spending on equipment and research exceeds an ''innovation baseline.'' The innovation baseline is defined as 85 percent of the average spending on equipment and research over the past three years. This permanent provision encourages companies to repatriate overseas profits that would otherwise likely remain offshore.

Subtitle B—Provisions Relating to Foreign Tax Credit

Section 221. Interest expense allocation rules.

Modifies current-law interest expense allocation rules by providing a one-time election for the common parent of an affiliated group to allocate and apportion interest expense of domestic members of a worldwide affiliated group on a worldwide-group basis and allows a one-time election for financial subgroups to allocate interest expense by applying fungibility principles on a worldwide basis. Current interest allocation rules assume that money borrowed in the U.S. is used in overseas operations, and thereby reduces reported foreign source income. This may artificially reduce the foreign tax credit limitation, even for companies that have paid substantial foreign taxes.

Section 222. Extension of period to which excess foreign taxes may be carried.

Allows a 20-year carryforward of foreign tax credits. Extending the carryforward from five years to 20 years allows companies more opportunities to avoid double taxation.

Section 223. Ordering rules for foreign tax credit carryforwards.

Reorders the utilization of foreign tax credits so that credits carried from prior years would be used before current year credits under a first-in-first-out rule, instead of the current-law last-in-first-out rule. By allowing companies to use their oldest foreign tax credits first, this provision would reduce the possibility of double taxation.

Section 224. Repeal of limitation of foreign tax credit under alternative minimum tax.

Eliminates the arbitrary and unfair 10 percent haircut on foreign tax credits that can be applied to the alternative minimum tax.

Section 225. Look-thru rules to apply to all dividends from noncontrolled section 902 corporations.

Current law provides look-through treatment to dividends from section 902 corporations for dividends paid out of earnings and profits accumulated from 2003 onward. This provision gives such treatment to all dividends, regardless of the year the earnings and profits from which a dividend is paid were accumulated. The current rules for dividends from section 902 corporations are complex and result in compliance burdens for taxpayers; this provision would simplify the Code and remove these burdens. This proposal is based on a Joint Committee on Taxation recommendation.

Section 226. Reduction to 2 foreign tax credit baskets.

Reduces number of foreign tax-credit baskets to two: General Category Income and Typically-Low-Taxed Income (TyLT). The TyLT tax basket would include income from the eliminated passive, shipping, and DISC/FSC baskets. The General Category Income basket would include income from the old general limitation basket, as well as income from the high withholding interest income and financial services income baskets. The current-law division of income into multiple baskets is a leading source of tax complexity.

Section 227. Recharacterization of overall domestic loss.

Allows companies with an overall domestic loss to more easily use their foreign tax credits. This proposal would provide symmetry in the treatment of U.S. and foreign losses for foreign tax credit limitation purposes. Current law makes it difficult for companies to use these credits when they have overall domestic losses.

Section 228. Repeal of special rules for applying foreign tax credit in case of foreign oil and gas income.

Repeals special rules for applying foreign tax credits in the case of foreign oil and gas income. Current law places special restrictions on foreign tax credits derived by the foreign oil and gas extraction industry.

Section 229. Increase in individual exemption from foreign tax credit limitation.

Increases the current exemption from the foreign tax credit limitation for certain individuals under section 904(j) from $300, $600 in the case of a joint return to $500, $1,000 in the case of a joint return, and indexes those amounts for inflation. This simplifies tax filing for individual investors who hold small amounts of foreign investments.

Section 230. U.S. property not to include certain assets of CFCs.

Reforms the rules regarding investments in U.S. property by CFCs so that ''U.S. property'' does not include certain securities acquired and held by a CFC in the ordinary course of its business as a dealer in securities.

Section 231. Attribution of stock ownership through partnerships to apply in determining section 902 and 960 credits.

For foreign tax credit purposes, allows stock owned indirectly through a partnership to be treated as proportionately owned by the partners. By allowing foreign tax credits to pass through to partners, potential for double taxation is reduced. Recommended by the Joint Committee on Taxation in its simplification study.

Section 232. Provide equal treatment for interest paid by foreign partnerships and foreign corporations.

Provides foreign partnerships with the same sourcing treatment on interest payments as foreign corporations. Current law states that if a foreign partnership has any U.S. operations, then any interest paid by that partnership is U.S. source. By contrast, for foreign corporations with U.S. branch operations, only interest payments from the U.S. branch are U.S. source.

Section 233. Application of look-thru rules to interest, rents, and royalties.

Applies look-through rules to interest, rents, and royalties received or accrued from noncontrolled 902 corporations and entities that would be CFCs if they were foreign corporations.

Section 234. Clarification of treatment of certain transfers of intangible property.

This resolves an uncertainty that arose in connection with changes made to section 367(d) in 1997.

Subtitle C—Other Provisions

Section 251. Application of uniform capitalization rules to foreign persons.

Requires the use of U.S. generally accepted accounting principles rather than UNICAP rules for purposes of determining earnings and profits as well as subpart F income. For most firms, this will prevent companies from having to keep accounting books in both UNICAP and GAAP formats. This simplification proposal was recommended by the Joint Committee on Taxation in its simplification study.

Section 252. Treatment of certain dividends of regulated investment companies.

Exempts from U.S. withholding tax certain dividends received by nonresident alien individuals or foreign corporations from a regulated investment company. Such exemption would apply to dividends paid out of short-term capital gains and interest income that would itself be exempt from withholding.

Section 253. Repeal of withholding tax on dividends from certain foreign corporations.

Extends an exemption from the withholding tax to dividends paid by certain foreign corporations. Recommended by the Joint Committee on Taxation in its simplification study.

Section 254. Airline mileage awards to certain foreign persons.

Grants Treasury authority to exempt from the air travel excise tax amounts attributable to mileage awards issues to persons outside the United States.

Section 255. Interest payments deductible where disqualified guarantee has no economic effect.

Eliminates the limitation for the deduction of interest as a result of section 163(j) for interest payments on debt guaranteed by a foreign person as long as the taxpayer establishes that it could have borrowed the same amount of debt from an unrelated lender without a guarantee. The Secretary would be granted authority to disregard such a showing if the terms of the loan are substantially dissimilar. This proposal properly focuses the U.S. earnings stripping rules on the realm of possible abuse: related party debt.

Section 256. Modifications of reporting requirements for certain foreign-owned corporations.

Creates de minimis exception for reporting, and provides companies a 60–day window for translating documents into English.

Section 257. Repeal of tax on certain U.S. source capital gains of nonresident aliens.

Repeals the tax on net U.S. source capital gains of nonresident alien individuals present in the U.S. for 183 days or more during a taxable year. Recommended by the Joint Committee on Taxation in its simplification study.

Section 258. Election not to use average exchange rate for foreign tax paid other than in functional currency.

Allows companies an election to use the effective exchange rate on the day of payment rather than an annual average exchange rate. Exchange rates in many countries are volatile, which can turn an annual average rate into an inaccurate indicator of taxable income.

Section 259. Study of impact of international tax laws on taxpayers other than large corporations.

The Secretary of the Treasury shall conduct a study regarding the impact of the international tax rules on smaller taxpayers, in particular regarding the compliance burden on such taxpayers. The study shall set forth suggestions of how the compliance burden could be reduced for smaller taxpayers. Not later than 180 days after the date of enactment, the Secretary shall submit to the Congress a report of such study.

Title III—Credit for Increasing Research Activities, provisions are identical to S. 664, the Hatch-Baucus research credit bill, which enjoys the bipartisan support of 30 senators.

Section 301. Permanent extension of research credit.

The research credit, which is scheduled to expire on June 30, 2004, would be extended permanently.

Section 302. Increase in rates of alternative incremental credit.

The rates of the current-law alternative incremental credit, which is elective, would be increased as follows:

Tier One, qualified research expenditures (QREs) in excess of 1.0 percent of base amount,—increase from 2.65 percent to 3 percent.

Tier Two, QREs in excess of 1.5 percent of base amount,—increase from 3.2 percent to 4 percent.

Tier Three, QREs in excess of 2.0 percent of base amount,—increase from 3.75 percent to 5 percent.

Section 303. Alternative simplified credit for qualified research expenditures.

The proposed alternative simplified credit (ASC) would provide a meaningful incentive for companies to perform R&D activities in the United States as opposed to other countries that provide more substantial incentives for such activities. The ASC is an elective credit that equals 12 percent of the excess of current-year qualified research expenses (''QREs''), as defined under section 41(b), over 50 percent of the taxpayer's average QREs for the prior three years. For start-up taxpayers, the credit would equal 6 percent of current-year QREs.

The election, once made, would apply for taxable years ending after the date of enactment, and all subsequent taxable years, unless revoked with the consent of the Secretary of Treasury. Taxpayers that have previously elected the Alternative Incremental Research Credit (AIRC) could apply the new computational rules or continue to calculate the credit under the AIRC rules.

Title IV—Reform of Depreciation of Business Property

Section 401. 100 percent expensing for certain property through 2006.

Provides immediate write-off for all business equipment and leasehold improvements, the same property which benefits from the

2002 and 2003 Tax Acts' bonus depreciation provisions. Effectively, this provision would expand the bonus deprecation to 100 percent and extend it through 2006.

Section 402. One-year extension of expensing for small businesses.

The expansion of section 179 (allowing small businesses to immediately write off their business property) is extended through 2006, rather than expiring at the end of 2005 as is now the law.

Section 403. Election to increase minimum tax credit limitation in lieu of bonus depreciation.

Would allow taxpayers making investments in business equipment and leasehold improvements (which would otherwise qualify for immediate expensing under Section 401) to elect to claim accumulated AMT credits in lieu of claiming immediate expensing. Specifically, a taxpayer making the election would forego the expensing and would either reduce its current-year regular or minimum tax liability or be allowed an unlimited carryback of AMT credits in an amount not to exceed the amount of foregone expensing multiplied by 0.35, i.e., the assumed corporate tax rate. The provision would expire at the same time as the expensing provision. Taxpayers making the election would not reduce the basis of eligible property and the depreciation adjustments of the AMT would not apply to such property. Provision would expire at the end of 2006.

By Mr. HARKIN (for himself and Mr. DAYTON):

S. 1476. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

Mr. HARKIN. Mr. President, I am introducing today the Wind Power Tax Incentives Act of 2003. I am pleased to be joined by Senator DAYTON. This legislation makes it easier for farmers and others around the country to invest in wind power for commercial electricity production. Wind power is a clean, economical, and reliable source of renewable energy abundant on farms and in rural areas in Iowa and elsewhere.

With this legislation we can help farmers help themselves by developing a new source of income, and help the rest of the country in the production of renewable energy. Farmers are ready to take on this effort. A recent study found that 93 percent of corn producers support wind energy generally. They also strongly support the farm bill's historic energy title.

This bill complements the farm bill's energy programs and other wind power initiatives currently being considered by this body. The bill would make changes to Federal tax law to make the section 45 wind production tax credit more widely available to farmers, farm cooperatives, and other investors. Section 45 of Federal tax law provides a tax credit, currently 1.8 cents per kiowatthour, for electricity actually produced and sold during the first ten years of the life of a wind turbine. The credit has been extraordinarily successful in spearheading the installation of new wind power capacity by utilities and in bringing down the cost of this sustainable energy source to consumers. However, certain barriers have prevented wide use by farmers and other investors.

It's time to take the next step and help our family farmers and other investors benefit from the credit as well. Our legislation does this by making three changes to the tax code. First, under current tax law most losses, deductions, and credits from passive investments cannot be used to reduce taxes on wages or other income. So a farmer who passively invested in wind energy could not use the tax credits to offset taxes on farm income. This bill creates an exception to passive loss restrictions for an interest in a wind facility that qualifies for the section 45 credit. The wind facility's loss or tax credits could then offset the income or taxes on the taxpayer's farming business. Similar exceptions currently apply to oil and gas investments. To prevent potential abuse by wealthy taxpayers, the exception is limited to taxpayers with income under $1 million.

Second, under current law individual and corporate taxpayers are subject to an alternative minimum tax (AMT) if their tax rates fall below certain levels. Taxpayers subject to an AMT cannot currently use the section 45 wind tax credit. This bill allows a farmer or other taxpayer who invests in a wind electric generating facility to use the resulting tax credit against the taxpayer's alternate minimum tax (AMT). Similar provisions already exist for several other tax credits. Again, this provision is limited to taxpayers with income under $1 million.

Third, the bill allows cooperatives to invest in qualified wind facilities and pass through the section 45 credits to cooperative members. This will allow farmers to join together and pool their resources in a cooperative and still take advantage of the credit.

The benefits of this legislation are obvious. Increased renewable energy production lessens our dependence on foreign oil, provides environmental and public health gains, bolsters farm income, creates jobs and boosts economic growth, especially in rural areas. The Nation must move toward energy independence, and domestically produced wind power, along with other forms of renewable energy like biofuels, play an important part in this endeavor.

I want to thank Senator DAYTON for co-sponsoring this legislation with me. His leadership in this area will be instrumental to moving the bill forward. I am hopeful we can pass this legislation soon to help secure a brighter future for our Nation's farmers and fellow citizens.

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. 1476

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 ''Wind Power Tax Incentives Act of 2003 ''.

SEC. 2. OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS OF AN ELIGIBLE TAXPAYER FROM WIND ENERGY FACILITIES.

(a) IN GENERAL.—Section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n) and by inserting after subsection (k) the following new subsection:

''(l) OFFSET OF PASSIVE ACTIVITY LOSSES AND CREDITS FROM WIND ENERGY FACILITIES.—

''(1) IN GENERAL.—Subsection (a) shall not apply to the portion of the passive activity loss, or the deduction equivalent (within the meaning of subsection (j)(5)) of the portion of the passive activity credit, for any taxable year which is attributable to all interests of an eligible taxpayer in qualified facilities described in section 45(c)(3)(A).

''(2) ELIGIBLE TAXPAYER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer the adjusted gross income (taxable income in the case of a corporation) of which does not exceed $1,000,000.

''(B) RULES FOR COMPUTING ADJUSTED GROSS INCOME.—Adjusted gross income shall be computed in the same manner as under subsection (i)(3)(F).

''(C) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single taxpayer for purposes of this paragraph.

''(D) PASS-THRU ENTITIES.—In the case of a pass-thru entity, this paragraph shall be applied at the level of the person to which the credit is allocated by the entity.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after the date of the enactment of this Act.

SEC. 3. CREDIT FOR WIND ENERGY FACILITIES OF AN ELIGIBLE TAXPAYER ALLOWED AGAINST MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR WIND ENERGY CREDIT.—

''(A) IN GENERAL.—In the case of the wind energy credit of an eligible taxpayer—

''(i) this section and section 39 shall be applied separately with respect to such credit, and

''(ii) in applying paragraph (1) to the 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 wind energy credit).

''(B) WIND ENERGY CREDIT.—For purposes of this subsection, the term 'wind energy credit' means the portion of the renewable electric production credit under section 45 determined with respect to a facility using wind to produce electricity.

''(C) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' has the meaning given such term by section 469(l)(2).''

(b) CONFORMING AMENDMENTS.—Paragraphs (2)(A)(ii)(II) and (3)(A)(ii)(II) of section 38(c) of such Code are each amended by inserting ''or wind energy credit'' after ''employee credit''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4. APPLICATION OF CREDIT TO COOPERATIVES.

(a) IN GENERAL.—Section 45(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(8) ALLOCATION OF CREDIT TO SHAREHOLDERS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned pro rata among shareholders of the organization on the basis of the capital contributions of the shareholders to the organization.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any shareholders under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of the shareholder with or within which the taxable year of the organization ends.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such shareholders under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, Mr. SCHUMER, and Mrs. CLINTON):

S. 1477. A bill to posthumously award a Congressional gold medal to Celia Cruz; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, I rise to honor the magnificent life, and the legacy, of Celia Cruz, and to introduce legislation to award her posthumously our Nation's highest civilian award, the Congressional Gold Medal. This award would be an appropriate tribute to Ms. Cruz's life, given her innumerable accomplishments in the world of entertainment, her work as an ambassador of Latino culture, and her many contributions to American society.

Celia de la Caridad Cruz Alonso was born on October 21 during the 1920's. She died on July 17, 2003, at her home in Fort Lee, NJ.

Over a prolific 50-year career as an entertainer, Celia Cruz, the ''Queen of Salsa,'' recorded more than 50 albums. Each was a showcase of her talent, flair, and the passion she brought to her work. Her collaborative efforts ranged from work with legendary salsa artist Tito Puente, pop star David Byrne, and hip-hop producer Wyclef Jean. Through those cross-cultural efforts, Cruz's music reached over four generations of fans, and helped break down ethnic and cultural barriers.

Celia Cruz's gifts as an entertainer were recognized throughout the world, and she won hundreds of awards, most notably a 1990 Grammy Award and Billboard Magazine's ''Lifetime Achievement Award'' in 1995. In 1994, Ms. Cruz was recognized by President Clinton with a National Endowment of the Arts award.

While best known for her work as an entertainer, Celia Cruz was much more than a singer to her fans, especially to Latinos in America. She touched the lives of millions. The outpouring of sorrow that accompanied the news of her passing underscores that point. More than 100,000 people turned out to pay their respect, and honor the memory of Celia Cruz at her wake in Miami, FL. More than 75,000 people lined the streets of Manhattan—some crying, many singing and fondly recalling Ms. Cruz's life—as her funeral procession made its way from the St. Patrick's Cathedral.

The enormous outpouring of support that accompanied news of the death of Celia Cruz provides some indication about the special nature of this amazing woman. Her story is that of a girl from meager means in Havana, Cuba who eventually grew up to become a ''queen.''

Celia Cruz was one of 14 children raised in Havana's Santa Suarez district. As a child, she could be heard by neighbors as she sung her siblings to sleep. She received her first award in a competition on the talent show La Hora Del Té on Radio García Serrá, in which she won first prize.

Her first break came in 1950 when she took over as the lead singer with Cuba's Sonora Matancera. Cruz's first recording was a 78 rpm single released with Sonora Matancera in January 1951, entitled ''Cao Cao Mani Picao''.

On July 15, 1960, Cruz and members of her band fled Cuba for the United States, to escape the regime of Fidel Castro. They were able to get out by convincing Castro's officials that the group was simply going on another tour abroad. Enraged by the singer's choice to pursue freedom, Castro never forgave Cruz for this and refused to let Celia return to Cuba—even as her mother was sick and when her father passed away.

In the 60's, Celia Cruz and Pedro Knight, her husband and a member of the band, decided to make America their permanent home and Celia Cruz became a citizen of the United States.

During that time, Celia Cruz transformed from a gifted, charismatic Cuban-American singer to a woman who would become the ''Queen of Salsa.''

In 1966, she teamed up with the legendary Tito Puente and together they released eight albums. Although her classic style, the origins of salsa, did not immediately appeal to Latin youth during the 1960's, Celia Cruz returned with a vengeance after a stint in the Operetta ''Hommy,'' in the early 1970's.

By 1973, Latin pride had begun to take hold in American cities with large Latino communities—particularly in New York, New Jersey and Florida.

In New York, Latin musicians had begun to mix classical musical styles from Puerto Rico, such as Bomba and Plena, with classical musical styles from Cuba, such as Mambo and Son, combining them with the trombone for a more urban sound. This combination created what is now known as salsa—and Celia Cruz was a pioneer of the genre.

Ms. Cruz signed with Fania Records, one of the major salsa record labels of the time, and in the summer of '74 released Celia & Johnny, the first in a series of collaborations with Johnny Pacheco. Building upon the success of these albums, Cruz then recorded albums with other top leaders on the Fania roster, like Willie Colón, Papo Lucca and Ray Barretto, whose bands each had their own trademark sound. She toured with the Fania until 1988.

While Latin music has historically been predominately dominated by male artists the talent of Celia Cruz could not be ignored. Her flamboyant clothing, charismatic presence, proud voice and her trademark ''Azuuuuuuuuuuuucar!'' tag line became legendary.

In addition to her lucrative recording career, Cruz also had roles in several American films such as Salsa, the Mambo Kings and the Perez Family. She was a true pioneer.

As I mentioned earlier, Celia Cruz received hundreds of awards as a result of her contributions to music, most notable the Grammy Award and the National Endowment of the Arts Award from President Clinton. Her contributions to society and her contributions to Latino culture have also been well recognized. Among those the Presidential Medal in Arts from the Republic of Colombia and the Hispanic Heritage Award's Lifetime Achievement Award.

Other notable recognitions bestowed upon Ms. Cruz include an honorary Doctorate of Music from Yale, a star on Hollywood's ''Walk of Fame,'' and the keys to the cities of Union City, NJ; Miami, FL; Dallas, TX; and New York City.

Those recognitions are all noteworthy, and the life of Celia Cruz warrants each and every one of them. But of the hundreds of awards won by Celia Cruz, there is one award that she did not receive, but most certainly deserves the Congressional Gold Medal.

This award is considered our Nation's highest civilian honor, and has been

awarded to a rare and esteemed group of individuals. Notable recipients include George Washington, Sir Winston Churchill, Bob Hope, Robert Frost, Joe Louis, Mother Teresa, and most recently Tony Blair.

The standards for considering legislation authorizing Congressional Gold Medal state that, among other things, ''the recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after that achievement.''

Celia Cruz, music pioneer and the acknowledged ''Queen of Salsa,'' certainly fits the criteria to receive the Congressional Gold Medal. Celia Cruz, ambassador of Latin culture, impassioned voice of freedom, and American is what the Congressional Gold Medal is about.

This award would properly honor the legacy, and the life, of Celia Cruz. I urge my colleagues to support this important legislation, and ask unanimous consent that the text of the legislation be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Congressional Tribute to Celia Cruz Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Celia de la Caridad Cruz Alonso was raised as one of 14 children in the Santa Suarez district of Havana, Cuba;

(2) in 1960, Cruz and members of her band fled Cuba for the United States to escape the oppressive regime of Fidel Castro;

(3) Celia Cruz and Pedro Knight, her husband of 40 years, chose to make America their permanent home, where she became a naturalized American citizen;

(4) while best known for her work as an entertainer, Celia Cruz influenced the lives of millions of people as an ambassador of Latino culture and a powerful voice of freedom;

(5) over a prolific 50-year career as an entertainer, Celia Cruz became know as the ''Queen of Salsa'';

(6) she recorded over 50 albums, and her collaborative efforts with other performers helped break down ethnic and cultural barriers;

(7) the musical talent of Celia Cruz earned her hundreds of awards worldwide, most notably a 1990 Grammy Award and Billboard Magazine's ''Lifetime Achievement Award'' in 1995;

(8) in 1994, Cruz was recognized by President Clinton with the National Endowment of the Arts Award;

(9) on July 17, 2003, ''Celia Cruz'', as she was more commonly known, passed away at her Fort Lee, New Jersey home after battling brain cancer; and

(10) Celia Cruz was much more than just a singer to millions of fans worldwide, especially to Latinos in America, and her contributions to music, Latino culture, and American society make her most deserving of America's highest civilian award, the Congressional Gold Medal.

SEC. 3. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate shall make appropriate arrangements for the posthumous presentation, on behalf of Congress, of a gold medal of appropriate design in commemoration of Celia Cruz, in recognition of her enduring contributions to music, Latino culture, and American society.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (referred to in this Act as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 4. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 5. STATUS OF MEDALS.

(a) NATIONAL MEDALS.—The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

(b) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all medals struck under this Act shall be considered to be numismatic items.

SEC. 6. AUTHORITY TO USE FUND AMOUNTS; PROCEEDS OF SALE.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund, such amounts as may be necessary to pay for the costs of the medals struck pursuant to this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals authorized under section 3 shall be deposited into the United States Mint Public Enterprise Fund.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 202—EXPRESSING THE SENSE OF THE SENATE REGARDING THE GENOCIDAL UKRAINE FAMINE OF 1932–33

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 202

Whereas 2003 marks the 70th anniversary of the Ukraine Famine, a manmade disaster that resulted in the deaths of millions of innocent Ukrainian men, women, and children and annihilated an estimated 25 percent of the rural population of that country;

Whereas it has been documented that large numbers of inhabitants of Ukraine and the then largely ethnically Ukrainian North Caucasus Territory starved to death in the famine of 1932–33, which was caused by forced collectivization and grain seizures by the Soviet regime;

Whereas the United States Government's Commission on the Ukraine Famine concluded that former Soviet leader Joseph Stalin and his associates committed genocide against Ukrainians in 1932–33, using food as a political weapon to achieve the aim of suppressing any Ukrainian expression of political and cultural identity and self-determination;

Whereas, as a result, millions of rural Ukrainians starved amid some of the world's most fertile farmland, while Soviet authorities prevented them from traveling to areas where food was more available;

Whereas requisition brigades, acting on Stalin's orders to fulfill the impossibly high grain quotas, seized the 1932 crop, often taking away the last scraps of food from starving families and children and killing those who resisted;

Whereas Stalin, knowing of the resulting starvation, intensified the extraction from Ukraine of agricultural produce, worsening the situation and deepening the loss of life;

Whereas, during the Ukraine Famine, the Soviet Government exported grain to western countries and rejected international offers to assist the starving population;

Whereas the Ukraine Famine was not a result of natural causes, but was instead the consequence of calculated, ruthless policies that were designed to destroy the political, cultural, and human rights of the Ukrainian people;

Whereas the Soviet Union engaged in a massive coverup of the Ukraine Famine, and journalists, including some foreign correspondents, cooperated with the campaign of denial and deception; and

Whereas, 70 years later, much of the world is still unaware of the genocidal Ukraine Famine: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the millions of innocent victims of the Soviet-engineered Ukraine Famine of 1932–33 should be solemnly remembered and honored on the 70th anniversary of the famine;

(2) the 70th anniversary of the Ukraine Famine should serve as a stark reminder of the brutality of the totalitarian, imperialistic Soviet regime under which respect for human rights was a mockery and the rule of law a sham;

(3) the Senate condemns the callous disregard for human life, human rights, and manifestations of national identity that characterized the Stalinist policies that caused the Ukrainian Famine;

(4) the manmade Ukraine famine of 1932–33 was an act of genocide as defined by the United Nations Genocide Convention;

(5) the Senate supports the efforts of the Government of Ukraine and the Verkhovna Rada (the Ukrainian parliament) to publicly acknowledge and call greater international attention to the Ukraine Famine; and

(6) an independent, democratic Ukraine, in which respect for the dignity of human beings is the cornerstone, offers the best guarantee that atrocities such as the Ukraine Famine never beset the Ukrainian people again.

Mr. CAMPBELL. Mr. President, I rise to submit a Senate Resolution regarding the genocidal Ukraine Famine of 1932–33. The resolution commemorates the millions of innocent victims of this Soviet-engineered famine and support the efforts of the Ukrainian Government and Parliament to publicly acknowledge and call greater international attention to one of the 20th century's most appalling atrocities.

This year marks the 70th anniversary of Stalin's man-made famine, one of the most heinous crimes in a century notable for events that demonstrated the cruelty of totalitarian regimes. Seventy years ago, a famine in Soviet-dominated Ukraine, and bordering ethnically-Ukrainian territory in Russia, resulted in the deaths of millions of

Ukrainians—estimates range from between four and ten million. In his seminal book on the Ukraine Famine, Harvest of Sorrow, British historian Robert Conquest writes, ''A quarter of the rural population, men, women, and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors.'' Conquest and many others, including eyewitnesses and recently opened archives, chronicle the devastating human suffering of this man-made famine.

The Ukraine Famine was not the result of drought or some other natural calamity, but of Soviet dictator Stalin's utterly inhumane, coldly calculated policy to suppress the Ukrainian people and destroy their human, cultural, and political rights. It was the result of purposeful starvation. Communist requisition brigades, acting on Stalin's orders to fulfill impossibly high grain quotas, took away the last scraps of food from starving families, including children, often killing those who resisted. Millions of rural Ukrainians slowing starved amid some of the world's most fertile farmland, while stockpiles of expropriated grain rotted by the tons. Meanwhile, the Soviet Government was exporting grain to the West, rejecting international offers to assist the starving population, and preventing starving Ukrainians from leaving the affected areas in search of food elsewhere. The Stalinist regime—and, for that matter subsequent Soviet leaders—engaged in a massive coverup of denying the Ukraine Famine. Regrettably, they were aided and abetted in this campaign of denial and deception by some Western journalists, including Americans.

The final report of the Congressionally-created Commission on the Ukraine Famine concluded in 1988 that ''Joseph Stalin and those around him committed genocide against Ukrainians in 1932–33.'' James Mace, who was staff director of the Commission, recently wrote: ''For Stalin to have completely centralized power in his hands, he found it necessary to physically destroy the second largest Soviet republic, meaning the annihilation of the Ukrainian peasantry, Ukrainian intelligentsia, Ukrainian language, and history as understood by the people; to do away with Ukraine and things Ukrainian as such. The calculation was very simple, very primitive: no people, therefore, no separate country, and thus no problem. Such a policy is genocide in the classic sense of the work.''

It is vital that the world not forget the Ukraine Famine, honor its victims, and reiterate our support for Ukraine's independence and democratic development as the best assurance that atrocities such as the famine become truly unimaginable. I urge colleagues to join me in commemorating this genocide perpetrated against the Ukrainian people.

SENATE RESOLUTION 203—RELATIVE TO THE DEATH OF VANCE HARTKE, FORMER UNITED STATES SENATOR FOR THE STATE OF INDIANA

Mr. LUGAR (for himself, Mr. BAYH, Mr. FRIST, Mr. DASCHLE, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 203

Whereas Vance Hartke served in the United States Coast Guard and Navy during World War II from 1942 to 1946;

Whereas Vance Hartke served as mayor of Evansville, Indiana from 1956 to 1958;

Whereas Vance Hartke served as Chairman of the Committee on Veterans' Affairs of the United States Senate from the ninety-second Congress through the ninety-fourth Congress; and

Whereas Vance Hartke served his nation as United States Senator from 1959 to 1977: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Vance Hartke, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it stand recessed or adjourned as a further mark of respect to the memory of the Honorable Vance Hartke.

AMENDMENTS SUBMITTED & PROPOSED

SA 1403. Mr. REID (for himself, Mr. CRAIG, Mr. ALLARD, Mrs. FEINSTEIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table.

SA 1404. Mr. BURNS (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1405. Mr. MILLER submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1406. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1407. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1408. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

SA 1409. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 14, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1403. Mr. REID (for himself, Mr. CRAIG, Mr. ALLARD, Mrs. FEINSTEIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

In division B, on page 4, line 19, insert ''and incremental geothermal energy production'' after ''energy''.

On page 6, strike lines 22 through 25, and insert:

''(4) GEOTHERMAL.—

''(A) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).

''(B) INCREMENTAL GEOTHERMAL ENERGY PRODUCTION.—

''(i) IN GENERAL.—The term 'incremental geothermal energy production' means for any taxable year the excess of—

''(I) the total kilowatt hours of electricity produced from a facility described in subsection (d)(4)(B), over

''(II) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of the enactment of this subparagraph after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

''(ii) SPECIAL RULE.—A facility described in subsection (d)(4)(B) which was placed in service at least 7 years before the date of the enactment of this subparagraph shall commencing with the year in which such date of enactment occurs, reduce the amount calculated under clause (i)(II) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in clause (i)(II) with such cumulative sum not to exceed 30 percent.

On page 11, line 1, insert ''OR INCREMENTAL GEOTHERMAL ENERGY PRODUCTION'' after ''ENERGY''.

On page 11, line 3, strike ''IN GENERAL'' and insert ''GEOTHERMAL OR SOLAR ENERGY''.

On page 11, strike lines 10 through 15, and insert:

''(B) INCREMENTAL GEOTHERMAL ENERGY PRODUCTION FACILITY.—

''(i) IN GENERAL.—In the case of a facility using incremental geothermal energy production to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before such date of enactment, but only to the extent of its incremental geothermal energy production.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning not earlier than the date of the enactment of this subparagraph.

On page 329, after line 20, add the following:

SEC. 834. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Energy Tax Incentives Act of 2003''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Energy Tax Incentives Act of 2003''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Energy Tax Incentives Act of 2003''.

SA 1404. Mr. BURNS (for himself and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other

purposes; which was ordered to lie on the table; as follows:

On page 165, between lines 14 and 15, insert the following:

SEC. 512. LIMITATION ON CERTAIN CHARGES ASSESSED TO THE FLINT CREEK PROJECT, MONTANA.

Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Federal Energy Regulatory Commission (referred to in this section as the ''Commission''), any political subdivision of the State of Montana that holds a license for Commission Project No. 1473 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

SA 1405. Mr. Miller submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title VI, insert the following:

SEC. 625. CEILING FANS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.84.14	Ceiling fans for permanent installation (provided for in subheading 8414.51.00).	Free	No change	No change	On or before 12/31/2013	''.

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse, for consumption on or after the 15th day after the date of enactment of this Act.

SA 1406. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 138, strike line 9 through page 146, line 14 and insert the following:

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) except as provided in paragraphs (2) and (3), 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficient building envelope improvements installed during such taxable year,

''(2) 25 percent of the amount paid or incurred by the taxpayer for qualified duct sealing services or qualified air infiltration reduction services performed during such taxable year, and

''(3) 20 percent of the amount paid or incurred by the taxpayer for qualified replacement natural gas or propane heating systems installed during such taxable year.

''(b) LIMITATION.—The credit allowed by this section with respect to a dwelling for any taxable year shall not exceed $300, reduced (but not below zero) by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all preceding taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) DEFINITIONS.—For purposes of this section:

''(1) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE IMPROVEMENT.—The term 'qualified energy efficient building envelope improvement' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(A) such component or combination of measures is installed in or on a dwelling which—

''(i) is located in the United States,

''(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(B) the original use of such component or combination of measures commences with the taxpayer, and

''(C) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(2) QUALIFIED DUCT SEALING SERVICES.—

''(A) IN GENERAL.—The term 'qualified duct sealing services' means services which bring the duct system of a dwelling into compliance with the Energy Star Duct Specifications published by the Environmental Protection Agency if such service is performed with regard to a dwelling which—

''(i) is located in the United States,

''(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

''(B) CERTIFICATION REQUIRED.—Services shall not be considered to be qualified duct sealing services unless the dwelling is determined to be not in compliance with such Energy Star Duct Specifications before such services and certified to be in compliance with such Energy Star Duct Specifications after such services.

''(3) QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—

''(A) IN GENERAL.—The term 'qualified air infiltration reduction services' means services which bring the air infiltration of a dwelling into compliance with the infiltration requirements in the Energy Star Home Sealing Specifications published by the Environmental Protection Agency, if such service is performed with regard to a dwelling which—

''(i) is located in the United States,

''(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121).

''(B) CERTIFICATION REQUIRED.—Services shall not be considered to be qualified air infiltration reduction services unless the dwelling is determined to not be in compliance with such Energy Star Home Sealing Specifications before such services and is certified to be in compliance with such Energy Star Home Sealing Specifications after such services.

''(4) QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—The term 'qualified natural gas or propane heating systems' means a natural gas or propane furnace or boiler which is certified to achieve at least 90 percent annual fuel utilization efficiency (AFUE) and which replaces an existing natural gas or propane furnace or boiler which has an AFUE of less than 78 percent or which does not include a power burner or induced draft exhaust, if—

''(A) such furnace or boiler is installed in a dwelling which—

''(i) is located in the United States,

''(ii) has not been treated as a qualifying new home for purposes of any credit allowed under section 45G, and

''(iii) is owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(B) the original use of such furnace or boiler commences with the taxpayer, and

''(C) such furnace or boiler reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—

''(i) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE COMPONENTS.—The certification described in paragraph (1) of subsection (d) for any component described in such paragraph shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(ii) QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—The certification described in paragraph (4) of subsection (d) shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected natural gas or propane furnaces or boilers.

''(B) PERFORMANCE-BASED METHOD.—

''(i) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE MEASURES.—The certification described in paragraph (1) of subsection (d) for any combination of measures described in such paragraph shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) QUALIFIED DUCT SEALING SERVICES.—The determination and certification described in paragraph (2) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Duct Specifications.

''(iii) QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—The determination and certification described in paragraph (3) of subsection (d) shall be on the basis of test reports performed in accordance with the Energy Star Home Sealing Specifications.

''(iv) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—

''(A) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE IMPROVEMENTS.—A certification described in paragraph (1) of subsection (d) shall be provided by—

''(i) in the case of the method described in paragraph (1)(A)(i), by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization, or

''(ii) in the case of the method described in paragraph (1)(B)(i), an individual recognized by an organization designated by the Secretary for such purposes.

''(B) QUALIFIED DUCT SEALING SERVICES; QUALIFIED AIR INFILTRATION REDUCTION SERVICES.—A determination or certification described in paragraph (2) or (3) of subsection (d) shall be provided by a State-licensed contractor.

''(C) QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—A certification described in paragraph (4) of subsection (d) shall be provided by a third party, such as a local building regulatory authority, a utility, a manufactured home primary inspection agency, or a home energy rating organization.

''(3) FORM.—Any certification described in subsection (d) shall be made in writing on forms which—

''(A) in the case of a certification described in paragraph (1) of subsection (d), specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling,

''(B) in the case of a certification described in paragraph (2) or (3) of subsection (d), provide test data on air infiltration and duct leakage, as appropriate, both before and after services are provided, provide a signed certification that all relevant aspects of the appropriate Environmental Protection Agency specifications have been met, and include a permanent label affixed to the electrical distribution panel of the dwelling, and

''(C) in the case of a certification described in paragraph (4) of subsection (d), specify in readily inspectable fashion the energy efficiency rating of the natural gas or propane furnace or boiler, and which include a permanent label affixed to such furnace or boiler.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B)(i), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(A)(ii), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Home Energy Rating Standards.

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

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain in a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(6) COORDINATION WITH RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.—No credit shall be allowed under subsection (a) with respect to any property to the extent for which a credit is also allowed under section 25C.

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) TERMINATION.—

''(1) QUALIFIED ENERGY EFFICIENT BUILDING ENVELOPE IMPROVEMENTS.—Subsection (a) shall not apply to qualified energy efficient building envelope improvements installed after December 31, 2006.

''(2) QUALIFIED DUCT SEALING SERVICES; QUALIFIED AIR INFILTRATION REDUCTION SERVICES; QUALIFIED NATURAL GAS OR PROPANE HEATING SYSTEMS.—Subsection (a) shall not apply to—

''(A) qualified duct sealing services or qualified air infiltration reduction services performed after December 31, 2005, and

''(B) qualified natural gas or propane heating systems installed after December 31, 2005.''.

SA 1407. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division B add the following:

SEC. 102. EXPANSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES TO INCLUDE WAVE ENERGY.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended—

(1) by striking ''and'' at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting '', and'', and

(3) by adding at the end the following new subparagraph:

''(I) wave energy.''.

(b) WAVE ENERGY.—Section 45(c), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) WAVE ENERGY.—The term 'wave energy' means energy derived from the energy stored in ocean waves.''.

(c) WAVE ENERGY FACILITY.—Section 45(d) (relating to qualified facilities), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) WAVE ENERGY FACILITY.—In the case of a facility using wave energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of the Energy Tax Incentives Act of 2003 and before January 1, 2007.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SA 1408. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

On page 90, between lines 15 and 16, insert the following:

Subtitle D—Miscellaneous

SEC. 1___. EXCHANGE OF CERTAIN NONPRODUCING FEDERAL OIL AND GAS LEASES.

(a) DEFINITIONS.—In this section:

(1) BADGER-TWO MEDICINE AREA.—The term ''Badger-Two Medicine Area'' means the Forest Service land located in—

(A) T. 31 N., R. 12–13 W.;

(B) T. 30 N., R. 11–13 W.;
(C) T. 29 N., R. 10–16 W.; and
(D) T. 28 N., R. 10–14 W.

(2) BLACKLEAF AREA.—The term ''Blackleaf Area'' means the Federal land owned by the Forest Service and Bureau of Land Management that is located in—

(A) T. 27 N., R. 9 W.;
(B) T. 26 N., R. 8–10 W.;
(C) T. 25 N., R. 8–10 W.; and
(D) T. 24 N., R. 8–9 W.

(3) ELIGIBLE LESSEE.—The term ''eligible lessee'' means a lessee under a nonproducing lease.

(4) NONPRODUCING LEASE.—The term ''nonproducing lease'' means a Federal oil or gas lease that is—

(A) in existence and in good standing on the date of enactment of this Act; and

(B) located in the Badger-Two Medicine Area or the Blackleaf Area.

(5) PLANNING AREA.—The term ''Planning Area'' means each of the Western and Central Planning Areas of the Gulf of Mexico on the outer Continental Shelf.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of Montana.

(b) EVALUATION.—

(1) IN GENERAL.—The Secretary, in consultation with the Governor of the State, the eligible lessees, and any other interested persons, shall evaluate opportunities to enhance domestic oil and gas production through the exchange of the nonproducing leases.

(2) REQUIREMENTS.—In carrying out the evaluation under paragraph (1), the Secretary shall—

(A) consider opportunities to enhance domestic production of oil and gas through—

(i) the exchange of the nonproducing leases for oil and gas lease tracts of comparable value in the State or in the Planning Areas; and

(ii) the issuance of bidding, royalty, or rental credits for Federal onshore oil and gas leases in the State or in the Planning Areas in exchange for the cancellation of the nonproducing leases;

(B) consider any other appropriate means to exchange, or provide compensation for the cancellation of, nonproducing leases, subject to the consent of the eligible lessees;

(C) consider the views of any interested persons, including the State;

(D) determine the level of interest of the eligible lessees in exchanging the nonproducing leases; and

(E) develop recommendations on—

(i)(I) whether to pursue an exchange of the nonproducing leases; and

(II) any changes in laws (including regulations) that are necessary for the Secretary to carry out the exchange; and

(ii) any other appropriate means by which to exchange, or provide compensation for the cancellation of, nonproducing leases.

(3) VALUATION OF NONPRODUCING LEASES.—For the purpose of the evaluation under paragraph (1), the value of a nonproducing lease shall be an amount equal to the difference between—

(A) the sum of—

(i) the amount paid by the eligible lessee for the nonproducing lease;

(ii) any direct expenditures made by the eligible lessee before the date of enactment of this Act associated with the exploration and development of the nonproducing lease; and

(iii) interest on any amounts under clauses (i) and (ii) during the period beginning on the date on which the amount was paid and ending on the date on which credits are issued under paragraph (2)(A)(ii); and

(B) the sum of the revenues from the nonproducing lease during the term of the lease.

(4) SUSPENSION OF LEASES IN THE BADGER-TWO MEDICINE AREA.—To facilitate the evaluation under paragraph (1) and review of the report under paragraph (5), the terms of nonproducing leases in the Badger-Two Medicine Area shall be suspended for a 3-year period beginning on the date of enactment of this Act.

(5) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report on the evaluation carried out under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 1409. Mr. EDWARDS submitted an amendment intended to be proposed by him to the bill S. 14, to enhance the energy security of the United States, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ___—MISCELLANEOUS

SEC. ___. NEW SOURCE REVIEW.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall not require that any applicable implementation plan under the Clean Air Act (42 U.S.C. 7401 et seq.) be revised or adopted to comply with any part of the final rules relating to prevention of significant deterioration and nonattainment new source review published at 67 Fed. Reg. 80186 (December 31, 2002) and 68 Fed. Reg. 11316 (March 10, 2003), unless the Administrator demonstrates that no major emitting facility or major stationary source in the State would be permitted to increase the quantity of any air pollutant emitted under the final rules without the increase being considered to be a modification (as defined section 111(a) of the Clean Air Act (42 U.S.C. 7411(a)), if the increase would have been considered to be such a modification under the rules in effect and applicable to that State before December 31, 2002.

(b) EFFECT OF SECTION.—Nothing in this section affects the retention of State authority under section 116 of the Clean Air Act (42 U.S.C. 7416).

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been postponed before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing to receive testimony on S. 808, S. 1107 and H.R. 620, originally scheduled on Tuesday, July 29, 2003 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC, will be rescheduled.

For further information, please contact Tom Lillie at 202–224–5161 or Pete Lucero at 202–224–6293.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, July 30, 2003, at 10:00 a.m. in Room 216 of the Hart Senate Office Building to conduct a business meeting on pending business, to be followed immediately by an oversight hearing on Potential Settlement Mechanisms of the Cobell v. Norton lawsuit.

Mr. President, I also would like to announce that the Committee on Indian Affairs will meet again in the afternoon on Wednesday, July 30, 2003, at 2:00 p.m. in Room 216 of the Hart Senate Office Building to conduct a hearing on S. 578, The Tribal Government Amendments to the Homeland Security Act of 2002.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources will hold a hearing on August 6, 2003, at 9:00 a.m. on legislation related to the State of Alaska. The hearing will be held in Anchorage at the Loussac Library, Assembly Chambers, 3600 Denali Street.

The Committee will consider S. 1421, the Alaska Native Allotment Subdivision Act; S. 1354, the Cape Fox Land Entitlement Act of 2003; and S. 1466, the Alaska Land Transfer Acceleration Act of 2003.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, DC 20510–6150.

For further information, please contact Dick Bouts (202–224–7545) or Meghan Beal (202–224–7556).

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. THOMAS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Monday, July 28, 2003 from 2:00 p.m.–5:00 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Christo Artusio, a Fellow in my office, be granted floor privileges for the remainder of the Energy bill debate.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Becca North and Haley Wallace of my staff be granted the privilege of the floor for the duration of the day.

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

EXECUTIVE SESSION

NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE A UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of Executive Calendar No. 21, the Estrada nomination.

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

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia.

CLOTURE MOTION

Mr. SESSIONS. Mr. President, I now send a cloture motion to the desk.

The PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 21, the nomination of Miguel A. Estrada to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Orrin Hatch, Judd Gregg, Norm Coleman, John E. Sununu, John Cornyn, Larry E. Craig, Saxby Chambliss, Lisa Murkowski, James Talent, Olympia Snowe, Mike DeWine, Michael B. Enzi, Lindsey Graham of South Carolina, Jeff Sessions, Lincoln Chafee, and Wayne Allard.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the live quorum provided for in rule XXII be waived and the Senate resume legislative session.

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

LEGISLATIVE SESSION

UNANIMOUS CONSENT REQUEST—H.R. 2738 AND H.R. 2739

Mr. SESSIONS. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in concurrence with the Democratic leader, the Senate proceed to the immediate consideration of H.R. 2738 and H.R. 2739 en bloc, with the following conditions for debate only: GRASSLEY, 50 minutes; BAUCUS, 45 minutes; HOLLINGS, 60 minutes; DASCHLE, 30 minutes; JEFFORDS, 60 minutes; SESSIONS, 45 minutes; HATCH, 15 minutes; CORNYN, 15 minutes.

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

Mr. SESSIONS. I further ask that upon the use or yielding back of time, the bills be read a third time and the Senate then immediately proceed to a Senate resolution regarding immigration provisions included in the Singapore and Chile free-trade agreements; the resolution then be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; provided further that the Senate then proceed to a vote on passage of the Singapore free-trade agreement, followed by a vote on passage of the Chile free-trade agreement, with no intervening action or debate.

The PRESIDENT pro tempore. The Chair, as a Senator from the State of Alaska, objects to the consideration of the Chile agreement.

Mr. SESSIONS. Mr. President, I withdraw the unanimous consent request for the time being.

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

PROVIDING CERTAIN FEDERAL ANNUITY COMPUTATION ADJUSTMENTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 219, S. 481.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 481) to amend chapter 84 of title 5, United States Code, to provide certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 481) was read the third time and passed, as follows:

S. 481

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

SECTION 1. ANNUITY COMPUTATION ADJUSTMENT FOR PERIODS OF DISABILITY.

(a) IN GENERAL.—Section 8415 of title 5, United States Code, is amended—

(1) by redesignating the second subsection (i) as subsection (k); and

(2) by adding at the end the following:

''(l) In the case of any annuity computation under this section that includes, in the aggregate, at least 2 months of credit under section 8411(d) for any period while receiving benefits under subchapter I of chapter 81, the percentage otherwise applicable under this section for that period so credited shall be increased by 1 percentage point.''.

(b) CONFORMING AMENDMENT.—Section 8422(d)(2) of title 5, United States Code (as added by section 122(b)(2) of Public Law 107–135), is amended by striking ''8415(i)'' and inserting ''8415(k)''.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any annuity entitlement which is based on a separation from service occurring on or after the date of enactment of this Act.

IN REMEMBRANCE OF THE HONORABLE VANCE HARTKE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 203 submitted earlier today by Senators LUGAR, BAYH, FRIST, DASCHLE, and others.

The PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 203)

Relative to the death of Vance Hartke, former United States Senator for the State of Indiana.

Whereas Vance Hartke served in the United States Coast Guard and Navy during World War II from 1942 to 1946;

Whereas Vance Hartke served as mayor of Evansville, Indiana from 1956 to 1958;

Whereas Vance Hartke served as Chairman of the Committee on Veterans' Affairs of the United States Senate from the ninety-second Congress through the ninety-fourth Congress; and

Whereas Vance Hartke served his nation as United States Senator from 1959 to 1977: Now, therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Vance Hartke, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses or adjourns today, it stand recessed or adjourned as a further mark of respect to the memory of the Honorable Vance Hartke.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Mr. President, I am very pleased to be a cosponsor of this resolution. As the distinguished Senator from Alabama noted, this was introduced today by the two Senators from Indiana and by the two leaders.

We express our heartfelt condolences to the family of Vance Hartke. I was one who admired his work, his leadership. While I did not have the opportunity to serve directly with him, his legacy remains today in the many ways he affected public policy during his 18 years in the Senate. He will be missed. We are grateful for his service.

Mr. SESSIONS. I join in expressing my sympathies to the family of former Senator Vance Hartke. He is known throughout this country and served this country with great distinction.

I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements appear at the appropriate place in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 203) was agreed to.

The preamble was agreed to.

ORDERS FOR TUESDAY, JULY 29, 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in recess until 9:30 a.m., Tuesday, July 29. I further ask that following the prayer and pledge, the Journal of proceedings be approved, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 14, the Energy bill.

PROGRAM

Mr. SESSIONS. I further ask consent that notwithstanding the provisions of rule XXII, at 11:15 there will be 1 hour of debate equally divided between Senators HATCH and LEAHY, or their designees, and that at 12:15 the Senate proceed to the vote on invoking cloture on the Owen nomination. I further ask consent that the Senate recess following that vote until 2:15 p.m. for the weekly party lunches.

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

Mr. SESSIONS. On behalf of the majority leader, I advise all Senators that the Senate will resume consideration of S. 14, the Energy bill. It is the majority leader's hope to dispose of the two pending CAFE amendments tomorrow morning. In addition, the Senate will conduct its third cloture vote on the Owen nomination for the Fifth Circuit tomorrow at 12:15. Therefore, Senators should expect the possibility of several votes prior to the party lunches. Members will be notified when the first vote is scheduled.

For the remainder of the day, the Senate will continue debate on the Energy bill. The Senate may also begin consideration of the Chile and Singapore trade agreement bills tomorrow. Therefore, Senators should expect votes throughout the afternoon and into the evening tomorrow.

Mr. DASCHLE. Mr. President, just to clarify, because I think this is an important scheduling to note, if I could ask the distinguished Senator from Alabama, under this unanimous consent request, it would then appear that there would be a vote on the Owen nomination at 12:15 but that votes on the two pending CAFE amendments, the Durbin amendment and the Levin amendment, could occur prior to 11:15, which is when we are scheduled to debate the Owen nomination; is that correct?

Mr. SESSIONS. As I understand the agreement and the majority leader's position, it is his hope to dispose of those two CAFE amendments tomorrow morning. I would think the Senator is correct.

Mr. DASCHLE. That is my understanding, that we will have a vote at 12:15 on the Owen nomination and Senators should be advised there could be one vote, perhaps two votes, prior to 11:15 on the two amendments offered by the Senators from Illinois and Michigan having to do with the CAFE standards.

I thank the Senator for his answer.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the provisions of S. Res. 203, as a further mark of respect to our distinguished and late former colleague, Senator Vance Hartke.

There being no objection, the Senate, at 7:45 p.m., recessed until Tuesday, July 29, 2003, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 28, 2003:

THE JUDICIARY

EARL LEROY YEAKEL III, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

KATHLEEN CARDONE, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.